

**IN THE SUPREME COURT OF PAKISTAN**  
(Original Jurisdiction)

**Present:**

Mr. Justice Umar Ata Bandial, HACJ  
Mr. Justice Ijaz ul Ahsan  
Mr. Justice Munib Akhtar  
Mr. Justice Qazi Muhammad Amin Ahmed  
Mr. Justice Muhammad Ali Mazhar

**SUO MOTO CASE NO.4 OF 2021**

(In re: order dated 20.08.2021 in SMC No.4 of 2021)

**In attendance:**

Mr. Khalid Javed Khan,  
Attorney General for Pakistan.  
Mr. M. Latif Afridi, President SCBAP.  
Mr. Amjad Nazir Bhatti  
(Applicant in SMC.4/2021).

Date of hearing: 23.08.2021.

**O R D E R**

We have before us SMC No.4 of 2021, which originated in and incorporates an order dated 20.08.2021 made by a learned two Member Bench of this Court on an application directly received and entertained in Court. The said order takes Suo Moto notice of the grievance expressed in that application submitted by a number of journalists including the President of the Press Association of the Supreme Court of Pakistan. Notices have been issued to several Federal Government authorities as well as to the Law Officers of the Federation and the Provinces. The next date of hearing in the matter has been fixed for 26.08.2021 before the same learned Bench that has passed the order. In the week commencing 23.08.2021 the same Bench is

not available and the question arises whether a special Bench is to be constituted.

2. There is a settled practice of this Court regarding the entertainment of *Suo Moto* actions on the recommendation made by Benches of the Court during judicial proceedings pending before them. This case is different because no judicial proceeding was pending before the learned Bench on 20.08.2021 regarding the grievances or concerns of journalists. Rather the order was passed on a fresh unregistered application handed over and entertained in Court.

3. It is important that the original constitutional jurisdiction of the Court under Article 184(3) read with its powers under Article 187 of the Constitution of Islamic Republic of Pakistan (**'Constitution'**) is invoked under a procedural scheme that lends credibility, certainty and consistency to the substantive proceedings that follow in the exercise of that jurisdiction. The Court has a discernible settled practice regarding the procedural issue of how *Suo Moto* motions may be entertained by the Court. In contrast, however, the order dated 20.08.2021, *prima facie*, makes a departure from the norms of the applicable procedural practice. Taking into account the distinction between the invocation of the jurisdiction of the Court on the one hand and the exercise thereof on the other, the question arises: How is the *Suo Moto* jurisdiction of the Court under Article 184(3) of the Constitution to be invoked? In the light of the answer to this question the propriety, manner and

extent to which the order dated 20.08.2021 can be implemented by the office is another question that needs to be addressed.

4. We would like to hear the principal stakeholders who are called upon to assist the Court in matters of jurisdiction and law, namely, the Attorney General for Pakistan, the President of the SCBA and the Vice Chairman of the Pakistan Bar Council. We would also invite assistance of the learned counsel of the applicant journalists who have brought their grievance to the Court. However, it must be borne in mind that notwithstanding an important question raised before the Court by the applicant journalists, we are neither in a position nor intend to consider their substantive grievance in the exercise of our Suo Moto jurisdiction at this stage. The only aspect of the case that is presently under our consideration is the manner and procedure whereby the Suo Moto jurisdiction is to be invoked and in particular whether, and if so how, such action may be initiated at the instance or on the recommendation of a learned Bench of this Court.

5. At the moment, the judicial order dated 20.08.2021 directing notice to and reports from several Federal Government authorities is in the field. On account of the question now before the Court which goes to the root of the jurisdiction, it is inappropriate to implement the said order because that may obscure and unsettle the practice of the Court for invoking its Suo Motu jurisdiction resulting in needless uncertainty and controversy with attendant consequences. Therefore, the

resolution of the question raised before this Court at an early date is essential. Accordingly, the parties and the learned Law Officer named above shall come prepared with their submissions on **25.08.2021**. Meanwhile, the order of the learned two Member Bench dated 20.08.2021 shall remain in abeyance.

Relist on **25.08.2021**.

Islamabad,  
23.08.2021.  
*Irshad Hussain /\**