

IN THE SUPREME COURT OF PAKISTAN

(Original Jurisdiction)

PRESENT:

**MR. JUSTICE IFTIKHAR MUHAMMAD CHAUDHRY,
C.J.**

MR. JUSTICE GHULAM RABBANI

MR. JUSTICE KHALIL-UR-REHMAN RAMDAY

SUO MOTO CASE NO. 19 OF 2010

*(Regarding untoward incident took
place between Police and Lawyers on
1.10.2010 in the Court Premises at
Lahore)*

On Court Notice

Maulvi Anwar-ul-Haq,
Attorney General for Pakistan
Mr. Dil Muhammad Alizai, D.A.G.

Khawaja Haris Ahmed, A.G. Punjab
Ch. Khadim Hussain Qaiser, A.G. Punjab

Mr. Tariq Saleem Dogar, PPO, Punjab
Mr. Khusro Pervez, Commissioner,

Lahore

Voluntary appeared

Mr. Naveed Aslam, Adv.
(on behalf of D.B.A. Lahore)

On Court's Call

Qazi Muhammad Anwar, Sr. ASC
(President Supreme Court Bar)

Mr. Abdul Hafeez Pirzada, Sr. ASC
Mr. Khalid Anwar, Sr. ASC,
Mr. Muhammad Akram Sheikh, Sr. ASC
Kh. Ahmed Tariq Raheem, Sr. ASC
Mr. Muhammad Ilyas Khan, Sr. ASC
Mr. Manzoor Qadir, ASC
Mr. Anwar Kamal, ASC
Mr. Noman Qureshi, Advocate

Date of hearing

04.10.2010

ORDER

In pursuance of office note prepared by the Registrar on 2nd October, 2010 highlighting the untoward incident of police lawyers scuffle, which took place on 1st October, 2010 in the Court premises at Lahore wherein statedly police brutally beat lawyers of District Bar Association, Lahore; threw tear gas shells on them when they were protesting in Awan-e-Adl for transfer of Mr. Zawar Ahmed Sheikh, District & Sessions Judge, Lahore; arrested several advocates from Awan-e-Adl and nearby areas shifting them to unknown places; besides the police resorted to third degree methods including baton/lathi charge and torture against the lawyers while taking a number of them into custody without any tangible reason, following order was passed:

“Perusal of material/photographs, prima facie show the highhandedness of the police, who have resorted to using excessive force by beating the lawyers, not sparing even the female lawyers in bar rooms, library, thereby causing injuries to many. Let the matter be registered under Article 184(3) of the Constitution and notices be issued to the Commissioner and DCO Lahore, PPO, Punjab, CPO, Lahore, DIG (Operations), Lahore concerned Superintendents of Police through PPO, Punjab to appear in person in the Court on 4.10.2010 and explain about the untoward incident in which, apparently, excessive force was used. The PPO, Punjab is required to explain his position and produce record, if any, as to whether any action has been initiated against police personnel, responsible for the indiscriminate and excessive use of force. Notices be also issued to the Attorney General for Pakistan as well as the Advocate General, Punjab to appear on the said date and assist the Court. Further, the TV Channels and media persons be also asked to send CDs/DVDs of the incident. It would also be

appreciated, if they could play the CDs/DVDs in the Court, if need be."

2. The matter is, accordingly, fixed for today with direction to PPO Punjab, to Commissioner, DCO Lahore, PPO Punjab, CPO Lahore, DIG (Operations) Lahore, concerned Superintendents of Police, to appear in person. It has, however, been brought in the notice of this Court that as there is a call all over in the country for observing strike by the lawyers, attendance of DCO, Lahore, the DIG Operations and the concerned Superintendents of Police be exonerated as they have to stay back to watch the situation. Learned Attorney General for Pakistan, learned Advocate General, Punjab, along with the PPO Punjab and the Commissioner, Lahore, have appeared. Similarly, senior lawyers who though are not elected but are concerned with the present situation have attended the Court. In their presence CDs/DVDs of the incident which took place on 1st October, 2010, were played. Undoubtedly, it makes it evident that the police officials resorted to merciless beating to the lawyers inside the Bar Room, Library, on the upstairs of building and every individual was taken out forcibly from the rooms, even washrooms, and were arrested. It appears very hard to place on record the manner in which they have been beaten up by the police so much so that the bodies of some of them were profusely bleeding on receiving merciless beating at the hands of police.

