

## IN THE SUPREME COURT OF PAKISTAN

### Present:

Justice Qazi Faez Isa, CJ  
Justice Amin-ud-Din Khan  
Justice Athar Minallah

Civil Miscellaneous Applications No.3577 of 2019 and 9219 of 2023 in  
Civil Review Petition Nil of 2019 and Civil Review Petition No.266 of  
2019 in Suo Motu Case No.7 of 2017.

*Review Petition by Sheikh Rasheed Ahmed,  
Chairman, Awami Muslim League*

*(Civil Miscellaneous Application No.3577 of 2019)*

*Review Petition by the Govt. of Pakistan through  
Secretary M/o Defence*

*(Civil Miscellaneous Application No.9219 of 2023) ....Applicants*

For the applicant: Mr. Abdul Raziq, ASC with Sheikh  
Rasheed Ahmed in-person.  
Mr. Mehr Khan Malik, AOR.

Date of Hearing: 15 November 2023

### ORDER

**Qazi Faez Isa, CJ.** This Court *vide* judgment dated 6 February 2019 ('**the Judgment**') traced the history of orchestrated violent protests in Pakistan (paragraphs 20-23), and sounded a warning for the future. However, the concerns expressed by us almost 5 years ago were disregarded by successive governments. Review petitions and applications were filed and these were not fixed for hearing, which hindered the Judgment's implementation. No responsibility was affixed, nor was anyone held accountable for the violence of the past. It is not surprising that violence continued to be perceived as a permissible means to attain one's goals. Victims of those striving for an independent judiciary, an inclusive and tolerant Pakistan were disregarded without justice; the nation suffered the consequences, as evident from the recent events of 9 May 2023.

2. CMA No.3577/2019: The learned Mr. Abdul Raziq states that the applicant, namely, Sheikh Rasheed Ahmad, present in Court, does not press the instant application. We repeatedly asked the learned counsel why the application was filed and then kept pending for four years and eight months, and were told that it was filed under a misapprehension.

It is surprising that the leader of a political party, a longstanding parliamentarian and one who has held the high office of a Federal Minister filed the application on the basis of a misapprehension. Therefore, we enquired whether he had filed the application on someone's behest, but it was reiterated that it had been filed under a misapprehension. A Commission has been constituted by the Federal Government and its *terms of reference* are proposed to be expanded to include this aspect too and we are confident that the Commission will attend to the *terms of reference*. Accordingly, this CMA is dismissed as not pressed.

3. CMA No.9219/2023: The learned Attorney-General for Pakistan ('AG') states that the Federal Government has constituted an Inquiry Commission under the Pakistan Commissions of Inquiry Act, 2017 *vide* Notification No.01/16/2023-Lit-III, dated 15 November 2023, which has been published in the Gazette of Pakistan on the same date. He has read the said Notification and stated that one aspect has been missed from the *terms of reference* which is to consider whether all the review petitions and applications filed in SMC No.7/2017 before this Court were coincidental or were filed pursuant to instructions from the same source. The learned AG stated that this will be added to the *terms of reference* of the Commission, which will be notified and published in the Gazette of Pakistan within a week.

4. CMA No.9648/2023: Mr. Absar Alam Haider has filed this application and has attached an order of this Court dated 3 October 2022, dismissing CPLA No.2344/2018. From what we have been able to gather, Mr. Haider wants to restore the said petition, which had been dismissed. While he states that he is no longer interested in regaining the position of Chairman PEMRA, he still wants to challenge the findings recorded against him, therefore, Mr. Haider wants to withdraw the instant application, which is dismissed as withdrawn.

5. In this case, review petitions and applications were filed in early 2019 but were not fixed for several years. In the interim the other signatory to the Judgment, namely Mushir Alam, J, retired on 17 August 2021. The concerned officers of the Supreme Court were asked to submit a report regarding non-fixation of these matters in Court. The Additional Registrar (Fixture) and the Additional Registrar (Judicial) have jointly reported as under:

'It is pertinent to mention here that usually the review petitions are fixed on priority before the same Bench or in which at least the Hon'ble Author Judge is a member. Furthermore, previously important cases used to be fixed before the Hon'ble Court after approval of former HCJs. Record shows that C.R.P.266/2019 etc. were added in draft of Final Cause List No.17/2019 for the first time on 25.04.2019 at 01:12 P.M (CFMS Report is attached at Flag-A) however, the same were removed from the draft list on 25.04.2019 at 05:06 P.M. as per direction given by the then HCJ.'

And, further that:

'It is also worth mentioning that the said cases were also repeatedly mentioned in List of Important Cases presented to former HCJs from time to time, however, these cases remained pending in office due to the reason that there were no direction from the then HCJs for fixation of the cases.'

6. With humility, and setting an example for others to follow, this Court acknowledges the manipulation resorted to in the Supreme Court by not fixing the said petitions and applications. The Supreme Court endeavours to regain the confidence of the people by acknowledging this, and will be demonstrating that the mistakes of the past will not be repeated. Truth sets one free and makes institutions strong. The people of Pakistan deserve nothing less.

7. It is long overdue that every institution acts transparently and responsibly. And, when wrong is done it is incumbent to acknowledge it. Ignoring wrongdoing or offering a bare denial of it, when the facts suggest otherwise, is to have lived a lie, and perpetuated it; it is also against the interest of the public whose taxes fund all public institutions. Lack of trust in public institutions engenders autocracy and threatens democracy. If individuals begin to overshadow the institutions they work in, they cause irreparable harm, diminish their institution, and render them as their alter ego.

8. It should not need reminding that every decision of the Supreme Court is binding and must be implemented by all executive authorities as stipulated in Articles 189 and 190 of the Constitution. Implementation however may be forestalled when review petitions and other applications are pending. However, all review petitions and applications have now been disposed of. It now needs to be considered whether we should invoke the constitutional power of contempt under Article 204 of the Constitution in case the Judgment is not implemented. Those who

were in government when the Judgment was given are no longer in government and the composition of the Election Commission has also changed. Therefore, it would not be appropriate to hold the present incumbents responsible for the actions/inactions of their predecessors, particularly when they have demonstrated that they want to implement the decision of this Court.

9. The Federal Government has also constituted a Commission and given it two months to do its task, and we expect that it will do so within the allotted time. The Election Commission of Pakistan had on the last date sought thirty days to do what it had undertaken and this period has not expired yet. The Election Commission of Pakistan should submit its report without waiting for the next date. To be fixed on Monday, 22 January 2024.

Chief Justice

Judge

Judge

Islamabad:  
15 November 2023  
(Hassan K.W.)

Approved for reporting