

IN THE SUPREME COURT OF PAKISTAN
(APPELLATE JURISDICTION)

PRESENT:

MR. JUSTICE SH. AZMAT SAEED
MR. JUSTICE UMAR ATA BANDIAL
MR. JUSTICE FAISAL ARAB

CIVIL PETITION NO. 3345 OF 2016

(On appeal against the judgment dated
13.10.2016 passed by the Islamabad High Court,
Islamabad in Writ Petition No. 3394/2016)

Muhammad Shoaib Shaheen and others ... Petitioners

VERSUS

Pakistan Bar Council and others ... Respondents

For the Petitioners: Mr. Hamid Khan, ASC
Mr. Shoaib Shaheen, ASC
Mr. Ahmed Nawaz Ch, AOR (Absent)

For Respondents (12): Ms. Asma Jehangir, ASC
Syed Qalb-i-Hassan, ASC
Ch. Akhtar Ali, AOR

For Respondent (5): Mr. Kamran Murtaza, ASC

For Respondent (8): Mr. Azam Nazir Tarar, ASC

For Respondent (9): Mr. Muhammad Ahsan Bhoon, ASC

For Respondent (20): Mr. Qousain Faisal, ASC
Mr. Ghulam Mustafa Kandowal, ASC
Syed Rifaqat Hussain Shah, AOR

For other Respondents: N.R.

For Attorney General: Mr. Abdul Rashid Awan, DAG

Date of Hearing: 16.11.2016

JUDGMENT

FAISAL ARAB, J.- The petitioners and the respondent
Nos. 3 to 22 are all elected members of the Pakistan Bar Council
(Bar Council). The Bar Council, in its meeting held on 03.09.2016
by exercising majority vote reconstituted all its Committees that
were constituted earlier on 25.01.2016. This was done by first
suspending Rule 100 of the Legal Practitioners and Bar Councils
Rules, 1976 in exercise of the power contained in Rule 185. At that

time the tenure ordinarily available to the Committees under Rule 100 had not yet expired. The petitioners challenged the reconstitution of the Committees in Writ Petition No. 3394/2016 before the Islamabad High Court, which was decided vide judgment dated 13.10.2016. It was held that the term of the Committees is terminable by exercising the majority vote of the Bar Council. It was further held that as the Bar Council voted for the reconstitution of its Committees in a meeting in which it was not an item on its agenda, let a fresh meeting for the said purpose be convened. Aggrieved by such decision, the petitioners have preferred the present petition for grant of leave to appeal.

2. The main ground taken before us by petitioners' counsel is that once the Bar Council constitutes a Committee, it shall continue to function without being interrupted by Bar Council in any manner until its entire term available under Rule 100 expires. In other words no change in the composition of Committees' membership could be brought about during subsistence of the term available to the Committees. The petitioners' counsel further submitted that Rule 185 was wrongly invoked as it is meant for removing difficulties only and cannot be used to remove the protection accorded to the tenure of the Committees under Rule 100. In the alternative, it was also argued by the petitioners' Counsel that even if it is assumed that the Bar Council possesses the power to reconstitute its Committees before their term expires, in the past this has been done with the consensus of all members of the Bar Council whereas in the present case no such consensus was reached and thus the past

practice which also has the force of law was not honoured by the Bar Council. The counsel for the respondents, on the other hand, argued that nothing in the Legal Practitioners & Bar Councils Act, 1973 or the Rules bars the Bar Council from reconstituting its Committees or remove the members from the Committees as the powers which the Committees exercise under the law originally vest in the Bar Council.

3. It may be clarified at the very outset that the Chairman of the Disciplinary Committee as well as Enrolment Committee are nominated by the Chief Justice of Pakistan from amongst serving Judges of this Court. They being *ex-officio* members are not under the authority of the Bar Council so they only cease to be members of the Committees when they cease to be judges of this Court or the Chief Justice of Pakistan in their place nominate other judges as Chairmen or the Committees which they chair complete their term. Except for these two *ex-officio* members, the rest of the members of the Committees are chosen by the Bar Council from amongst its members and the issue involved in this case relates to such chosen members only.

4. Now taking the issue of past practice first, the history on this issue shows that on four occasions in the past, the Pakistan Bar Council reconstituted its Committees before expiry of their term. This happened in 56th meeting of the Bar Council held on 12.02.1987, 177th meeting held on 23.08.2008, 193rd meeting held on 25.5.2012 and 204th meeting held on

31.1.2013. In the 56th meeting, all Committees were reconstituted with unanimous decision. In 177th meeting, Committees were reconstituted by majority vote. Though objection under Rule 100 was taken in this meeting but the same was overruled. In 193rd and 204th meetings, Committees were reconstituted again by majority votes after suspending the operation of Rule 100 by invoking Rule 185. It can be seen that only on one out of four occasions in the past, reconstitution was done with the consensus of all members of the Bar Council. In the remaining three occasions, decision was taken by majority vote. From this, a consistent past practice of reaching the decision with consensus is not established. Had that been so, still the same cannot be given effect to for the simple reason that the petitioners have themselves based their claim on the interpretation of the Legal Practitioners and Bar Councils Rules 1976, which have the force of law whereas the claim of establishing past practice based on consensus occurred only once and that too when the Rules were already in operation. No customary practice or usage can be sought to be enforced which is contrary to the codified law. Past practice can never substitute codified law as no law can be made inoperative through obsolescence as long as it is in the field. Therefore, unless a solution to an issue could not be found in the law itself, the plea of past practice cannot succeed.

5. What triggered reconstitution of the Committees on 03.09.2016 is not an issue before this Court to decide. The issue

is, was it done in a way that is permissible in law? The resolution of the controversy with regard to the tenure of the Committees verily lies in exploring the real intent behind incorporating Rule 100 in the Legal Practitioners and Bar Councils Rules, 1976. Rule 100 reads *"The term of every Committee shall be the same as that of the Council itself unless the Bar Council when constituting the Committee provides otherwise."* This Rule has two parts. The first part reads *"The term of every Committee shall be the same as that of the Council itself"*. What this part conveys is that the Committees cannot outlive the life of the Bar Council that has constituted them. The day the term of office of a Bar Council comes to an end the then existing Committees stand decommissioned and all unfinished business of the Committees stand terminated. All members of the Committees then shall be deemed to be released of their authority and responsibility arising from or in connection with their assignment on the Committees. The second part of the rule reads *"unless the Bar Council when constituting the Committee provides otherwise"*. This part is simply intended to convey that it is not necessary that the term of the Committees to always remain co-extensive with the life of the Bar Council as the Committees could also be constituted for a different term i.e. a term which is shorter than the life of the Bar Council. Obviously under the second part of the Rule, no term can be fixed which lasts beyond the life of the Bar Council as it would defeat the very object of the first part of the Rule. So the second part of the Rule facilitates fixation of a term that is shorter than the term of

the Bar Council. Rule 100 thus only provides for the maximum term for which the committees can last i.e. either equal to the life of the Bar Council or any period shorter than that. Thus the only purpose of incorporating Rule 100 was to provide *terminus ad quem* upon expiry of which the Committees automatically stand decommissioned. Nothing more is to be read into this Rule. By fixing a terminus point for the Committees under Rule 100, does it mean that the Bar Council cannot prematurely reconstitute its Committees as and when it deems appropriate? This is precisely the question, which needs to be explored next.