3. The Registrar has also placed before us another report pointing out that on the following day i.e. 2nd of October, 2010 again another incident took place outside the Awan-e-Adl showing that there was open battle between the police and the lawyers when many lawyers were again mercilessly beaten and similarly the police officials particularly who were in uniform and sitting in their vehicles were also meted out the same treatment. Likewise, some of the electronic media persons were also beaten up by the lawyers. In the meantime, the Judicial Officers of District Lahore have pronounced to observe strike against the lawyers till the return of Mr. Zawar Ahmed Sheikh, District & Sessions Judge, Lahore.

4. The above reports clearly demonstrate that issue has become complicated on account of:

- ? Torture by the police to the lawyers inside the Awan-e-Adl, Bar Rooms and Libraries. Washrooms, etc.
- ? In the evening of 30th September, 2010 before the registration of FIR the office bearers of Lahore High Court Bar Associations were arrested when they were sitting in the Barrooms without warrants.
- ? On account of 1st October, 2010 clash between the police and the lawyers who wanted to take rally on 2nd October, 2010 the police on one hand resorted to manhandling,

throwing tear gas shells and even resorting to firing and on the other hand lawyers also threw bricks and stones on the police contingents and the police vehicles inasmuch as the drivers of two vehicles were pulled out of their vehicles and were maltreated.

? The media persons who were covering the whole incident and on account of whom efforts we have been able to watch on the screen the whole incident which took place on 30th September, 2010 and 1st & 2nd October, 2010 have also been maltreated and some media persons sustained injuries at the hands of lawyers.

? The Judicial Officers of the District Lahore statedly have tendered resignations/resorted to strike till the return of their District & Sessions Judge.

5. Learned Attorney General and learned Advocate General, Punjab have stated that before 1st October, 2010 the incident had taken place in the premises of Lahore High Court on 30th September, 2010 when a group of lawyers attacked the Courtroom of the Chief Justice, Lahore High Court and broke the window panes as such on complaint of Assistant Registrar a case was registered nominating so many persons including the President and office bearers of the Lahore High Court Bar. This video has also been played in the Court.

6. It is noteworthy that differences between the lawyer community and the District Judiciary had commenced on 9th of July, 2010 when Lahore High Court Bar Association passed a resolution against the District & Sessions Judge of Lahore District due to his stated unbecoming attitude/behaviour towards the Bar. It is to be noted that the incident i.e. demanding the transfer of the District and Sessions Judge and taking out a rally for pressing the demand was reported in Daily Khabrain dated 14th July, 2010, therefore, on this news item one of us (Iftikhar Muhammad Chaudhry, C.J.) referred the matter to the learned Chief Justice, Lahore High Court, to constitute a Committee under the chairmanship of a learned Judge of the High Court to examine the matter and find out/propose permanent solution through deliberation and amicable settlement of unfortunate situation suggesting measures to avoid such like situation in future. Accordingly a Committee comprising on the following members was constituted:

1. *Mr. Justice Ijaz Ahmad Chaudhary
Judge Lahore High Court, Lahore.*
2. *Mr. Muhammad Kazim Khan, Advocate*
3. *Mian Asrar-ul-Haq, Advocate.*
4. *Mr. Ahmad Waheed Khan, Advocate*

