

**IN THE SUPREME COURT OF PAKISTAN**  
(Original Jurisdiction)

**Present:**

Mr. Justice Iftikhar Muhammad Chaudhry, HCJ  
Mr. Justice Jawwad S. Khawaja  
Mr. Justice Khilji Arif Hussain

**Constitution Petition No.05 of 2012**

Syed Mehmood Akhtar Naqvi ...Petitioner

**Versus**

Federation of Pakistan thr. Secretary Law and others ...Respondents

For the petitioner: Petitioner in person

On Court Notice: Mr. Irfan Qadir, Attorney General for Pakistan  
For respondents: Mr. Dil Muhammad Khan Alizai, DAG  
(1,2,4,6,8 & 10)

For respondent No.3: Mr. Qasim Mir Jat, Addl. A.G. Sindh

For respondent No.5: Mr. Jawwad Hassan, Addl. A.G. Pb.

For respondent No.7: Mr. Azam Khattak, Addl. A.G. Balochistan

For respondent No.9: Syed Arshad Hussain, Addl. A.G. KPK

For Ms. Farah Naz Asfahani: Ch. Akhtar Ali, AOR

For Mr. Rehman A. Malik: Mr. M. Azhar Chaudhry, ASC  
Raja Abdul Ghafoor, AOR

For Mr. Zahid Iqbal, MNA: Mian Abdul Rauf, ASC

For Ch. Iftikhar Nazir, MNA: Nemo

Date of hearing 25.05.2012

**ORDER**

On the last date of hearing, in terms of following paras the respectable representatives being the members of Parliament (Senate & National Assembly) were required to furnish evidence to establish that they have renounced their allegedly acquired nationality of United Kingdom: -

*"There is a request for adjournment by Ch. M. Azhar, ASC, learned counsel on behalf of Mr. Rehman A. Malik. It is to be noted that on the last date of hearing CMA was filed by him stating therein that Senator Mr. Rehman A. Malik has renounced his nationality of U.K. after 25<sup>th</sup> March, 2008. We have pointed out to him during the course of arguments that some evidence has to be produced although his affidavit is available on record. Ch. Iftikhar Nazir, MNA is also required to furnish evidence from the concerned department i.e. passport office to prove his claim that he had never obtained any passport for U.K. and he is not holding nationality of the said country. Similarly, Mian Abdul Rauf, ASC stated that Mr. Zahid Iqbal, MNA is not holding nationality of U.K. but he has obtained a permanent residence in U.K.*

*as he is running a business over there. It is to be noted that a person who renounces nationality has to submit a renunciation form (RN) to the UK Border Agency Department #1 P.O. Box No.306 Liverpool L2 0QN. Therefore, the said persons claiming renunciation are required to furnish evidence with regard to the receipts of the prescribed fee for renunciation to establish that they have been renounced from British nationality.*

2. *Mr. Wasim Sajjad, learned Sr. ASC on behalf of Ms. Farah Naz Asfahani stated that he has been engaged only recently and some time may be given for preparation of brief. Request is allowed. onality.*

All the learned counsel appearing on behalf of (1) Senator A. Rehman Malik, Zahid Iqbal and Iftikhar Nazir have stated that short adjournment be given to them to comply with the above order. Request is allowed.

2. On behalf of respondent Ms. Farah Naz Asfahani, respected MNA, Mr. Wasim Sajjad, Sr. ASC sought adjournment on the last date of hearing to file the reply. Today learned counsel is not in attendance and Ch. Akhtar Ali, AOR has made request on his behalf for adjournment. However, CMA 2231/2012 has been filed by the learned counsel on her behalf, in which in the concluding para categorically it has been admitted that "The answering applicant is a natural born citizen of Pakistan as well as of the United States of America by virtue of the permission granted by the Citizenship Act, 1951 as also by the Constitution of Pakistan. The answering applicant took oath at the time she was elected as a Member to be faithful and loyal to Pakistan. Her dual citizenship has not and will not undermine her loyalty to Pakistan."

3. Ch. Akhtar Ali, AOR has stated that this Court has no jurisdiction to examine this question. We fail to understand that in such an important matter where elected representatives are holding position in Senate & National Assembly and at the same time they are enjoying benefit of dual nationality against the provision of Article 63(1)(c) of the Constitution, if this Court, which is bound to preserve

and defend the Constitution, is not empowered to enforce the fundamental rights of the citizens in terms of Article 184(3) of the Constitution, then which Court will be competent to do so?

4. Here it is equally important to note that after her election as Member of National Assembly, she has taken following oath under Article 65 of the Constitution of Islamic Republic of Pakistan, 1973: -

*"I, \_\_\_\_\_, do solemnly swear that I will bear true faith and allegiance to Pakistan:*

*That, as a member of the National Assembly (or Senate), I will perform my functions honestly, to the best of my ability, faithfully, in accordance with the Constitution of the Islamic Republic of Pakistan, and the law, and the rules of the Assembly (or Senate), and always in the interest of the sovereignty, integrity, solidarity, well-being and prosperity of Pakistan:*

*That I will strive to preserve the Islamic Ideology which is the basis for the creation of Pakistan.*

*And that I will preserve, protect and defend the Constitution of the Islamic Republic of Pakistan.*

5. At the same time, while acquiring the citizenship of USA she has also taken the oath, which is administered to the immigrants, who wish to become citizens of USA. Same is reproduced hereinbelow: -

*"I hereby declare, on oath, that I absolutely and entirely renounce and abjure all allegiance and fidelity to any foreign prince, potentate, state, or sovereignty, of whom or which I have heretofore been a subject or citizen; that I will support and defend the Constitution and laws of the United States of America against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I will bear arms on behalf of the United States when required by the law; that I will perform noncombatant service in the Armed Forces of the United States when required by the law; that I will perform work of national importance under civilian direction when required by the law; and that I take this obligation freely, without any mental reservation or purpose of evasion; so help me God.*

6. *Prima facie*, admission made by her and contents of the oath, which she had already taken of USA and subsequent thereto

before the Election Commission of Pakistan in filing the nomination papers to contest the election and then taking oath under the Constitution, she had not disclosed that as far as citizenship of Pakistan is concerned, she had already renounced the same and had abjured all allegiance and fidelity to her country where she was born etc. as per her oath taken at the time of acquiring citizenship of USA. In democratic dispensation under the Constitutional provision the Members of the National Assembly and the Senate occupy their positions as chosen representatives of people of Pakistan and if the chosen representatives of Pakistan have already renounced their citizenship, *prima facie* under the Constitutional dispensation, they had no right to represent them and decide the issues of all national importance being the members of different committees including Defence etc., where all open and secret policies for the betterment of the people of this country/nation are discussed. Therefore, on having gone through the admission made by her and taking into consideration the oath of the allegiance, which she had already taken while acquiring the citizenship of United State of America, we are *prima facie* of the opinion that it would be in the interest of this country/nation as well as to enforce the Constitution, her membership of the National Assembly is suspended. She would not be attending the sessions of the National Assembly or any Committee nor she would be participating in the affairs of making policies for this country and the nation till the final decision of the case.

7. As there is a request on behalf of Rehman Malik, Zahid Iqbal and Ch. Iftikhar Nazir and learned Attorney General has also stated that he needs some time to inquire from the Provincial

Assemblies with regard to dual nationality, if anyone is holding the same, therefore, case is adjourned to 30<sup>th</sup> May, 2012.

**Chief Justice**

**Judge**

**Judge**

ISLAMABAD, the  
25<sup>th</sup> May, 2012  
*Nisar/\**