

IN THE SUPREME COURT OF PAKISTAN
(Review Jurisdiction)

PRESENT:

Mr. Justice Umar Ata Bandial
Mr. Justice Maqbool Baqar
Mr. Justice Manzoor Ahmad Malik
Mr. Justice Mazhar Alam Khan Miankhel
Mr. Justice Sajjad Ali Shah
Mr. Justice Syed Mansoor Ali Shah
Mr. Justice Munib Akhtar
Mr. Justice Yahya Afridi
Mr. Justice Qazi Muhammad Amin Ahmed
Mr. Justice Amin-ud-Din Khan

CIVIL REVIEW PETITION NO.296 of 2020 a/w
Civil Misc. Application No.1243 of 2021 &

CIVIL REVIEW PETITION NO.297 of 2020 &

CIVIL REVIEW PETITION NO.298 of 2020 &

CIVIL REVIEW PETITION NO.299 of 2020 &

CIVIL REVIEW PETITION NO.300 of 2020 &

CIVIL REVIEW PETITION NO.301 of 2020 &

C.M.A NO.4533 OF 2020 IN CRP NO. NIL OF 2020 &

CIVIL REVIEW PETITION NO.308 of 2020 &

CIVIL REVIEW PETITION NO.309 of 2020 &

CIVIL REVIEW PETITION NO.509 of 2020.

Justice Qazi Faez Isa

... Petitioner(s)
(in CRP No.296/2020)

Sindh High Court Bar Association

... Petitioner(s)
(in CRP No.297/2020)

Mrs. Sarina Isa

... Petitioner(s)
(in CRP No.298/2020)

Supreme Court Bar Association

... Petitioner(s)
(in CRP No.299/2020)

Muhammad Asif Reki President
Quetta Bar Association

... *Petitioner(s)*
(in CRP No.300/2020)

Shahnawaz Ismail, VC Punjab Bar
Council

... *Petitioner(s)*
(in CRP No.301/2020)

Balochistan Bar Council

... *Petitioner(s)*
(in CRP No.308/2020)

Pakistan Federal Union of Journalists

... *Petitioner(s)*
(in CRP No.309/2020)

Abid Hassan Minto

... Applicant(s)
(in CMA No.4533/2020
in CRP No.Nil of 2020)

Pakistan Bar Council thr. VC

... Applicant(s)
(in CRP.509 of 2020)

VERSUS

The President of Pakistan and others

...Respondent(s)
(in CRP.296-301 & 308-309 &
CRP.509 of 2020)

The Supreme Judicial Council thr.
its Secretary and others

... Respondent(s)
(in CMA No.4533 of 2020)

For the petitioner(s) : Mr. Justice Qazi Faez Isa (in-person)
(in CRP.296/2020)

Mr. Rasheed A. Rizvi, Sr. ASC.
(through Video Link from Karachi).
(in CRP.297 & 309/2020)

Mrs. Sarina Faez Isa (In-person)
(in CRP.298/2020)

Mr. Hamid Khan, Sr. ASC.
Syed Rifaqat Hussain Shah, AOR.
(in CRP.299, 300, 301 & 308/2020)

Nemo.
(in CMA.4533/2020)

Nemo.
(in CRP.509/2020)

For Federation of Pak. : Ch. Aamir Rehman, Addl. AGP.

For President, PM & AGP. : Mr. Sohail Mahmood, Addl. AGP.

Dates of hearing : 02.03.2021; 03.03.2021; 08.03.2021;
17.03.2021 & 18.03.2021.

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O R D E R

Umar Ata Bandial, J. Civil Misc. Application

No.1243 of 2021. For reasons to be recorded later, this Misc. Application is dismissed. However, the right of the people to have access to information in matters of public importance under Article 19-A of the Constitution is recognized, the details and modalities of which are to be decided by the Full Court on the administrative side.

Sd/-
JUDGE

I have given my separate note.
Sd/-
JUDGE

Sd/-
JUDGE

I have attached my separate note.
Sd/-
JUDGE

Sd/-
JUDGE

I have appended separate note.
Sd/-
JUDGE

Sd/-
JUDGE

I have appended my reasons for the dismissal.
Sd/-
JUDGE

Sd/-
JUDGE

Announced in Court on
13th April, 2021. Sd/-
JUDGE

J(2).

NOT APPROVED FOR REPORTING.

Yahya Afridi, J. For the reasons already recorded in my judgment delivered in Constitution Petition No.17 of 2019, the present Civil Miscellaneous Application No.1243 of 2021 is dismissed, as the relief sought by the petitioner would “negate the very spirit of the oath taken by the petitioning Judge”.

2. However, for the reasons to be recorded later, I find the right of the public to have access to live-streaming or audio-video recording, written transcript or any other medium, of the court hearings in the proceedings of public importance, including those under Articles 184(3) and 186 of the Constitution, is their fundamental right under Article 19A of the Constitution. The Registrar of this Court is, therefore, directed to place the matter before the Full Court for appropriate steps as it deems fit, under Article 191 of the Constitution, to effectuate this fundamental right of the public.

Sd/-
Judge

Short Order

For the reasons to be recorded later, we dispose of the miscellaneous application (CMA No.1243/2021) filed by the Petitioner in review petition (CRP No.296/2020) in the following terms:

- (i) Article 19-A of the Constitution of the Islamic Republic of Pakistan, 1973 (“Constitution”) creates an obligation on State institutions, including the Judiciary, to take the necessary measures to ensure realization of the fundamental right of citizens to have access to information in matters of public importance. Cases under Article 184(3) of the Constitution, including review petitions and other matters arising therein, are matters of public importance, and the public has a right to know and see how proceedings in these cases are conducted and concluded by the Court. We, therefore, hold that Live Streaming (audio and video) of court hearings of these cases should be made available for information of the public through a link on the official website of this Court, and for this purpose the Registrar of this Court should take steps to provide for the requisite technological infrastructure and make arrangements for necessary amendments in the Rules under Article 191 of the Constitution to regulate its practice and procedure in this regard;
- (ii) Keeping in view the current state of technological infrastructure available in this Court and the fact that the review petitions filed in the case are fixed for hearing, we direct the audio recording of the proceedings of the court hearings of the said review petitions to be made available to the public through a link on the official website of this Court. The Registrar of this Court shall ensure that the un-edited audio recording of the proceedings of the court hearing of the review petitions is made available to the public on the official website of the Court on the same day soon after the hearing and before the close of the working hours.

Sd/-
(Maqbool Baqar, J.)

Sd/-
(Manzoor Ahmad Malik, J.)

Sd/-
(Mazhar Alam Khan Miankhel, J.)

Sd/-
(Syed Mansoor Ali Shah, J.)

Announced.
Islamabad, the
13th April, 2021.

ORDER OF THE BENCH:

By majority of 6 to 4 (Maqbool Baqar, J; Manzoor Ahmad Malik, J; Mazhar Alam Khan Miankhel, J and Syed Mansoor Ali Shah, J dissenting), Civil Misc. Application No.1243 of 2021 is dismissed.

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JUDGE

Announced in Court on
13th April, 2021.

Sd/-
JUDGE

Sd/-
J(2).

APPROVED FOR REPORTING.