7. The above Committee compiled its following recommendation:

“RECOMMENDATIONS

- a) *The judicial officers must give due respect to the lawyers without any discrimination.*
- b) *Full opportunity of hearing be given to the lawyers.*
- c) *If an Advocate is genuinely pre-occupied in some other Court at least three calls be given to the case in reasonably different occasions on the said date, before disposal/adjournment at late hours. However, unnecessary adjournments shall be curbed both by Bar and the Bench so as to make effective the National Judicial Policy in expeditious disposal of cases.*
- d) *Bar and Bench shall make consolidated efforts to achieve the set goals of National Judicial Policy in dispensation of justice.*
- e) *The technicalities of law shall not be used as a tool and weapon for disposal of a case.*
- f) *The judicial officer must observe punctuality and perform his duties with utmost diligence. While administering justice the same is not only done, but seems to be done, free from all kinds of prejudices, likes and dislikes.*
- g) *There shall be no compromise on doing and becoming part of corruption and corrupt practices. Such elements should be eradicated and curbed immediately.*
- h) *The Judicial Officers should remain present in the Courts and shall not go to their chambers except during interval.*
- i) *The office bearers of the Bar in particular and the members of the Bar in general shall have no access to the chambers of the Judicial Officers.*
- j) *No office bearer shall tender his power of attorney (Wakalatnama) in super-session except with the consent of lawyer, already engaged nor would appear without tendering his own power of attorney.*
- k) *The decorum of the Court shall be maintained at any cost.*

- l) *The lawyers shall not pressurize the Courts while going in groups and try to overawe the Courts and get the desired results e.g. same day notice, immediate acceptance of bail bonds without due scrutiny of title of title documents prolonged date in pre-arrest bails.*
- m) *The lawyers shall not submit any “CHITT” etc. for reference of a case to their favourite Judge.*
- n) *During strikes, no Judicial Officer shall be forced to leave the Court, however, he must cooperate to the Bar.*
- o) *The Court shall not be locked.*
- p) *The lawyers shall not criticize before the Courts about any order passed and further they shall not pressurize the Courts to change the same according to their whims.*
- q) *No member or office bearer or any group of lawyers shall pressurize the Courts in any particular case, being their personal.*
- r) *No second or third bail petition shall be moved without disclosing the fate of the previous one as per law.*
- s) *The lawyers must give due regard and respect to the lady Judicial Officers, in particular.*
- t) *The Bar must constitute a Committee of senior lawyers amongst themselves having minimum standing of 25-years at the bar to address the local issues with the Bar and Bench so that in future, there shall be no resolutions against the Judicial Officers except the corrupt one and no reporting in the media. The matter shall be settled amicably in-house.*
- u) *The High Court may, on the administrative side, look into the matter of transfer of Judicial Officers on individual basis as they fall within the discipline of Lahore High Court, Lahore.*

5. EPILOGUE

Last but not the least, the Committee extended its deep regards for the patronage of the Hon'ble Chief Justice of Pakistan as well as the Hon'ble Chief Justice of Lahore High Court, Lahore reposing full confidence upon the Committee with the given mandate. The Committee has only been able to accomplish this responsibility mere owing to the sincere input of the saner elements of the Bar who still are advocating the cordial/harmonious relationship between Bench and Bar, being the two wheels of the chariot.

Sd/-

*Mr. Justice Ijaz Ahmad Chaudhary
Judge Lahore High Court, Lahore*

Sd/-

Mr. Muhammad Kazim Khan, Advocate

Sd/-

Mian Asrar-ul-Haq, Advocate

Sd/-

Mr. Ahmad Waheed Khan, Advocate"

8. It seems that despite above recommendations matter was not resolved as perhaps Mr. Zawar Ahmed Sheikh, District & Sessions Judge, Lahore, was not transferred and again the incident noted herein above took place. Now having seen the material so placed on record including the CDs/DVDs which were played during hearing, confronted to the learned Attorney General for Pakistan, Advocate General, Commissioner, Lahore, and others including members of the Bar, and having noted the seriousness of the situation highlighted hereinabove and in order to ensure the adherence to the rule of law and also keeping in view that on account of tussle between the lower District Judiciary and Executive as well as the Media the general litigant/public is suffering badly, therefore to normalize the day to day aggravating situation of restlessness, either we should

