

CASE 1: Maulvi Tamizuddin Khan v. Federation of Pakistan (PLD 1955 Sindh 96)

1. Parties and Their Constitutional Role

Maulvi Tamizuddin Khan was the President (Speaker) of the Constituent Assembly of Pakistan, the sovereign body entrusted with framing the Constitution of Pakistan. He represented the legislative authority and democratic will of the people. The respondent was the Federation of Pakistan, acting through the Governor-General, Ghulam Muhammad, who exercised executive authority under the Government of India Act, 1935. The case highlighted a direct confrontation between legislative supremacy and executive discretion.

2. Facts of the Case

In October 1954, the Governor-General dissolved the Constituent Assembly while it was actively engaged in constitution-making and had recently passed amendments curtailing the discretionary powers of the Governor-General. Maulvi Tamizuddin Khan challenged this dissolution before the Sindh High Court, contending that the action was unconstitutional and ultra vires. The Sindh High Court ruled in favor of the petitioner, restoring the Assembly and affirming parliamentary supremacy.

3. Doctrines Involved

• Parliamentary Supremacy • Rule of Law • Early traces of the Doctrine of Necessity

4. Decision of the Court

The Sindh High Court declared the dissolution illegal and restored the Constituent Assembly, holding that the Governor-General acted beyond his constitutional authority.

5. Appeal and Final Court

The Federation of Pakistan filed an appeal before the Federal Court of Pakistan, leading to the landmark reversal in PLD 1955 FC 240.

CASE 2: Federation of Pakistan v. Maulvi Tamizuddin Khan (PLD 1955 FC 240)

1. Parties and Their Role

The appellant was the Federation of Pakistan, represented by the executive authority of the Governor-General. The respondent, Maulvi Tamizuddin Khan, stood for the dissolved Constituent Assembly.

2. Facts

The appeal challenged the Sindh High Court judgment. The central issue was whether laws passed by the Constituent Assembly were valid without the assent of the Governor-General.

3. Doctrine Applied

- Doctrine of Necessity
- Legal Formalism over Democratic Principles

4. Decision

The Federal Court reversed the Sindh High Court judgment, holding that the Constituent Assembly lacked legal competence because its enactments had not received the Governor-General's assent.

5. Final Court

Final decision rendered by the Federal Court of Pakistan.

CASE 3: Reference by the Governor-General (PLD 1955 FC 435)

1. Parties and Role

The Governor-General sought an advisory opinion from the Federal Court regarding his legislative authority in the absence of a Constituent Assembly.

2. Facts

Following the dissolution of the Constituent Assembly, a constitutional vacuum emerged. The Governor-General referred questions to the Federal Court to validate emergency legislative powers.

3. Doctrine

- Doctrine of Necessity (formally articulated)

4. Decision and Final Court

The Federal Court validated the Governor-General's authority to legislate temporarily under necessity.

CASE 4: State v. Dosso (PLD 1958 SC 533)

1. Parties

The State of Pakistan was the appellant, while Dosso, a tribal offender, was the respondent.

2. Facts

After General Ayub Khan imposed Martial Law in 1958, the validity of the new legal order was challenged through criminal proceedings.

3. Doctrine

- Hans Kelsen's Theory of Revolutionary Legality

4. Decision and Final Court

The Supreme Court validated Martial Law, holding that a successful revolution creates its own legality.

CASE 5: Usif Patel v. Crown (PLD 1955 FC 387)

1. Parties

Usif Patel was the petitioner, while the Crown represented executive authority.

2. Facts

The case questioned the legality of executive actions during the constitutional crisis of the 1950s.

3. Doctrine

- Validation of Executive Authority

4. Decision and Final Court

The Federal Court upheld executive actions, reinforcing the trend established in Tamizuddin cases.