6. Lets first examine what is the status of the Committee. All functions of the Pakistan Bar Council are described in Section 13 of the Legal Practitioners and Bar Councils Act, 1973. Section 15 of the Act read with Rule 86 of the Pakistan Legal Practitioners and Bar Councils Rules, 1976 empowers the Bar Council to constitute Committees in order to entrust them the tasks that fall within the province of the Bar Council. So the Committees are various bodies of persons whose members are merely the delegates chosen by the Bar Council from amongst its members to carry out certain assignments on its behalf. The Committees being instruments of the Bar Council, any matter or proceedings pending before a Committee can be withdrawn by the Bar Council and disposed of by itself. This is evident from Rules 86 & 86-A(iii). For ease of comprehension this relationship is to be understood as being similar to that of a principal and agent. The Bar Council being

the principal body, its satisfaction with regard to the functioning of its Committees has to be kept paramount while dealing with the issue in hand.

7. A situation may arise where the Bar Council realizes that a Committee is not functioning the way it thought it would and likes to revisit its decision with regard to the composition of Committee's membership. Additionally, as a Committee has no power of its own to punish its members for disorderly conduct, its only recourse being to report the matter to the parent body i.e. the Bar Council to take corrective measures. A genuine need therefore may arise to replace all or some of the chosen members of a Committee on account of neglect of duty or violation of Bar Council's mandate or for any other reason. To take such corrective measure, the only option left with the Bar Council is to reconstitute the Committees even though their tenure had not expired. It is not hard to imagine two distinct situations to legally co-exist, one fixing the maximum tenure for an office as provided by Rule 100 and at the same time the other enabling premature termination of such tenure. So existence of the first situation does not *ipso facto* eliminate the existence of the second. The co-existence of these two distinct situations, therefore, does not create any contradiction. To further this point, the principle laid down in Section 16 of General Clauses Act can be referred with considerable advantage. It lays down the principle of general law that where a power confers any office on a person then the authority also has the power to

remove him from that office even if his tenure has not expired. Thus Section 16 furnishes a general doctrine that '*a power to appoint includes the power to remove*'. Sir John Woodroffe in Chapter VI of the 6th Edition of his book 'Law relating to Receivers' had elaborated the exercise of such power by stating "*The power to terminate flows naturally and as a necessary sequence from the power to create.....It is a necessary adjunct of the power of appointment and is exercised as an incident to, or consequence of, that power; the authority to call such office into being necessarily implying the authority to terminate his function when their exercise is no longer necessary, or to remove the incumbent for an abuse of those functions or for other cause shown,*". So mere fixation of term of an office does not necessarily mean that the possibility to prematurely terminate such term stands ruled out. In case it is held that Bar Council has no such power, the only other option left with the Bar Council would be to remain helpless, do nothing and let the affairs of the Committee be, till the new Bar Council is elected. This could not have been intended by the Legislature. The power to reconstitute its Committees exists and always will in the hands of the Bar Council. Now the premature termination of any office can be brought about either after fulfilling certain conditions that are prescribed by law or it can be done with absolute authority. In case the law provides that certain conditions are to be first met then the termination would become effective only after the requisite conditions are fulfilled. Where no preconditions are attached by law for the exercise of

such power, as in the case of a principal and his agent (unless agency is coupled with interest), premature termination of the tenure of an office can be brought about instantaneously. Hence, subject to fulfilling the conditions for removal, if any prescribed by law, the power to prematurely terminate an office, such as that of the Committee members, who exercise delegated powers, nevertheless exists in the hands of the Bar Council that created it. It is therefore not legally tenable to maintain that simply because Rule 100 has made the term of the Committees co-terminus with the term of the Bar Council or any other term has been fixed by the Bar Council under Rule 100 at the time of creating them, the same cannot be reconstituted and shall remain absolutely immune from Bar Council's interference till their whole term expires.

8. When the Bar Council reconstituted its Committees in its meeting held on 03.09.2016 by exercising majority votes, all that it did was that it withdrew its own delegated authority from certain members of the Committee and entrusted it to others. No provision of the Act or the Rules requires that an opportunity of hearing was to be first given to a member of the Committee which the Bar Council intended to prematurely replace. Not even a notice period was envisaged to be given to the member sought to be removed from the Committee before induction of a new member in his place. The Committees of the Bar Council exercise delegated authority and the power to delegate an authority includes power to withdraw such

authority. In other words it can be said 'What the Bar Council giveth, the Bar Council can taketh away.' A Committee, therefore, can be discharged in the same manner, it was established. All that is required is a majority vote (Rule 96). That is the only requirement which the Bar Council has to fulfill. It may be pointed out that this power of the Bar Council to reconstitute its Committees is not meaningless. It is intended not to make withdrawal of authority by a principal from its agent questionable in a Court of law. So the security of tenure, insofar as membership in a Committee is concerned, is out of the equation. Only the members in their capacity as members of the Bar Council enjoy security of tenure who cannot be removed from the membership of the Bar Council unless they stand disqualified in the circumstances narrated in Section 11C read with Section 11B of the Legal Practitioners and Bar Council Act, 1973. As for the members of a Committee chosen by the Bar Council to exercise delegated authority are concerned, there exists no legal basis for them to claim that they possess a vested right for their continuance on the Committee against the will of the parent body that created it and resist their premature removal from the membership of the Committee in disregard of the majority decision. It can be said that the Committees live by majority vote and die by majority vote. The Bar Council being the principal body, whose satisfaction is to be kept paramount, simply requires majority vote to make changes in the membership of its Committee, which power it exercised in its meeting held on 03.09.2016. In order to make premature

changes in the composition of Committees, the Bar Council does not even need to suspend the provisions of Rule 100 by invoking Rule 185. If that was done in the present case or on couple of occasions in the past, it could only be termed as something done out of abandoned caution as the purpose of incorporating Rule 100 in the Legal Practitioners and Bar Councils Rules, 1976, as already discussed in detail, is altogether different.

