

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

**PRESENT:**

MR. JUSTICE IFTIKHAR MUHAMMAD CHAUDHRY, CJ  
MR. JUSTICE MIAN SHAKIRULLAH JAN  
MR. JUSTICE TASSADUQ HUSSAIN JILLANI  
MR. JUSTICE JAWWAD S. KHAWAJA  
MR. JUSTICE ANWAR ZAHEER JAMALI  
MR. JUSTICE KHILJI ARIF HUSSAIN  
MR. JUSTICE TARIQ PARVEZ  
MR. JUSTICE MIAN SAQIB NISAR  
MR. JUSTICE AMIR HANI MUSLIM

**CMA NO. 290 OF 2012 &  
CONSTITUTION PETITIONS NO. 77 TO 85, 89 & 92 OF 2011  
& CMA NO. 5505/2011 IN CONST. P. 79 OF 2011**

[Constitution Petition under Article 184(3) of  
the Constitution regarding alleged  
Memorandum to Admiral Mike Mullen by  
Mr. Hussain Haqqani, former Ambassador of  
Pakistan to the United States of America]

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Watan Party	...	PETITIONER [CP 77/2011]
M. Tariq Asad Advocate Supreme Court	...	PETITIONER [CP 78/2011]
Muhammad Nawaz Sharif	...	PETITIONER [CP 79/2011]
Senator Muhammad Ishaq Dar & another	...	PETITIONERS [CP 80/2011]
Iqbal Zafar Jhagra & another	...	PETITIONERS [CP 81/2011]
Lt. General ® Abdul Qadir Baloch & 2 others	...	PETITIONERS [CP 82/2011]
Raja Muhammad Farooq Haider Khan & another...		PETITIONERS [CP 83/2011]
Syed Ghous Ali Shah & 2 others	...	PETITIONERS [CP 84/2011]
Hafeez Ur Rahman	...	PETITIONER [CP 85/2011]

Shafqatullah Sohail ... PETITIONER  
[CP 89/2011]

Shahid Orakzai ... PETITIONER  
[CP 92/2011]

VERSUS

Federation of Pakistan & others ... RESPONDENTS

For the petitioners: Barrister Zafarullah Khan, ASC in person  
Mr. Tariq Asad, ASC in person  
Senator Muhammad Ishaq Dar &  
Khawaja Muhammad Asif, MNA in person  
Mr. Attique Shah, ASC  
Dr. M. Salahuddin Mengal, ASC  
Sardar Asmatullah Khan, ASC  
Mr. Naseer Ahmad Bhutta, ASC  
Mr. M.S. Khattak, AOR  
Mr. Shahid Orakzai in person

For the President of Pakistan: *Nemo.*

For the Prime Minister of Pakistan: *Nemo.*

For Chief of Army Staff,  
DG, ISI & M/O of Cabinet,  
Defence, Foreign Affairs,  
Interior & Law: Maulvi Anwar-ul-Haq  
Attorney General for Pakistan

For Mr. Hussain Haqqani: Ms. Asma Jahangir, ASC  
Ch. Akhtar Ali, AOR

For Mr. Mansoor Ijaz: Mr. Muhammad Akram Sheikh, Sr. ASC

Date of hearing: 30.01.2012

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**ORDER**

**IFTIKHAR MUHAMMAD CHAUDHRY, CJ. –**

CMA NO. 290 OF 2012

The Commission constituted to probe into the origin, authenticity and purpose of the alleged Memo dated 11.05.2011 has submitted a request through its Secretary for the enlargement of the time. We have heard the learned Attorney General for Pakistan, who

has briefed us about the proceedings so far undertaken by the Commission. From the facts so narrated by him, it seems that the Commission has not completed its proceedings to procure evidence, and as it has been pointed out that Mr. Mansoor Ijaz has not appeared before the Commission, therefore, some time is likely to be consumed to complete this exercise. The learned Attorney General for Pakistan and the learned counsel appearing for Mr. Hussain Haqqani have no objection. However, Barrister Zafarullah Khan, ASC has stated that in absence of the statement of Mr. Mansoor Ijaz, the statement of DG, ISI who has already given his affidavit, be recorded. We do not want to interfere in the proceedings, which are being undertaken by the Commission. However, in the interest of justice, we extend the time for completion of the proceedings for a period of two months commencing from the passing of this order.

CMA NO. 331 OF 2012

2. The learned counsel for Mr. Hussain Haqqani has submitted an application, *inter alia*, stating therein that he has fully cooperated with the Commission and will continue to do so and also undertakes to return to Pakistan any time on four days' notice to join the proceedings, if and when required to do so by the Commission, therefore, the condition placed upon him of not leaving the country be withdrawn and he be allowed to join his family abroad. The learned Attorney General for Pakistan has no objection if permission as prayed for is accorded and Mr. Hussain Haqqani is allowed to leave the country in view of the undertaking given in the application to return back on four days' notice whenever his attendance is required by the Commission. It is to be noted that in the earlier orders dated 01.12.2011 & 30.12.2011, he was asked not to leave the country

without prior permission of this Court and now such permission is being sought and for the reasons disclosed hereinabove, he is allowed to leave the country. However, he will provide his full particulars to the Registrar of this Court and be also bound to return back on four days' notice if his attendance is required by the Commission or by this Court.

CMA NO. 329 OF 2012

3. Mr. Muhammad Akram Sheikh, Sr. ASC has submitted an application for recording of evidence outside the country. He may place this request before the Commission for passing of appropriate order.

4. Mr. Mansoor Ijaz has addressed a letter to the Chief Justice of Pakistan under the caption "secret letter" wherein he has disclosed certain information, but we are not aware of its authenticity. It is a cardinal principle of law that whenever a person claims confidentiality or requests the Court to treat any document as confidential or classified, the Court may go through it, but its status to be treated as confidential or classified document has to be decided according to law. However, as he has engaged a counsel, we would have appreciated if he had sent such a document to the Court through his counsel. Be that as it may, at this stage, we would not be considering this document for any purpose, but the same would be kept in a sealed cover under lock by the Registrar of this Court. Registrar present in Court is directed accordingly.

CONST. PETITION NO. 92 OF 2011

5. Mr. Shahid Orakzai, petitioner has appeared in person and stated that he has raised a different question in his petition, which are not taken up in the petitions already entertained. Issue notice to the

respondents to file comments before the next date of hearing. To be fixed along with other petitions.

IFTIKHAR MUHAMMAD CHAUDHRY, CJ

MIAN SHAKIRULLAH JAN, J.

TASSADUQ HUSSAIN JILLANI, J.

JAWWAD S. KHAWAJA, J.

ANWAR ZAHEER JAMALI, J.

KHILJI ARIF HUSSAIN, J.

TARIQ PARVEZ, J.

MIAN SAQIB NISAR, J.

AMIR HANI MUSLIM, J.

Islamabad, the  
30<sup>th</sup> January, 2012