

Ayesha A. Malik, J.- I would not like to hear these cases in order to protect and preserve the sanctity of the original proceedings and the judicial order of 16.01.2025.

2. On 16.01.2025, these cases were fixed before a Bench of three¹ wherein the question of a jurisdictional bar on the Bench hearing the cases, not being a Constitutional Bench under the Twenty-sixth Amendment to the Constitution² was raised, for which the Court ordered for the reconstitution of the Bench by the Committee constituted under Section 2 of the Supreme Court (Practice and Procedure) Act, 2023 (**Committee**).³ The Committee did not reconstitute the Bench⁴ instead ordered to *withdraw* the cases from the Bench and place the matter before the Committee established under Article 191A(4) of the Constitution (**Constitutional Bench Committee**). The Constitutional Bench Committee in its meeting of 17.01.2025 fixed these cases for 27.01.2025. Both Committees discounted the order of the Court dated 16.01.2025 and proceeded with the issuance of administrative orders whereby the cases were withdrawn from the Bench hearing these cases and transferred and fixed before the Constitutional Bench. In the meantime, Criminal Original Petition No.1 of 2025 was initiated on 20.01.2025 on the ground of non-compliance of the judicial order dated 16.01.2025. Those proceedings have concluded and judgment was announced today.

3. The basic issue and the reason that I cannot hear these cases, is that I was a part of the Bench which issued the order of 16.01.2025, hence to preserve the sanctity of the judicial order and also to abide by the traditions of this Court where judicial orders are given the utmost respect and should not be disregarded through administrative orders.⁵ It goes without saying that judicial orders cannot be undone through administrative orders as they are authoritative pronouncements of the Court, which represents the authority of the Court and affirms the independence of the judiciary. If there is a disagreement with the order of the Court it has to be dealt with on the judicial side, through appropriate proceedings. By

¹ The Bench comprised of Syed Mansoor Ali Shah, J., Ayesha A. Malik, J., and Aqeel Ahmed Abbasi, J.

² The Constitution of the Islamic Republic of Pakistan, 1973 (**Constitution**).

³ The order of 16.01.2025 was made as Justice Aqeel Ahmed Abbasi could not hear the cases, given he was one of the two Judges who had heard the cases and delivered the impugned judgment before the Court.

⁴ By a majority of 2 to 1.

⁵ Asad Ali v. Federation of Pakistan (PLD 1998 SC 161 and 1998 SCMR 130) and Human Rights Case No.14959-K of 2018 (PLD 2019 SC 183).

allowing an administrative order, that too from within the Court to negate judicial directives, the very sanctity of judicial authority and the independence of the judiciary is undermined.

4. As Judges, we must strictly adhere to the distinction between judicial orders and administrative orders and we must preserve and safeguard the sanctity of judicial orders. Most of all we must ensure that our orders are complied with and not overlooked, contravened or evaded by anyone.

JUDGE

Islamabad
27.01.2025
'APPROVED FOR REPORTING'
Azmat/*