9. To sum up, Rule 100 of the Legal Practitioners and Bar Councils Rules, 1976, cannot be interpreted so as to tie the hands of the Bar Council and render it so powerless that it cannot reconstitute its Committees as and when deemed appropriate. Committee is a body that exercises authority originally vested in the Bar Council under Section 13 of the Act, which is delegated to the Committees through the mandate of law (Section 15 and Rule 86) or through a decision of the Bar Council itself. Hence the members of the Committees simply hold office in the Committees during the pleasure of the Bar Council. In its capacity as its principal, the Bar Council has inherent power to decide in an appropriately convened meeting to reconstitute its Committees (which in the present case was not done). In exercise of such power, it may on its own choose to give reasons though it is not obliged by law to do so. Rule 100, therefore, cannot be used as a shield to prevent the Bar Council from exercising its power to withdraw its delegated authority from a set of Committee members and entrust it to another.

10. In view of what has been discussed above, this petition is dismissed and leave refused. Let the directions contained in paragraphs 24 and 25 of the impugned judgment be given effect to.

JUDGE

JUDGE

JUDGE

Islamabad, the
Announced on _____ by Hon'ble Mr. Justice Faisal Arab

Approved For Reporting
Khurram

SH. AZMAT SAEED, J.- I have had the privilege of examining the judgment of my learned brother Mr. Justice Faisal Arab dismissing the instant Civil Petition. I agree with the conclusions drawn, however, I may add my own reasons.

2. Section 15 of the Legal Practitioners & Bar Councils Act, 1973, pertains to the Committees of the Pakistan Bar Council. The said provision reads as follows:

"15. Committees of the Pakistan Bar Council.—(1) The Pakistan Bar Council shall constitute the following Committees, namely:--

(a) a disciplinary Committee consisting of a Judge of the Supreme Court nominated by the Chief Justice of Pakistan, who shall be its Chairman, and four other members elected by the Council from amongst its members:

Provided that the Attorney-General for Pakistan shall not be a member of the disciplinary Committee;

(b) an executive Committee consisting of seven members elected by the Council from amongst its members; and

(c) an enrolment Committee consisting of a Judge of the Supreme Court nominated by the Chief Justice of Pakistan, who shall be its Chairman, and two other members elected by the Council from amongst its members.

(2) The Pakistan Bar Council may constitute from amongst its members such other Committees, including a legal education Committee, as it may deem necessary for the performance of its functions under this Act, and may authorize any such Committee to co-opt as its members any other persons, not exceeding such number as the Council may determine.

(3) The Chairman of every Committee shall be entitled to vote and, in case of equality of votes among the members of the Committee, shall have a second vote."

A bare reading of the above-said provisions reveals that two sets of Committees are envisaged; one as mentioned in sub-section (1) i.e. (a) disciplinary Committee, (b) executive Committee, and (c) enrolment Committee; and second set pertains to the Committees under sub-section (2), reproduced herein above. It is obvious that the Members of the first set of Committees mentioned above are elected, while with regard to the second set of Committees referred to in sub-section (2), no requirement of electing its Members is mentioned in the said provision.

3. The first set of Committees mentioned in sub-section (1) exercised statutory powers as mentioned therein while the second set of Committees referred to sub-section (2) exercised powers as may be delegated by the Bar Council.

4. An elected Office whether Constitutional or Statutory as a general principle of law is effective for the tenure as prescribed in the Constitution or the Statute, as the case may be. A person so elected can only be removed from Office in accordance with the provisions of the Constitution or the Statute under which he was elevated, be it by a vote of no confidence impeachment recall or otherwise. No general powers envisages in the Electors to unseat such elected officials otherwise than the procedure as provided in the Statute applicable.

5. In the instant case, the life of the Committee is determined by Rule 100, which is reproduced hereunder for ease of reference:

"100. The term of every committee shall be the same as

that of the Council itself unless the Bar Council when constituting the committee provides otherwise."

The aforesaid Rule makes it clear and obvious that the life of the Committee cannot extend beyond the life of the Bar Council by electing the same. However, the Bar Council has been empowered to fix the tenure of the Committee at the time of constituting the same. In the circumstances, the minimum tenure of the Committee is not fixed by the Statute but by the Bar Council and such power is to be exercised while constituting the Committee. Such power once exercised or not exercised is not exhaustive and there is nothing to prevent the Bar Council from re-exercising of such power in terms of the principle laid down in Section 14 of the General Clauses Act, 1897.

6. The reasons adopted by my learned brother Mr. Justice Faisal Arab, would obviously hold true with regard to the Committees

constituted or rather reconstituted under Section
15(2) *ibid.*

Judge

UMAR ATA BANDIAL, J. – The petitioners and the respondents No.3 to 22 are Advocates of this Court who are also elected members of the Pakistan Bar Council (**“Council”**). The Council performs its functions and duties through several Committees having members that are elected by the Council. Each of the petitioners is the elected Chairman of one of the Committees constituted by the Council. They challenge the judgment dated 13.10.2016 passed by a learned Division Bench of the Islamabad High Court which holds that the term of the Committees elected by the Council is terminable by the majority vote of the Council. However, since the Council had on 03.09.2016 voted for the reconstitution of all its Committees without notice in the agenda for that meeting, therefore, the learned High Court has remanded the said matter of reconstitution of the Committees to the Council for reconsideration in a meeting of the Council properly convened for the purpose.

2. The petitioners maintain that the Legal Practitioners & Bar Councils Act, 1973 (**“Act”**) read with Pakistan Legal Practitioners & Bar Councils Rules, 1976 (**“Rules”**) framed pursuant to the Act envisage a term of five years for the members of the Committees constituted by vote of the majority of the Council on 25.01.2016. Consequently, the impugned judgment has seriously erred by upholding the purport of the majority of the Council on 03.09.2016 to prematurely dissolve and reconstitute all existing Committees of the Council barely eight months after they were elected.