dispose of the matter strictly by passing a Judicial Order or we should afford an opportunity to the parties through their representatives and with the intervention of notable/respectable persons to settle the dispute so that in the long run they may also have a good relations. At this juncture, Qazi Anwar, President Supreme Court Bar Association, Mr. Abdul Hafeez Pirzada, learned Sr. ASC, Mr. Khalid Anwar, Sr. ASC, Mr. Muhammad Akram Sheikh, Sr. ASC, Kh. Ahmed Tariq Raheem, Sr. ASC, Mr. Muhammad Ilyas Khan, Sr. ASC, Mr. Manzoor Qadir, ASC, Mr. Anwar Kamal, ASC, Mr. Naveed Aslam, Advocate and Mr. Noman Qureshi, Advocate, emphasized that other course may be adopted and let the matter be decided by the representatives of Bars amicably instead of starting with the proceedings which is not in the interest of the institution in any manner as well as for the general litigant public.

9. However, we may observe that the Judicial Officers have also complaints against the lawyer community as it is evident that the recommendations of the report noted above have not been followed in letter and spirit, therefore, feeling themselves insecure and also for vindication of their honour and respect which they are bound to receive from the lawyers community, they have decided to tender their resignations or to go on strike but we may point out to them that in their capacity as Judges they are committed and it is their bounden duty to

administer justice, in all circumstances, to the public litigants and they have also to remain under a discipline. Resorting to such devices i.e. tendering resignations or proceeding to observe strike is highly unbecoming on their part, therefore, we being the Judges in the apex Court send them an elderly/brotherly/paternal advice that they should, as wise persons, strictly adhere to their commitments and immediately resume their duties not following any device which may bring bad name, not to them alone but to the Institution as well, as a whole and start functioning without wasting further time.

10. At the same time we would also convey our feelings of great respect and honour for all the legal fraternity who are discharging their onerous job throughout the country. It is expected with hopes that they would cooperate with the Members of the Bench, at High Court or be the Judges at District level, and ensure that as far as the job assigned to them to cater for dispensation of administration of justice is not obstructed or hindered for any petty matter which otherwise they can resolve properly by placing the matter before this Court or the High Court.

11. Similarly the Provincial Police authorities are expected to cooperate with the lower judicial functionaries and need not to resort to any uncalled for and inhuman activity or

attitude which we have watched today in the Court room i.e. the incident which took place on 1st October, 2010 and on the following day on 2nd October, 2010.

12. As far as the persons of Print and Electronic media are concerned they are not only discharging their duties properly but on account of their efforts we have been able to watch the whole incident which took place on 30th September, 2010, 1st & 2nd October, 2010 in the premises of the Lahore High Court, Awane-Adl as well as on the lower mall, therefore, the lawyers, the judiciary as well as the police officials are also expected to pay them respect and in the same manner the media persons may also not put up any such matter out of proportion.

13. It is true that the matter could be disposed of by passing a judicial order but in our opinion it would be appreciated if an effort is made to resolve the dispute interse by the above stake holders amicably through a Committee headed by:

1. Mian Allah Nawaz,
Former Chief Justice, Lahore High Court,
2. Mr. Muhammad Kazim Khan,
Vice Chairman Pakistan Bar Council and
3. Mr. Ali Ahmed Kurd,
Former President Supreme Court Bar Association/
former Vice Chairman Pakistan Bar Council and sitting Member Pakistan Bar Council.

14. The above Committee shall, however, be free to associate any other member including learned Advocates, Mr. Abdul Hafeez Pirzada, Sr. ASC, Mr. Khalid Anwar, Sr. ASC, Mr. Muhammad Akram Sheikh, Sr. ASC, Kh. Ahmed Tariq Raheem, Sr. ASC, Mr. Muhammad Ilyas Khan, Sr. ASC, Mr. Manzoor Qadir, ASC, Mr. Anwar Kamal, ASC, Mr. Naveed Aslam, Advocate, and Mr. Noman Qureshi, Advocate. The above-named learned members of Bar have volunteered to assist for the purpose of resolving the controversy once for all. The Committee is required to complete deliberations and submit report on **8th October, 2010**, because we do not want that this matter should prolong further.

Chief Justice

Judge

Judge

Islamabad
04.10.2010
Zulfiqar