

IN THE SUPREME COURT OF PAKISTAN
(ORIGINAL JURISDICTION)

PRESENT:

MR. JUSTICE UMAR ATA BANDIAL, HCJ
MR. JUSTICE IJAZ UL AHSAN
MR. JUSTICE MUNIB AKHTAR

CONSTITUTION PETITION NO. 22 OF 2022
(Against the ruling of Deputy Speaker Punjab
Assembly dated 22.07.2022)

Ch. Parvez Elahi

...Petitioner

VERSUS

The Deputy Speaker Provincial Assembly of Punjab, Lahore, etc.

...Respondents

For the petitioner(s):

Syed Ali Zafar, ASC
Mr. Imtiaz Rashid Siddiqui, ASC
Mr. Amir Saeed Rawn, ASC
Syed Mushtaq Ahmad Zaidi, AOR
Mr. Ahmad Awais, ASC
Mian Arshad Ali Mahar, ASC
Mr. Safdar Shahcen Peerzada, ASC
Mr. Asad Umar, MNA
Mr. Fawad Ch., MNA
Mr. Umar Ayub, MNA

For respondent(s):
For the Federation

N.R.
Mr. Tahir Mehmood Khokhar, DAG

Date of hearing:

23.07.2022

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ORDER

Learned counsel for the Petitioner has read from the
Deputy Speaker's ruling dated 22.07.2022, wherein he has rejected the

votes of ten Members of the Provincial Assembly (MPAs) belonging to PML(Q) on the following ground:

"Mr. Deputy Speaker: For the detailed reasons to follow in terms of order of Hon'ble Supreme Court dated 17.05.2022 passed in Presidential Reference No.1 of 2022 and CP No.2/2022 and 9/2022 and consequent to the directions issued to the members of the Pakistan Muslim League and received by me from the Head of Pakistan Muslim League, I hereby disregard and exclude the votes of Pakistan Muslim League in favour of Ch. Parvez Elahi. As the consequence Mr. Hamza Shehbaz Sharif is declared as their return candidate for Office of Chief Minister having received majority votes of Members present in voting in terms of 1st Proviso of Clause 4 of Article 130 of the Constitution and proviso of sub-rule 3 of Rule 20 of the Rules of Procedure of the Provincial Assembly of Punjab 1997."

2. From the foregoing observations made by the Deputy Speaker, it appears that reliance has been placed on the order dated 17.05.2022 made in C .P. No.2/2022 and Reference No.1/2022 by a larger Bench of this Court. The view expressed by the Deputy Speaker does not give or pinpoint the precise observation made by this Court in its aforesaid order on which reliance has been placed.

3. Learned Counsel for the Petitioner has read to us from Article 63-A (1)(b) of the Constitution of the Islamic Republic of Pakistan, 1973 to submit that the direction to members is to be issued by the parliamentary party to which they, in this case MPAs, belong. He has read from para 3 of our judgment dated 17.05.2022 to submit that the direction has to, and can only, be given by the parliamentary party itself. On the other hand, the impugned Deputy Speaker's ruling dated 22.07.2022, accepts that the head of the political party can issue such a direction. The question therefore is whether our judgment takes the view that appears to be expressed in the Deputy Speaker's ruling dated 22.07.2022. We require his assistance in the matter.

Accordingly, notice is issued to him. Notice shall also be issued to Respondents No.2 & 3 as questions of constitutional import, mainly in relating to Article 63-A(1)(b) read with our judgment dated 17.05.2022, arise for determination. We would also issue notice under Order XXVIIA CPC to the Attorney General for Pakistan and the Advocate General, Punjab.

4. The matter in issue seems more likely to be a controversy regarding the proper understanding or comprehension of the statement of law in our aforesaid judgment rather than of an interpretation as such of a Constitutional provision. However, we expect valuable assistance to be given to us by the respondents in defence of the ruling given by the Deputy Speaker dated 22.07.2022. The Deputy Speaker shall attend these proceedings personally and shall bring the record of the proceedings of the election and the matters in issue. This petition shall be taken up at 2.30 p.m. today.

Lahore, the
23rd July of 2022
Hafiz Asif