3. The Council was first constituted in the year 1973 under the provisions of the Act. At that time the Act also envisaged four Provincial Bar Councils. Subsequently, by an amendment in the Act made in the year

2014, the Islamabad Bar Council was also added at the tier of the Provincial Councils. Under Section 4 of the Act:

“The term of every Bar Council shall be five years beginning on the first day of January following the general elections to the Provincial Bar Councils and Islamabad Bar Council; at the end of each term the members of the Bar Council shall cease to hold office.” (*emphasis supplied*).

4. The Council consists of 23 Members (section 11) who are elected on the basis of a single transferable vote by the members of the Provincial Bar Councils and the Islamabad Bar Council. The Attorney General for Pakistan is the *ex-officio* Chairman of the Council. The members of the Council elect a new Vice-Chairman in the month of January every year [section 12(3)]. The Vice Chairman is the executive head of the Council having functions and duties specified in Rule 85:

“85. Functions and duties of a Vice-Chairman.

- (a) In the absence of a Chairman the Vice-Chairman shall exercise the powers and the duties of a Chairman.
- (b) He shall be responsible for co-ordinating the functions of all the Committees of a Bar Council.
- (c) He shall exercise control over the employees of a Bar Council and shall be responsible for its smooth running.
- (d) He shall exercise control over the functionaries of a Bar council.”

5. It is evident that the Vice Chairman of the Council has a supervisory and coordinating role whilst the functions and duties of the Council, *inter alia*, enumerated in Section 13, are performed by several Committees having members elected by the Council (Section 15 and Rule 86). Three of such Committees have statutory force and are of a permanent character. These are the Disciplinary Committee headed by a Judge of the Supreme Court having four members elected by the Council from amongst its members; the Enrolment Committee chaired by a Judge of the Supreme Court having two members elected by the Council from amongst its members; and the Executive Committee consisting of seven

members elected by the Council from amongst its members. The Council is empowered to constitute such other Committees from amongst its members, including a Legal Education Committee, as may be necessary for the performance of its functions. The Act makes fairly detailed provisions in respect of the powers and proceedings of the Disciplinary Committee whose decisions are appealable before the Supreme Court (Section 48). Likewise for the Enrolment Committee which is the final authority for enrolment of Advocates of the High Courts (Section 32). The Act also constitutes a Disciplinary Tribunal (Section 42) headed by a Judge of the Supreme Court and having two members of the Council elected for the purpose. The formation of the other Committees (presently sixteen) and disposal of matters regarding management of the Council and the conduct of its affairs are also done by the majority vote of the Council under the Rules framed by the Council in exercise of power conferred by Section 55 of the Act.

6. Section 55(f) of the Act envisages rules to be framed on the subject of "the constitution and functions of any Committee of the Pakistan Bar Council and the term of the office of the members of any such Committee." In exercise of said statutory authorization by Section 55(f) of the Act, the Council has framed Rule 100 which provides as follows:

"100. The term of every Committee shall be the same as that of the Council itself unless the Bar Council when constituting the Committee provides otherwise." (*emphasis added*)

7. It is contended by the learned counsel for the petitioners that Section 4 of the Act provides for the term of the Council to be five years and for the members of the Council to hold their office until the end of

such term. Thus, the terms of the Council and of its members are co-extensive. It is argued that Rule 100 which is framed in exercise of power under Section 55(f) to fix “the term of office of the members of any such Committee” adopts the logic of Section 4 of the Act by treating the term of the Committees and their members to be coterminous, unless the Council consciously decides to shorten the members’ tenure by providing otherwise. In the present case, the Council elected all its Committees on 25.01.2016 without limiting the term of office of their members in the manner envisaged by Rule 100. Accordingly, it is argued that the term of office of the members of all Committees extends until January, 2021.

8. On the other hand, learned counsel for the respondents have emphasized that Rule 100 specifies merely the term of every Committee and not the term of office of its members. All decisions of the Council are taken by majority vote recorded by show of hands (Rule 96). According to Rule 94, the majority of total members of the Council can transact any business with the permission of the Chair even if it is not listed on the agenda. The Committees are answerable to the Council under Rule 86A(i) whereby the minutes, proceedings and resolutions adopted by the Committees must regularly be laid before the Council for its approval. Rule 86A(ii) epitomizes the majoritarian principle of governance of affairs of the Council whereby the Council may of its own motion or otherwise revise or issue directions to a Committee, review any proceedings taken, order passed or any decision made by such Committee of the Council. According to Rule 86A(iii), the Council may, if so inclined, withdraw any matter or proceedings pending before a Committee and dispose of the same itself. In the foregoing background, it is argued that the members of the Committees are agents of the Council who have not been assured a

fixed term of office. Whereas the Committees continue to function for five years, their members can be removed, changed or shuffled by the Council at any time to improve performance of the functions and duties of the Committees.

9. The minutes of the meeting of the Council held on 03.09.2016 record that all twenty Committees of the Council and its Disciplinary Tribunal were reconstituted by majority vote of the Council. These include the three statutory Committees, namely, the Disciplinary Committee, Enrolment Committee and Executive Committee, envisaged in Section 15 of the Act and also the Disciplinary Tribunal constituted under Section 42 of the Act. Alongwith six Appeals Committees for the Provinces and the Capital Territory, composition of ten other Committees was changed. As a result eleven members of the Council who were the elected members of the existing Committees and the Tribunal were replaced by other eleven members who had previously been excluded from membership and/or participation in all such *fora*. The said sweeping change in the membership of all twenty Committees of the Council was made without assigning cause, fault or reason.

10. To resolve the dispute regarding the validity of the action by the Council to reconstitute all its Committees and Disciplinary Tribunal, it became necessary for us to inquire the background of the differences between the parties. It transpires that the majority of votes in the Council has shifted to the erstwhile opposition group in the Council. As a result of the impugned action, members of the erstwhile opposition group have been elected as members of all the Committees of the Council thereby excluding the previous members thereof. The Council has twenty three elected members. The impugned reconstitution of the Committees and

Disciplinary Tribunal of the Council was accomplished on 03.09.2016 by a majority of twelve members of the Council by invoking the Council's power under Rule 185 to suspend Rule 100 reproduced above. Rule 185 provides as follows:

“**185.** The Pakistan Bar Council, may by a resolution, passed by it in its meeting, suspend wholly or partly, any Rule for such period and subject to such conditions, as it may deem fit and expedient.”
(emphasis supplied)

11. It is a matter of fact that the Council did not specify any shorter term for its Committees at the time of their constitution. According to the express provision of Rule 100, the term of the Committees last during the term of the Council. The petitioners have objected that Rule 185 cannot be invoked for suspending a substantive provision of the Rules which confers a right upon the members of the Committees of the Council to a fixed term of office as contemplated by Section 55 (f). It is a power meant for removing difficulties, inconsistencies and procedural obstacles blocking an emergent action by the Council that is otherwise in accordance with law.

