

IN THE SUPREME COURT OF PAKISTAN
(Original Jurisdiction)

PRESENT:

Mr. Justice Iftikahr Muhammad Chaudhry, CJ
Mr. Justice Javed Iqbal
Mr. Justice Raja Fayyaz Ahmed
Mr. Justice Muhammad Sair Ali
Mr. Justice Asif Saeed Khan Khosa
Mr. Justice Ghulam Rabbani

SUO MOTU CASE No.24 of 2010

(Regarding Corruption in Hajj Arrangements in 2010)

**Human Rights Cases No.57701-P, 57719-G, 57754-P, 58152-P,
59036-S, 59060-P, 54187-P & 58118-K of 2010**

(Applications by Abdul Rasheed & others)

On Court notice:	Moulvi Anwar-ul-Haq Attorney General for Pakistan Ch. Khadim Hussain Qaiser, Addl. AG, Punjab Syed Arshad Hussain Shah, Addl. AG, KPK Mr. Azam Khattak, Addl. AG Balochistan Mr. Muhammad Mir Qasim Jat, ASC (on behalf of AG, Sindh) Raja Abdul Ghafoor, AOR
For Members of Committee of Parliamentarians:	Nemo
Former Minister S&T:	Senator Muhammad Azam Khan Sawati in person
For former Minister Religious Affairs:	Mian Khalid Habib Elahi, ASC Mr. Mehmood A. Sheikh, AOR
For M/o Religious Affairs:	Mr. Shaukat Hayat Durrani, Secretary
For former Secretary Religious Affairs:	Mr. Ahmar Bilal Soofi, ASC
For Establishment Division:	Mr. Abdul Hafeez Pirzada, Sr. ASC Mr. Abdur Rauf Ch, Secy. Mr. Khalid Akhlaq Gillani, Addl. Secy. Mr. Muhammad Hafeez, J.S. Mr. Afzal Latif, J.S. Mr. Muhammad Arshad Khan, Dy. Secy.

For NAB: Mr. Muhammad Akbar Tarar, Addl. PGA
Mr. Fauzi Zafar, ADPGA

For FIA: Syed Jawed Ali Bukhari, Addl.DG
Incharge Investigation
Mr. Hussain Asghar, Director
Mr. M. Azam Khan, Director (Law)
Mr. Muhammad Niaz, S.I. Police with
Rao Shakeel, former DG Hajj (in
custody)

In C.M.A No.218/2011: Nemo

For Tour Operators: Nemo

For Contract Officers: Raja Muhammad Irshad, Sr. ASC
Raja Abdul Ghafoor, AOR
Mr. M. Ilyas Khan, Sr. ASC
Col. (R) Abdul Wahid Khan, SSP, ATC
Karachi

Date of hearing: 01.03.2011

ORDER

IFTIKHAR MUHAMMAD CHAUDHRY, CJ – Syed Jawed Ali Bukhari, Addl. DG, FIA has submitted progress report, a perusal whereof indicates that no effective progress has been shown as is also evident from the reports, which were being sent on daily basis for perusal of one of us (Raja Fayyaz Ahmed, J. in Chambers). On perusal of these reports, it has been concluded that –

“Plainly, it is reflected from the progress reports referred to above that deliberate delay has been and is being caused for reaching to the truth and in taking the pieces of incriminating material brought so far on record linking the accused persons to its logical conclusion. These reports lack necessary particulars and details, which lead to no where.

It is also apparent from the steps taken during the course of investigation that in a way protection is being extended to the offenders so that eventually they can get rid of the offences to which they appear to have

been exposed and to be escaped from lawful punishments likely to be awarded after trial.

Also, it does not transpire that the accused persons *prima facie* involved in the case have been interrogated and if so whether during the course of interrogation all the substantial and material incriminating points/material remained in the mind of the investigator or otherwise.

It seems quite evident that investigation in the case is not being conducted independently and in a transparent manner, as well as; it can hardly be believed that in presence of the present D. G. FIA effective and impartial investigation in the case can be conducted in respect of whom specific observations have also recorded by this Court in its order dated 10.2.2011 and in the subsequent order dated 15.2.2011 expressing dissatisfaction on the investigation being conducted in the case."

2. It is important to note that Syed Imran Ali Shah, who had made an allegation that out of the misappropriated/defrauded amount of Hajj scam, one bullet proof vehicle was purchased by Abdul Qadir Gillani through his friend Zain Iftikhar Sukhera at UAE, which was brought to the latter's residence at Sahiwal, when called upon to furnish evidence to substantiate allegation, failed to do so, as it is mentioned in the report in clear terms. We may observe here that on the basis of a bald and baseless allegation, such statement should not have been made by Syed Imran Ali Shah. However, the Addl. DG may look into the matter and proceed against him if he considers that false information was furnished.

3. It is informed by the Addl. DG that efforts are being made to cause the arrest of the accused persons, but they are

getting bails from the courts of law. However, it has been pointed out to him that they should approach the same court or the higher court and provide them assistance to pass appropriate orders under the law.

4. It is also complained by the Addl. DG that about four letters have been sent to the State Bank of Pakistan for the purpose of furnishing details of bank accounts of accused Abdullah Khokhar, Syed Hamid Saeed Kazmi, Aftab-ul-Islam Raja and others, but so far no cooperation has been extended. The Governor State Bank is hereby directed to cooperate with the FIA and issue instructions to the concerned authorities to do the needful.

5. Mr. Shaukat Hayat Durrani, Secretary Religious Affairs has submitted a report, which is quite satisfactory as payment of Pak Rupees equal to SR 700 per pilgrim has already been made to 99 % affected pilgrims. We appreciate the task, which has been completed by the Secretary and he may take further steps to distribute the left over amount to the remaining one percent pilgrims.

6. Mr. Abdul Hafeez Pirzada, Sr. ASC has stated that a Committee has already been constituted to look into the cases of persons who were appointed on contract basis. We may observe in loud and clear terms that appointments on contract basis are not allowed to be continued in terms of section 14 of the Civil Servants Act, 1973, and the Policy unless the conditions specified therein are satisfied. Apparently, it seems that the Government is not interested in obeying the order of the Court because so far the contract appointments of only 9 officers have been terminated whereas there is a list of more than 100 persons serving on contract basis in

different capacities, including Secretaries awaiting orders thereon. It is also to be noted that this Court has more than once observed that incumbent DG, FIA who himself is holding this post on contract basis in a disciplined force, is responsible for not allowing the investigation of the instant case to proceed in a transparent manner, however, despite these observations, no action has been taken against him. Mr. Pirzada has stated that the fate of DG, FIA will be decided within 3 days and report shall be submitted to the Registrar of this Court for perusal in Chambers.

8. Let the main case be adjourned for a period of two weeks. In the meanwhile, as already directed, the Addl. DG shall continue submitting report for perusal by one of us (Raja Fayyaz Ahmed, J in Chambers).

IFTIKHAR MUHAMMAD CHAUDHRY, C.J.

JAVED IQBAL, J.

RAJA FAYYAZ AHMED, J.

MUHAMMAD SAIR ALI, J.

ASIF SAEED KHAN KHOSA, J.

GHULAM RABBANI, J.

ISLAMABAD
1st March, 2011