

IN THE SUPREME COURT OF PAKISTAN
(Original Jurisdiction)

Constitutional Bench:

Justice Muhammad Ali Mazhar
Justice Naeem Akhter Afghan
Justice Shahid Bilal Hassan
Justice Salahuddin Panhwar
Justice Shakeel Ahmad

Constitution Petitions No.22, 20, 23, 25 to 28 of 2025

(Constitutional Petitions U/A 184(3) for declaring Notification No. F.10(2)/2024-A.II dated 1st February 2025 (Transfer of Judges to Islamabad High Court) as illegal and unconstitutional)

AND

C.M.A.2136/2025 IN C.P.22/2025 and
C.M.A.2137/2025 IN C.P.20/2025 and
C.M.A.2046/2025 IN C.P.23/2025 and
C.M.A.2138/2025 IN C.P.26/2025 and
C.M.A.2139/2025 IN C.P.27/2025 and
C.M.A.2047/2025 IN C.P.28/2025
(Stay applications)

Justice Mohsin Akhtar Kayani, Judge, Islamabad High Court, Islamabad and others	(in CP 22/25)
Raja Muqsit Nawaz Khan	(in CP 20/25)
Islamabad High Court Bar Association through its President Islamabad	(in CP 23/25)
Imran Ahmed Khan Niazi	(in CP 25/25)
Lahore High Court Bar Association, Lahore through its President	(in CP 26/25)
Lahore Bar Association Lahore through its President and another	(in CP 27/25)
Karachi Bar Association through its General Secretary, Karachi	(in CP 28/25)
	...Petitioners

Versus

The President of Pakistan, Pak Secretariat, Islamabad and others	(in CPs 22, 23, 26 to 28/25)
Federation of Pakistan through, Secretary Ministry of Law, Justice & Parliamentary Affairs, Islamabad and others	(in CPs 20 and 25/25)
	...Respondents

For the Petitioners: (in CP 22/25)	Mr. Muneer A. Malik, Senior ASC Mr. Salahuddin Ahmed, ASC Syed Rifaqat Hussain Shah, AOR
(in CPs 20 & 25/25)	Mr. Idrees Ashraf Malik, ASC Raja Muqsit Nawaz Khan, ASC
(in CPs 23 & 28/25)	Mr. Faisal Siddiqi, ASC Mr. Riasat Ali Azad, ASC Mr. Anis Muhammad Shahzad, AOR
(in CPs 26 & 27/25)	Mr. Hamid Khan, Senior ASC (through video link from Lahore)
For the Federation & The President of Pakistan:	Mr. Mansoor Usman Awan, AGP

For the Province of Punjab: Mr. Muhammad Amjad Pervez, AG

For the Province of
Balochistan: Mr. Adnan Basharat, AG

For ICT: Mr. Ayaz Shaukat, AG ICT

For the Province of KPK: Mr. Shah Faisal Ilyas, Addl. AG

For the Province of Sindh: Nemo.

For the Registrar SCP: Nemo.

For the Registrar IHC: Mr. Muhammad Asif Iqbal, Deputy Registrar

For the Registrar HCS: Nemo.

For the Registrar LHC: Nemo.

For JCP: Nemo.

For the Transferee Judges: Nemo.

Date of Hearing: 17.04.2025

ORDER

Constitution Petition No.23/2025:

Out of the seven petitions challenging the transfer of the three Hon'ble Judges to the Islamabad High Court, one petition, i.e., C.P.No.23/2025 was filed by the Islamabad High Court Bar Association ("**IHCBA**"). To start with, Mr. Anis Muhammad Shahzad, learned AOR, has pointed out that CMA No.2168/2025 has been filed by the IHCBA through its President for the withdrawal of Constitution Petition No.23/2025 on the strength of resolution passed by the Managing Committee on 15.04.2025. Earlier, Mr. Faisal Siddiqui, learned ASC, was appearing for the IHCBA, who is also present in Court but submits that the aforesaid application for withdrawal of the petition has not been moved by him. At the same time, Mr. Riasat Ali Azad, former President, IHCBA, submits that he filed the petition with the approval of the then Managing Committee. However, in the present situation, the newly elected Managing Committee has decided and resolved to withdraw this Constitution Petition. Therefore, while considering the doctrine of *dominus litis*, CMA No.2168/2025 is allowed and this petition is dismissed as withdrawn alongwith C.M.A.2046/2025 (stay application).

Constitution Petition No.22/2025 etc.:

2. As far as the leading petition is concerned, notices were issued to all respondents in view of our last Order. The learned Attorney General is present for complying with the notice issued to him under Order XVII-A, Rule 1, CPC. We specifically asked him whether he has any instructions from the Judicial Commission of Pakistan (JCP) to represent them in this petition. He submits that, at present, he has no such instructions, but if instructions are issued, he will also represent JCP. However, currently he is representing the President and Federation of Pakistan (respondent No.1 & 2). He will also seek instructions from the Registrar, Supreme Court, on whether he wants to file any concise statement or not.

3. The notices issued to the learned Advocate General of the Provinces and the Islamabad Capital Territory have been served, and except the Advocate General of Sindh, all learned Advocate Generals/Additional Advocate Generals are present. Since the Registrars of the High Courts have also been impleaded in this petition, therefore, all learned Advocate Generals are directed to consult with the Registrar of their concerned High Courts and file their concise statements before the next date of hearing along with the seniority list maintained by the Honourable Judges in their respective High Courts.

4. At this juncture, the learned Attorney General also informed us that respondent Nos. 9 to 11 (Honourable Judges) transferred to the Islamabad High Court do not want to engage counsel and agreed to accept whatever decision is rendered in this Constitution Petition and other connected petitions.

5. Since on the last date of hearing Mr. Munir A. Malik, learned Sr. ASC, articulated that the notice of meeting of the JCP has been issued to convene a meeting on 18th April, 2025, for the appointment/confirmation of the Chief Justice, Islamabad High Court, therefore, keeping in mind the urgency in the matter, we fixed the matter for today (one day earlier to the alleged/proposed meeting of JCP). However, the learned Attorney General candidly informed us that the meeting of the JCP is anti-dated for deliberating upon a single item agenda today, i.e., nominations of two more Honourable Judges of this Court in the Constitutional Bench. When we asked him whether any date for the JCP meeting has been fixed for the appointment/confirmation of the Chief Justice of the Islamabad High

Court, he categorically stated that no such meeting is scheduled and the notice of the next JCP meeting issued for 2nd May, 2025, is only for the appointment/confirmation of the Chief Justice of the Peshawar and Balochistan High Courts. We also called upon the learned Attorney General to explain the procedure of calling a meeting. He referred to Rules 9 and 10 of the Judicial Commission of Pakistan Rules, 2024, and argued that before the date is fixed for any JCP meeting, at least fifteen days' notice is required to be issued to all members of the JCP for nominating the prospective candidates.

6. Mr. Munir A. Malik, learned Sr. ASC, argued that though the Federation of Pakistan has filed the concise statement, the relevant record is not attached. The learned Attorney General undertakes that the entire record pertaining to the transfer of judges to the Islamabad High Court will be submitted to this Court through a concise statement, including the summary moved by the Ministry of Law & Justice to the Prime Minister for onward advice to the President of Pakistan for further action in terms of Article 200 of the Constitution of the Islamic Republic of Pakistan, 1973.

7. The statement of the learned Attorney General that there is no date fixed by JCP for the appointment/confirmation of the Chief Justice of the Islamabad High Court is taken on record. For further proceedings, the matter is adjourned to 22.04.2025 at 11:30 a.m.

Judge

Judge

Judge

Judge

Judge