

IN THE SUPREME COURT OF PAKISTAN
(Original Jurisdiction)

Present:

Mr. Justice Muhammad Ali Mazhar
Mrs. Justice Ayesha A. Malik

Constitution Petition No.13 of 2023

(Setting Aside Show Cause Notices Dated 12.4.2023 issued by Pakistan Bar Council to Muqtedir Akhtar Shabbir, Secretary and Malik Shakeel ur Rehman, Additional Secretary, Supreme Court Bar Association)

Supreme Court Bar Association, through
its Vice-President, Islamabad and others

...Petitioner

Versus

Pakistan Bar Council, through its
Secretary, Islamabad and another

...Respondents

In attendance:

Mr. Abid S. Zuberi, ASC
Mr. Ishtiaq A. Khan, ASC
Mr. Shoaib Shaheen, ASC
Mr. Ghulam Mustafa Kandwal, ASC
Ch. Ikraam, ASC
Sh. Ahsan-ud-Din, ASC
Mr. Niaz ullah Khan Niazi, ASC
Ch. Hafeez ullah Yaqoob, ASC
Malik Jawwad Khalid, ASC
Mr. Tallat Abbas, ASC
Mr. M. Saim Chaudhry, ASC
Mr. Javeed Ahmad Chattari, ASC
Ms. Shazia Bilal, ASC

Date of Hearing: 05.05.2023

ORDER

This constitution petition has been instituted under Article 184(3) of the Constitution of the Islamic Republic of Pakistan, 1973 ("**Constitution**") for setting aside show cause notices dated 12.4.2023, issued by Pakistan Bar Council to Muqtedir Akhtar Shabbir, Secretary, Supreme Court Bar Association (petitioner No.2) and Malik Shakeel-ur-Rehman, Additional Secretary, Supreme Court Bar Association (petitioner No.3). In the course of hearing, Mr. Abid S. Zuberi, learned ASC, filed an unnumbered Civil Miscellaneous Application, which shows that during the pendency of this petition, the

respondents No.2 and 3 have already de-seated the petitioner no. 2 and 3 and sent the matter to the disciplinary committee of the Pakistan Bar Council ("PBC") for further proceedings. The learned counsel referred to Rule 118 of the Pakistan Legal Practitioner & Bar Council Rules, 1976 and argued that, under the niceties of this Rule, the only competent authority was the disciplinary committee where a complaint, if any, against petitioners No.2 and 3 should have been filed to take cognizance and decide the matter as per the Rules, which is applicable *mutatis mutandis* even in the cases where Pakistan Bar Council starts *suo moto* disciplinary proceedings against an advocate under Rule 125. He further argued that no specific rule or any section of law has been cited in the show cause notices. We asked the learned counsel why the jurisdiction of this Court under Article 184(3) of the Constitution is directly invoked rather than filing writ petition in the High Court under Article 199 of the Constitution? In response, the learned counsel argued that certain dictums have been laid down by this Court wherein the invoking of High Court jurisdiction was not approved. In support of his contention, he relied on the cases reported as Muhammad Shoaib Shaheen and others vs. Pakistan Bar Council and others (PLD 2017 SC 231) and Syed Iqbal Hussain Shah Gillani vs. Pakistan Bar Council through Secretary, Supreme Court Bar and others (2021 SCMR 425).

2. We have also asked the learned counsel to satisfy us on the maintainability of this petition under Article 184(3) of the Constitution which predominantly relates to the question of public importance with reference to the enforcement of any of the fundamental rights conferred by Chapter 1 of Part-II of the Constitution on which he seeks time to make submissions on the next date, but right now it was contended that the reply to the show cause notices were submitted but, without providing any opportunity of hearing, the drastic action of de-seating was taken which is a grave violation of Article 10-A of the Constitution and after passing illegal order of de-seating, the matter has been referred to Disciplinary Committee. He made a request that since the order of de-seating has not been implemented therefore, its operation may be suspended on the imminent apprehension that if no restraining order is passed, the incumbent to the posts will take over the charge from petitioner No.2 and 3. As we have been informed that the order of de-seating has already been passed by the PBC with regard to the offices of the petitioners No.2 and 3, therefore at this

stage a mandatory form of injunction cannot be granted without notice to the other side.

4. However, subject to satisfying the maintainability of this Constitution Petition, let notice be issued to the respondents as well as the Attorney General for Pakistan for 09.05.2023 at 1:00 p.m. Meanwhile, status quo is to be maintained.

Judge

Judge

ISLAMABAD
5th May, 2023
Mudassar/[☆]