

**IN THE SUPREME COURT OF PAKISTAN**

(Review Jurisdiction)

PRESENT:

MR. JUSTICE IFTIKHAR MUHAMMAD CHAUDHRY, CJ

MR. JUSTICE MIAN SHAKIRULLAH JAN

MR. JUSTICE TASSADUQ HUSSAIN JILLANI

MR. JUSTICE NASIR-UL-MULK

MR. JUSTICE MUHAMMAD SAIR ALI

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 ASIF SAEED KHAN KHOSA

MR. JUSTICE SARMAJAL JALAL OSMANY

MR. JUSTICE AMIR HANI MUSLIM

MR. JUSTICE EJAZ AFZAL KHAN

MR. JUSTICE IJAZ AHMED CHAUDHRY

MR. JUSTICE GULZAR AHMED

MR. JUSTICE MUHAMMAD ATHER SAEED

**CMA NO. 5144 OF 2011**

**& CIVIL REVIEW PETITION NO.129/2010**

**IN CONST. P. 76/2007 & CMAs No. 1427/2011**

[Against the judgment dated 16.12.2009 passed in Constitution Petitions No. 76 to 80 of 2007]

Federation of Pakistan through Secretary

M/o Law, Justice and Parliamentary Affairs, Islamabad

vs.

Dr. Mubashir Hassan, etc.

For the applicant/petitioner:

Mr. Mahmood A. Sheikh, AOR

[CMA 5144/11 & CRP 129/10]  
Secretary,  
Justice.

Mr. Masood Chishti,  
Ministry of Law &

On Court notice:

Maulvi Anwar-ul-Haq

Attorney General for Pakistan

For the respondent No.1:

Mr. Salman Akram Raja, ASC

[CRP 129/2010]

Mr. Mehr Khan Malik, AOR

Date of hearing:

25.11.2011

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## **ORDER**

**IFTIKHAR MUHAMMAD CHAUDHRY, CJ.** - On 24.11.2011, Dr. Babar Awan, learned Sr. ASC concluded his arguments. In the meanwhile, he had filed CMA no. 5234/2011 and insisted for permission to rely upon the same. As it is settled principle of law that ordinarily at the review stage, a document is not allowed to be produced unless it is very much relevant to do complete justice. Initially request was not entertained, but subsequent thereto, after giving a second thought, we formed the opinion to allow the learned counsel to refer to and read the

said documents. However, when we assembled in the second half, he was not present. Message was sent to him through the Court staff, but he did not turn up. In the meanwhile, learned Attorney General for Pakistan was asked to convey him to appear in Court today because otherwise except the case of Syed Nasir Ali Shah, all the listed matters including the instant CMA/Review Petition have been concluded.

2. It seems that in the late hours a request was sent by him to the Registrar for adjournment, which was not entertained and the same was returned. When the hearing of the case opened today, Mr. Masood Chishti, Secretary, Ministry of Law & Justice, Government of Pakistan, who himself had drafted the Review Petition at the time when he was practicing law, was asked to read the documents instead of arguing the same because we are of the opinion that the learned counsel to whom directions have been made out of sheer respect, he should have made himself available before the Court, but the Secretary, despite our clear direction as well as expressing displeasure, except reading only one letter dated 02.09.1997 declined to read other documents. However, the learned Attorney General for Pakistan, in such a situation, was asked to read documents through and through. In compliance with the order, all the documents, which pertained to the years 1997 to 1999 in respect of investigation of the cases against Mr. Asif Ali Zardari and Mohtarama Benazir Bhutto pending before the Swiss Courts were considered in his presence.

3. It may be observed that this Court is seized with the matter relating to review of the judgment dated 16.12.2009 in pursuance whereof, the National Reconciliation Ordinance, 2007 was declared *void ab initio*, being *ultra vires* and violative of certain Articles of the Constitution, therefore, to be deemed *non est* from the day of its promulgation. However, after hearing the learned counsel for the petitioner from 21 to 24<sup>th</sup> November, 2011 at length and having gone through the documents as well as considering all the aspects of the case relating to the Review Petition filed under Article 188 of the Constitution to review the judgment dated 16.12.2009, we are of the considered opinion that no case is made out for the review of the said judgment. Resultantly, the Review Petition and CMA No. 5144/2011 are dismissed with no order as to costs. The concerned authorities are hereby directed to comply with the judgment dated 16.12.2009 in letter and spirit without any further delay.

4. The reasons for this order shall be recorded later on.

Islamabad, the

25<sup>th</sup> November, 2011