12. The respondents reject such objection for three reasons. Firstly, that nothing in the Act or the Rules bars the reconstitution of the Committees or the removal of their members. Secondly, the conduct of affairs of the Council is squarely vested in the hands of the majority in the Council which can reconsider its previous decisions, *inter alia*, under Rule 98; and thirdly, that any fixed term of office claimed by the petitioners under Rule 100 is revocable by the Council under its power derived from Section 21 of the General Clauses Act, 1897. Section 21 *ibid* recognizes a competent authority to, *inter alia*, rescind rules, bye-laws, notifications or

orders that have earlier been issued by it. For the sake of convenience, Section 21 *ibid* is reproduced below:

“21. Power to issue, to include power to add to, amend, vary or rescind notifications, orders, rules, or bye-laws - Where, by any Central Act or Regulations, a power to issue notifications, orders, rules, or bye-laws is conferred, then that power includes a power, exercisable in the like manner and subject to the like sanction and condition if any, to add to, amend, vary or rescind any notifications, orders, rules or bye-laws so issued.”

13. The arguments rendered by the learned counsel for the contesting parties have been heard and considered carefully.

14. Disregarding the personal or political differences, if any, between the members of the Council, there is a legal *lacuna* in the Act and the Rules that possibly represents the true origin of the dispute between the parties. Neither the Act nor the Rules make any provision for removal from office of an elected Chairman or member of a Committee of the Council by any means whatsoever. Section 11(c) of the Act merely provides for grounds for cessation of membership of the Council. These grounds include: appointment to an office of profit in the service of Pakistan; suspension or removal from practice on the ground of professional misconduct; the incurrance of disqualification on account of dismissal or removal from the service of Government or of a public corporation; conviction for an offence of moral turpitude; declaration of being a tout or an undischarged insolvent. However, both the Act and the Rules do not address the matter of cessation of membership of Committees or the Disciplinary Tribunal. The consequences of loss of confidence by the Chairmen and members of the Committees of the Council or their inefficiency, incompetence, misconduct in the performance of their duties and functions are altogether ignored. Hence,

no impeachment, recall or vote of no confidence mechanism is available in the Act or the Rules for authorizing remedial action by the Council. This is notwithstanding the fact that the conduct of affairs of the Council are governed by democratic norms under the Act and the Rules. As a result of the silence of the Act and the Rules on the subject of accountability for loss of confidence, commission of default or misconduct by the Chairmen and members of the Committees of the Council, the impugned action removing existing Chairmen and members of the Committees is devoid of express legal cover under the Act and the Rules. Therefore, the respondents have resorted to justify the impugned action by suspending Rule 100 and are relying on external aids like powers conferred by the General Clauses Act, 1897 and the democratic principle of majoritarian rule.

15. In the above background, the primary issue highlighted in the submissions made by the learned counsel for the parties is whether the Council is rendered powerless for the claimed term of five years to touch any Chairman or member of a Committee even though he has lost confidence of the House or he has committed default or misconduct in the performance of his duties.

16. In order to address the said question, the route adopted by the respondent majority in the Council to deal with the situation through the impugned action requires examination. As a first step, the agenda dated 29.08.2016 circulated for the meeting of the Council on 03.09.2016 did not include any item regarding the reconstitution of the Committees of the Council. The additional agenda circulated on 02.09.2016 also did not include the said item. It seems, however, that later in the day on 02.09.2016 a requisition for the reconstitution of all Committees of the

Council was filed by eleven members of the Council before its Chairman, learned Attorney General for Pakistan, who directed the same to be placed before the House in its meeting already scheduled for 03.09.2016. At the meeting, the House firstly proceeded to exercise its power under Rule 185 to suspend the operation of Rule 100 till the end of the meeting. No reason for suspending the said rule is recorded in the minutes. Thereafter, with the permission of the Chair the majority of the total members of the Council exercised power under Rule 94 to take up and transact business outside the agenda of the meeting. Following that the matter of wholesale reconstitution of the Committees was considered by the Council which voted in new members thereof through the impugned action.

17. It may be observed that Rule 100 mandates that Committees of the Council shall have a term of five years except where the Council expressly specifies a shorter term whilst constituting such Committees. Suspension of Rule 100 by the majority of the Council purportedly arrested the term of the Committees under the said rule which was implausibly presumed to authorize the election/reconstitution of new Committees. Generally the power conferred on a competent authority to suspend or relax rules is construed narrowly because it permits deviation from the applicable law. Accordingly, any condition laid down in the enabling law for suspending rules is enforced strictly. The power is construed to advance the purpose and enforce the provisions of the enabling legislation. Reference is made to Rule 288 of the Rules of Procedure and Conduct of Business in the National Assembly, 2007 which permits "Suspension of Rules" by the Speaker. However, the ground for invoking this power is to overcome difficulty or inconsistency in the application of the said Rules. The object of the said power is to facilitate

the enforcement of the Rules of Procedure. Likewise, Section 246 of the Income Tax Ordinance, 2001, empowers the Federal Government to make orders consistent with the provision of the Ordinance in order to remove a difficulty in the enforcement of the provisions of the Ordinance. The same principle is expressed by Section 24 of the Civil Servants Act, 1973. Suspension of Rules cannot be resorted to for achieving a purpose extraneous to applicable law but for promoting the object of or for the proper application of such law.

18. In the present case, no difficulty, or for that matter, inconsistency in the application of the Act or the Rules is noted by the Council to justify the exercise of its power under Rule 185 to suspend Rule 100 of the Rules. In the case of **Mr. Fazlul Quader Chowdhry vs. Mr. Muhammad Abdul Haque** (PLD 1963 SC 486), the exercise of power by the President to make adaptation in the provisions of the Constitution in order that the Constitution as a whole should be brought into force was questioned. In that context, the meaning of the expression “necessary and expedient” occurring in Article 224(3) of the Constitution of 1962 for making such adaptation came under review of this Court. It was held that the power was meant for the purpose of removing a difficulty of one of the expressed kinds and not to achieve a purpose that was not envisaged in the Constitution. Justice S.A. Rehman (*as his lordship then was*) observed as follows:

“Clause (3) of Article 224 does not confer unfettered power on the President to make any amendments that he might choose, in the Constitution. The power is qualified by the condition that it should be exercised for the purpose of removing any difficulties that may arise in bringing the Constitution or any of its provisions into operation. Out of these words, a power cannot be spelt out to alter the Constitution itself so as to change it, for instance from the Presidential form which it clearly contemplates, to the

Parliamentary form. The Constitution as a whole has to be brought into force and if any difficulty arises in the machinery of enforcement, it could certainly be removed by an order of the President, within the specified time, but the word 'difficulty' could not receive such a large connotation as to comprehend within its scope, a drastic alteration such as would revolutionize the scheme of the Constitution itself. ..."

