

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

**Present:**

Mr. Justice Qazi Faez Isa  
Mr. Justice Muhammad Ali Mazhar

**Civil Appeal No.1621 of 2017**  
**and**  
**C.R.P.50/2017 in C.M.A.5782/2016 in C.A.1621/2017**  
**and**  
**C.M.A.1451/2017 in C.A.1621/2017**  
**and**  
**Civil Petition No.5122 of 2017**

Federation of Pakistan thr. M/o Defense ...Appellant

**Versus**

Mrs. Ajmal Samia (decd) thr. her LRs & others ...Respondents

For the Appellant:

Raja Shafqat Abbasi, DAG  
With Syed Usman Hassan, Sub-Registrar  
Mr. Iftikhar Ahmed, Dy. MEO  
Mr. Tariq Mehmood, Asstt.

For the Applicant:  
(CMA 1451/17)

Mr. M. Shahid Kamal Khan, ASC  
Mr. Zulfikar Khalid Maluka, ASC

For Respondent-1(ii) &1(iv): Syed Qalb-i-Hassan, ASC

For Respondent-3: Mr. Zulfikar Khalid Maluka, ASC  
Mr. Kamran Murtaza, Sr. ASC

For Respondent-2: Mr. Muhammad Amir Malik, ASC

On Court's Call: Ch. Aamir Rehman,  
Additional Attorney-General for Pakistan.

Date of Hearing: 11.01.2023

**ORDER**

The appellant in this case is the Federation of Pakistan and is represented by Raja Shafqat Abbasi, learned Deputy Attorney-General ('DAG'). Learned DAG commenced his arguments but basic facts were not enumerated precisely. Therefore, we wanted to send for the Attorney-General for Pakistan so that he could come and render proper assistance. However, on enquiring who the Attorney-General is, we were not given a satisfactory answer to what is a simple query. We then called upon Chaudhry Aamir Rehman, learned Additional

Attorney-General, present in Court, to answer our query and he said he was unable to. It transpires that Mr. Ashtar Ausaf Ali resigned from the post of Attorney-General a couple of months back and in his stead no one has been appointed till date despite lapse of more than a reasonable period.

2. Article 100 of the Constitution of Islamic Republic of Pakistan (**'the Constitution'**) stipulates that:

'100. (1) The President shall appoint a person, being a person qualified to be appointed a Judge of the Supreme Court, to be the Attorney-General for Pakistan.

(2) The Attorney-General shall hold office during the pleasure of the President and shall not engage in private practice so long as he holds the office of the Attorney-General.

(3) It shall be the duty of the Attorney-General to give advice to the Federal Government upon such legal matters, and to perform such other duties of a legal character, as may be referred or assigned to him by the Federal Government, and in the performance of his duties he shall have the right of audience in all courts and tribunals in Pakistan.

(4) The Attorney-General may, by writing under his hand addressed to the President, resign his office.'

3. The Attorney-General for Pakistan is a constitutional post and it cannot be left vacant. There is no mention of an acting Attorney-General in the Constitution. The law also requires notice to the Attorney-General under Order XXVIIA of the Code of Civil Procedure (and not to a DAG or Additional Attorney-General) in certain cases. Neither a DAG nor an Additional Attorney-General is a substitute for the Attorney-General. We may also assume that when a DAG or an Additional Attorney-General attends Court he/she does so on instructions received from the Attorney-General.

4. Therefore, the AGP (whoever that may be) and the Federal Law Secretary should be in attendance on the next date.

5. We also expect to be properly assisted on the next date of hearing.

Judge

Judge

ISLAMABAD  
11<sup>th</sup> January 2023  
Mudassar/<sup>☆</sup>

'Approved For Reporting'