

1. Yesterday, on 30.03.2023, during the course of proceedings, Justice Amin-ud-din Khan recused himself from the Bench. While in Court, I also wanted to express my view, however, the Hon'ble Chief Justice and other members of the Bench rose, therefore, I was unable to do so. Subsequently, I remained in my chamber for a reasonable time, but received no information from the Hon'ble Chief Justice regarding further proceedings into the matter. When I reached home later the same day, I received an Order dated 30.03.2023 from the Chief Justice for my signatures as a member of the Bench. The relevant portion whereof is reproduced below:

"Some of us (Umar Ata Bandial, CJ, Ijaz ul Ahsan and Munib Akhtar, JJ.) respectfully disagree and consider that the hearing and further proceedings in the present petition remain unaffected by any observation made in the aforesaid Order."

2. Admittedly, the Order was not dictated in open Court, instead it was dictated in my absence and without contacting me for participation in the deliberations. I felt that the three learned members of the Bench, for reasons best known to them, opted not to involve me in the consultation.
3. Besides, this petition is the outcome of the previous proceedings¹ which were dismissed by two honourable members of the bench (Yahya Afridi and Athar Minallah, JJ.) through their respective short orders,² followed by myself and Justice Syed Mansoor Ali Shah. In this behalf, we issued our detailed reasons on 27.03.2023. Right from the first date of hearing of the present matter, I wanted this Bench to resolve the controversy of the Order dated 01.03.2023 and its *Order of the Court*, which has still not been issued till date, as it is of great significance to the present matter. No heed was paid to this issue, despite my raising it repeatedly. The learned Attorney-General, members of the legal fraternity, and learned counsel for the political parties also requested for resolution of this issue, but received no response from the other members of the Bench.

¹ Suo Motu Case No. 1 of 2023 and Constitution Petition Nos. 1 and 2 of 2023

² Their detailed reasons are awaited

4. Under such circumstances, I do not want my presence on the bench to make my brothers uneasy, as such, I do not wish to remain on the bench. There is no doubt that the present matter is of utmost importance and raises serious constitutional issues which require to be interpreted and resolved on the basis of collective wisdom through a Full Court, for which I will always be available. Otherwise, I pray the Hon'ble Chief Justice and my two learned colleagues, while delivering their judgment, will uphold the Constitution and the law.

Jamal Khan Mandokhail