19. No provision of the Act or the Rules envisages the removal of members of the Committees of the Council or the reconstitution of such Committees at all, let alone at will. Therefore the suspension of Rule 100 by the Council did not promote nor remove any difficulty in the enforcement of any specific provision of the Act or the Rules. No ground for dissatisfaction with the Chairmen and members of all Committees was disclosed or discussed in General Meeting of the Council on 03.09.2016. In the circumstances, the Council failed to record any reason for deeming it "fit and expedient" to suspend Rule 100. It is plain that suspensory action by the Council cannot be taken arbitrarily or for a purpose extraneous to the enforcement of the provisions of the Act and the Rules. From the record, it appears that the Council considered term of office provided in Rule 100 to block the removal of the existing Chairmen and members of the Committees. Therefore, Rule 185 was invoked by the Council to overcome that hurdle without realizing that suspension of Rule 100 could not remove the Committees nor authorize the election of new Committees. These actions make out the suspension of Rule 100 to be extraneous and unfair. Be that as it may, any reasonable construction of the Act and the Rules cannot support the suspension of Rule 100 by the Council.

20. Dilating further on the meaning and effect of Rule 100, it may also be observed that Section 4 of the Act stipulates the term of the Council as being five years. That term is then expressed by Section 4 to be the period for which a member of the Council shall hold office. Section 55(f) of the Act contemplates specifically for the Rules to provide for “the term of the office of the members of any such Committee.” Rule 100 adopts the method and logic of Section 4 of the Act to indicate the term of a Committee to be five years except when its term is expressly curtailed by the Council at the time of constituting the same. Any reduction in the term of a Committee is intended to be an express act or specific provision. Such curtailment cannot in terms of Rule 100 be presumed nor be deferred for later provision. Moreover, the meaning and effect of Rule 100 is to be construed in the light of its enabling provision, namely, Section 55(f). The statutory mandate in Section 55(f) for the Rules to provide for the “term of the office of the members of any such Committee” means that the expression “Committee” occurring in Rule 100 be construed to include “members of any such Committee.” A Committee is a non-existent entity without its members who are an integral part thereof. This integrality between the collective body and its members is also reflected in the provisions of Section 4 of the Act, by the term of the Council being made coterminous with the term of its members. A joint reading of Section 55(f) with Rule 100 shows an identity of tenures of both the Committees and their members. The interpretation advanced by the respondents that Rule 100 provides merely for the life of the Committees but does not deal with the term of office of their members is therefore theoretical. It ignores that the empty shell of a Committee is meaningless. In recognition of this fact, Section 55(f) empowers the Council to fix the term not of the Committees

but of their members. Indeed, Section 15 mentions at least three Committees having statutory terms which cannot be adjusted by the Council. Clearly, therefore, Rule 100 is dealing with the term of members of Committees. This construction is consistent with reason and also explains the intention of the Council on 03.09.2016 to suspend Rule 100 before reconstituting its Committees.

21. In the foregoing background, the learned counsel for the parties have addressed the Court on the precedents for reconstitution of the Committees of the Council occurring over the period of 43 years since the promulgation of the Act. The learned counsel candidly acknowledge that the absence of any mechanism in the Act and the Rules for removal of the elected Chairmen and members of the Committees of the Council is a deliberate omission by the legislature. The members of the Bar constitute one community, united by the principle to promote the rule of law in the country and to establish and maintain the highest standards of excellence and ethics in the profession of law. Accordingly, in the matters of internal management of the Council, its members are expected to and have risen above their personal differences to take unanimous decisions in the interest of harmony and sound management of the affairs of the Council. This includes the subject of reconstitution of Committees of the Council. Reference has been made by both sides to the proceedings of the 56th meeting of the Council held on 12.02.1987 at Lahore. Paragraph-8 of the minutes of the meeting records as follows:

"8. Therefore, Mr. Abdul Haleem Pirzada, with permission of the chair, informed the meeting that to make re-adjustments the Members were unanimous to re-constitute the Committees of the Pakistan Bar Council and proposed the following list of reconstituted Committees. He further said that the Chairman/Members of the Committees previously constituted by

the Pakistan Bar Council in 1984, who were not maintaining their past positions had voluntarily agreed to quit and under the new arrangement would be deemed to have relinquished their Chairmanship/Membership.” (*emphasis added*).

22. As a result of the above noted consensus, eleven Committees of the Council were reconstituted by agreement of all its members. It is contended that the spirit of understanding and harmony prevalent amongst members of the Council was disturbed long afterwards in the year 2008. The minutes of 177th (Requisitioned) meeting of the Council held on 23.08.2008 record that the existing Committees of the Council were reconstituted by the majority of the Council after overruling the objections based on Rule 100, and in the absence of any alleged cause or fault justifying their reconstitution. Again, the minutes of 193rd meeting of the Council held on 25.05.2012 show that certain members of the Committees were replaced by the majority of the Council. In this instance, the power under Rule 185 was exercised to suspend the operation of the Rule 100 before the members of the Committees were replaced. The same action was repeated in the 204th meeting of the Council held on 31.01.2013 but without suspending the operation of Rule 100.

23. So long as there was a spirit of consensus within the Council, the silence of the Rules did not prejudice action by the Council to ensure the confidence of and accountability before the Council on either count. However, it is clear from the recent precedents of the Council's proceedings that a change has come about in the regulation of its internal affairs. The consensus necessary for unanimity has evaporated and groups have emerged within the fold of the Council. As a result the majority in the Council has asserted its legal authority and clout pursuant to, *inter alia*, Rules 86A, 91, 94 and 96 to 98. Undoubtedly, the principle of decision

by majority vote of members in quorum pervades the body of decisions and proceedings of the Council or its Committees as regulated by the Act and the Rules. The present case concerns the limits, if any, that check the power of the majority vote of the Council; in particular if such vote can override the Rules and rights conferred by the same.

