

(Appellate Jurisdiction)

Mr. Justice Yahya Afridi, CJ
Mr. Justice Muhammad Shafi Siddiqui
Mr. Justice Shakeel Ahmad

(Against the order dated 13.06.2024 of the Lahore High Court, Lahore passed in T.A. Nos. 30073, 28372, 28362 & 28373/2024)

...Petitioner(s)
(in all cases)

...Respondent(s)
(in all cases)

Date of Hearing: 07.04.2025

Yahya Afridi, CJ.- These petitions, in essence, challenge the order dated 13.6.2024 passed by the Chief Justice of the Lahore High Court on applications moved by the State seeking transfer of cases from one Presiding Judge of the Anti-Terrorism Court to another.

2. The main thrust of the Special Prosecutor representing the State was that findings recorded in paras. 8 and 9 of the impugned orders were not only uncalled for but also beyond mandate of authority vested in the Chief Justice. We have carefully taken note of the said remarks in aforementioned paras. 8 and 9, which express disapproval of the conduct of the State functionaries involved in seeking the prayed transfers. While we refrain from reproducing

those observations in the present order, their tenor and substance have been duly considered.

3. Before addressing the contentions raised by the learned Special Prosecutor representing the State, it is essential to recognize the special supervisory authority vested in the Chief Justice of a High Court under Article 203 of the Constitution¹. Essentially, Article 203 of the Constitution entrusts the Chief Justice, as the administrative head of a High Court, with the responsibility to supervise and regulate the proceedings of all subordinate courts within the province, including the Anti-Terrorism Courts. Applying this constitutional mandate to the present cases, it is our view that the Chief Justice of the Lahore High Court, in his administrative capacity, was not only empowered to address the issue at hand with his discretion, but also duty-bound to protect the Presiding Judges of the District Judiciary from any undue executive influence.

4. It is also pertinent to note that the reference brought by the State against the Presiding Judge of the Anti-Terrorism Court, alleging bias, was duly considered by the Administrative Judge. After taking into consideration both the allegations and the response of the Presiding Judge, the Administrative Judge decided to file the reference, but ultimately dismissed it, indicating that there were insufficient grounds to proceed further. Following this, the transfer application was filed, based solely on the fact that a reference had been made, despite no convincing evidence being presented to substantiate the allegations. This sequence reinforces the conclusion that the transfer request lacked sufficient merit to justify further action.

¹ Article 203. High Court to superintend subordinate Courts. Each High Court shall supervise and control all courts subordinate to it. Mehram Ali's case (PLD 1998 SC 1445)

5. In light of the foregoing discussion, it is clear that the Chief Justice of the Lahore High Court: firstly, acted within his constitutional authority under Article 203 to supervise the proceedings of subordinate courts, including the Anti-Terrorism Courts; and secondly, in light of the dismissal of the reference against the Presiding Judge by the Administrative Judge due to insufficient grounds, the Chief Justice was also fully justified in not taking further action on the transfer application, which lacked merit and was based solely on a reference that lacked compelling evidence. We are mindful of the fact that the Chief Justice of a High Court in a province is the *patris familias* of the judiciary within that province. Therefore, any inaction on his part in response to any such like complaint of a judicial officer would be contrary to his constitutional obligations under Article 203 of the Constitution.

6. We have also been informed by the learned Special Prosecutor representing the State that Presiding Judges of the Anti-Terrorism Courts, whose bias had been questioned by the State, have since been transferred. As such, there remains no live issue for immediate consideration. However, the State continues to be aggrieved particularly by the findings recorded in paras. 8 and 9 of the impugned orders, the costs imposed, and the referral of the matter for consideration of this Court in Suo Moto Case No. 1 of 2024, as recorded therein. To our mind, the challenged action of the Chief Justice being essentially administrative in nature, and that too, relating to managing and supervising the subordinates under the constitutional mandate envisaged under Article 203 of the Constitution, ought not to be disturbed, lest the same are blatantly

unreasonable, capricious or arbitrary, which are not apparent in the circumstances of the present cases.

7. Nevertheless, we have observed that the findings recorded in paras. 8 and 9 of the impugned orders, concerning the professional conduct of the judicial officers and state functionaries, appear to be somewhat personal in nature. While, mindful of the gravity of the observations made, we are of the view that judicial propriety necessitates circumspection, particularly, when commenting on the conduct of executive and judicial functionaries and all the more without due inquiry. Hence, we deem it necessary to clarify that such remarks, whether favourable or adverse, must not be seen as having any binding effect in future proceedings. The praise directed towards judicial officers should not be construed as a shield that protects them from legitimate scrutiny, nor should the critical remarks regarding state functionaries, particularly the Prosecutor General, be treated as a sword to prejudice or undermine their future conduct. In essence, these observations are not to be regarded as determinative or conclusive in any subsequent forum and any future assessment of their conduct should be made independently, on its own merits, strictly in accordance with the law.

8. Accordingly, for the reasons stated above, these petitions are disposed of in the above terms.

Chief Justice

Judge

Judge

Islamabad, the
07 April 2025
Not approved for reporting
Waqas Naseer