24. The significant feature about the office of the members and of Chairmen of the Committees of the Council is that these are all elected posts. One of the ordinary incidents of an elected office is that it bears a defined term. There may, however, be exceptions for example where an elected office may be held by its incumbent during the confidence of the House that elected him. The offices of the Prime Minister under Article 95 of the Constitution and of the Chief Minister under Article 136 thereof can be retained by the respective incumbents so long as they have the support of the majority of the House that elected them. This rule is enshrined in the right to bring a motion of no confidence under the afore-noted Articles of the Constitution against the respective holders of the said offices. Similar provisions exist in provincial legislation in relation to the offices of heads of Local Governments. In the case of a fixed term of an elected office the incumbent may be removed through his impeachment on specified grounds by the competent House. This is reflected in the provision for removing the President under Article 47 of our Constitution.

25. We have already noted that under, *inter alia*, Rule 86A, 91, 94, and 96 to 98 of the Rules, the majority of total members in the Council has substantive powers to assume complete control of the affairs of the Committees, to reverse or undo their decisions and also the actions of the Council. It becomes crystal clear that the underlying ethos and basis furnished by the Act and the Rules for the constitution and working of the

Council and its Committees is majoritarian rule and democratic decision making. Rule by the chosen representatives of the electorate and the rule of law are the two fundamental pillars of a democratic order. These essential features of a democratic order were succinctly noted by this Court in **Federation of Pakistan vs. Muhammad Nawaz Sharif** (PLD 2009 SC 644):

“54. The Constitution of Pakistan provides for a democratic system of governance, “wherein the principles of democracy, freedom, equality, tolerance and social justice as enunciated by Islam shall be fully observed.” But democracy does not mean merely holding of periodical elections or a government by a political party having majority in the Parliament. It epitomizes the cherished values of freedom, democracy, due process and the rule of law. It encompasses a whole range of sociopolitical and economic rights. ...”
(emphasis added)

26. In the eyes of the law the holder of an elective office has a different standing from an executive appointee. The former is the winner in a democratic process whilst the latter represents the choice of executive discretion. Executive appointments and action are, *inter alia*, subject to the provisions of the General Clauses Act, 1897; but elected office bearers cannot be recalled under executive orders unless expressly authorized by the law. By providing the afore-noted motions of no confidence and impeachment, our Constitution and the law install mechanisms for recalling electoral verdicts. These motions possess a certain degree of due process and fairness by expressly granting prior notice and hearing to the affected person before terminating his elected term. The conditions for election to an office, holding the same and removal therefrom are creatures of legislation. Motions of no confidence or of impeachment must be provided expressly by the law and cannot be presumed or imported

into the law. The absence thereof in the enabling law grants an uninterrupted term of office to the incumbent rather than conferring a naked power on the electorate/electoral college to repudiate at will or a whim the mandate of its confidence.

27. In the present case, the reliance placed on democratic norms by the majority in the Council to justify their impugned action against elected members and Chairmen of the Committees may have legal force if their majority vote also had the backing of the law. This requirement stems from the fact that the right to elect a person or to remove him from office is a statutory right. In **Hamida Begum vs. Provincial Election Authority** (PLD 1966 Lahore 560), it is held that *“a right to vote is not a common law right, but is a creation of the statute. A dispute as to casting of votes or other matters at an election must be decided under and in accordance with the enacted law.”* To the same effect are dicta laid down in **Asif Nawaz Fatiana vs. Walayat Shah** (2007 CLC 610) and **Muhammad Ibrahim Qasmi vs. Election Commission of Pakistan** (PLD 2008 Peshawar 84). A lucid statement of the different facets of the said principle is made in **Mohan Lal Tripathi vs. District Magistrate Rae Bareilly** (AIR 1993 SC 2042 at page 2045) as follows:

“2. ... But electing representatives to govern is neither a ‘fundamental right’ nor a ‘common law right’ but a special right created by the statutes, or a ‘political right’ or ‘privilege’ and not a ‘natural’, ‘absolute’ or ‘vested right’. ‘Concepts familiar to common law and equity must remain strangers to Election Law unless statutorily embodied.’ Right to remove an elected representative, too, must stem out of the statute as ‘in the absence of a constitutional restriction it is within the power of a legislature to enact a law for the recall of officers’. Its existence or validity can be decided on the provision of the Act and not, as a matter of policy. ... [T]he removal of the appellant by a vote of no-confidence by the Board which did not elect him was subversive of basic concept of democracy. Academically the

submission appeared attractive but applied as a matter of law it appears to have little merit. ... In modern political set up direct popular check by recall of elected representative has been universally acknowledged in any civilised system. Efficacy of such a device can hardly admit of any doubt. But how it should be initiated, what should be the procedure, who should exercise it within ambit of constitutionally permissible limits falls in the domain of legislative power. ... Therefore, the validity or otherwise of a no-confidence motion for removal of a President, would have to be examined on applicability of statutory provision and not on political philosophy. ... The recall of an elected representative therefore, so long it is in accordance with law cannot be assailed on abstract notions of democracy."

The above mentioned principles were considered and applied in **Partap Chandra Mehta vs. State Bar Council of Madhya Pradesh & others** [(2011) 9 SCC 573] whilst determining whether Rule 122A of the Bar Council Rules of a State conferring the right of a no confidence motion on the members of the State Bar Council against their Chairman and Vice Chairman was *ultra vires* the parent law, the Advocates Act, 1961. The Indian Supreme Court rejected the challenge to the vires of the impugned rules. It held that so long as there was a legal provision controlling the motion of no confidence which avoided its arbitrariness or unreasonableness, such rule was *intra vires* the power of the State Bar Council to frame rules 'to carry out the purpose of the Act' (Advocate Act, 1961). The conclusion drawn has relevance to the facts of the instant case and is reproduced below:

"80. In face of the above enunciated principles, we are of the considered view that the concept of just cause and right of hearing, the features of common law, are not applicable to the elected offices where a person is so elected by majority in accordance with statutory rules. It would also have hardly any application to moving of a "no confidence motion" insofar as these are controlled by specific provisions and are not arbitrary or unreasonable. There is nothing in Rule 122A of the M.P. Rules that requires adherence to these two concepts when a motion of

no confidence is moved against a sitting Chairman/Vice-Chairman. Of course, it does not imply that the action can be arbitrary or capricious and absolutely contrary to the spirit of the Rule. There is no dispute in the facts of the present case that majority of the members had passed the "no confidence motion" in the 16th Meeting of the State Bar Council on 16-04-2011.

81. We are not able to accept the view taken by the High Court of Delhi in Bar Council of Delhi [Bar Council of Delhi v. Bar Council of India, AIR 1975 Del 200] in saying that solely with the aid of the General Clauses Act, the power to elect would deem to include power to remove by a motion of no-confidence, particularly, with reference to the facts and circumstances of the instant case. The power to requisition a "no-confidence motion" and pass the same, in terms of Rule 122-A of the M.P. Rules, is clear from the bare reading of the Rule, as relatable to loss of faith and confidence by the elected body in the elected office-bearer. We have already discussed in some detail and concluded that Rule 122-A of the M.P. Rules is not ultra vires the provisions of the Advocates Act, including Section 15. ..."

28. Two established and admitted facts may be reiterated. Firstly, that the Rules framed in exercise of power delegated by Section 55 of the Act do not make provision for the Council to impeach or pass a vote of no confidence against the Chairmen or members of the Committees. Secondly, in the present facts of the case Rule 100 envisages in mandatory words that the term of office of members of the Committees shall run co-terminously with the term of the Council. This is because notwithstanding its one time power to fix a shorter term of the Committees at the time of constituting these, the Council did not do so, and thereby confirmed the full term of five years for such Committees. Consequently, it is a legal right of the Chairmen and members of the Committees that the tenure of their offices equals the full term of the Council. The excerpts of law reproduced above clarify that this right of elected officer bearers cannot be defeated by the majority in the Council without express authority under

the Rules. Therefore, resort to the suspension of Rule 100 or electing new Committee members or relying on democratic notions is inconsequential. Although the no confidence of the majority of the Council in the Chairmen and members of the Committees is duly expressed yet their vote and its result lacks the sanction and authority of law. It is, therefore, ineffective and invalid. The element of rule of law necessary for democratic governance and noticed in **Muhammad Nawaz Sharif**'s case (PLD 2009 SC 644) requires that suitable amendment be made in the Rules to incorporate the right of the members of the Council to bring a motion of no confidence or of impeachment as may be deemed appropriate against, *inter alia*, members and Chairmen of the Committees.

29. The above discussion refutes the argument of the learned counsel for the respondents that the Council has a residuary power under Section 21 of the General Clauses Act, 1897 to lawfully remove Committee Chairmen and members. It may be added that the said statute in general and in particular Section 21 thereof relate to the exercise of delegated authority by statutory functionaries. The settled law of the land denies any authority to statutory functionaries to take away accrued legal rights of affected persons. Reference is made to **Alsamrez Enterprise vs. Federation of Pakistan** (1986 SCMR 1917), **Zaman Cement Company (Pvt.) Ltd. vs. Central Board of Revenue** (2002 SCMR 312) and **Collector of Central Excise & Land Customs vs. Azizuddin Industries Ltd.** (PLD 1970 SC 439). The term of offices of Chairmen and members of the Committees of the Council are their accrued legal right under Rule 100 which cannot be divested by invoking the power under Section 21 *ibid.*

Equally other powers conferred by the General Clauses Act, 1897 are inapplicable.

30. Having expressed the foregoing view, there remains a poignant question for consideration by the Court. It is undisputed that the Council is constituted by Statute and all its proceedings and actions are regulated and governed by democratic norms that are laid down in the Act and the Rules. It is also a matter of fact that the Council performs the bulk of its functions through the elected Committees which are governed by the same norms. Given that the procedure of review, reversal and disposal by the Council of matters pending before the Committees (Rule 86A) is cumbersome and impracticable, there exists a serious lacuna in the regulation of the affairs of the Council. By the absence of a mechanism for impeachment or a vote of no confidence or recall otherwise in the Act or the Rules, the accountability of the Chairmen and members of Committees by the majority in the Council stands totally blocked. To our minds, the elements of transparency in actions, the confidence of and accountability before the electorate are crucial for the functioning and development of democratic governance in any institution. This is more so the case with the Council which is created by statute and is the highest representative professional body of the legal community in the country which plays a pivotal role in the dispensation of justice by the Courts of law.

31. In the foregoing perspective, the state of the present regulatory framework of the Council is in conflict with its underlying basis and ethos as envisaged by the Act and the Rules. In order to implement such underlying basis and ethos and to secure the rights of the members of the Council pursuant thereto, it is necessary that the Council

must in exercise of its power under Section 55 of the Act incorporate an appropriate mechanism within its Rules setting out the conditions on which the terms of the Chairmen and members of the Committees may be terminated by the members of the Council. An amendment in the Rules is therefore necessary for carrying out the scheme of the Act and for enforcing better democratic governance of the Council as contemplated by the Act and the Rules. The substantive terms of the amended rules are left to the able and experienced hands of the members of the Pakistan Bar Council who are all Advocates of this Court.

32. However, in this regard, the Court is inclined to offer in the meantime certain guidelines for promoting confidence of the Council in its office bearers and for transparency and accountability in the discharge of their functions. There is precedent that guidelines were issued by the Court to advance the statutory scheme and objects of the Council in the case of **Pakistan Bar Council vs. Federation of Pakistan** (PLD 2007 SC 394); again to ensure transparency in functioning of public bodies guidelines were issued in **Ghulam Rasool vs. Government of Pakistan** (PLD 2015 SC 6). The fundamental basis of the Council requires that any contradictory lacuna in its framework be removed by express law. Accordingly, it is recommended that the requisite amendments be framed by the Council within a period of six months from the date of this judgment.

33. It is further remarked that in case the Council fails to frame the requisite amended Rule(s) within the given timeframe, then it is observed that as a default measure, the presently elected members of the Committees and the Disciplinary Tribunal of the Council shall be deemed

to have a term of two years rather than five years. In other words, they shall upon the lapse of two years after their election to their offices be required to secure a fresh vote of confidence of the majority of the total members of the Council in order to retain their offices. At the said election of the Committees, the Council shall, if so inclined, have the opportunity to fix a shorter term of the Committees. The fresh elections for constituting the Committees and Disciplinary Tribunal of the Council shall accordingly be held in the month of January, 2018 on a date fixed by the Chairman of the Council.

As a result, this petition is converted into an appeal and partly allowed in above terms with no order as to costs.

Umar Ata Bandial, J.

ORDER OF THE BENCH

By majority of 2 to 1 (Umar Ata Bandial, J. dissenting), this Civil Petition is dismissed.

Judge

Judge

Judge

Announced in open Court
on _____ at _____

Approved for Reporting

Judge