

IN THE SUPREME COURT OF PAKISTAN  
(ORIGINAL JURISDICTION)

PRESENT:

MR. JUSTICE IFTIKHAR MUHAMMAD CHAUDHRY, CJ  
MR. JUSTICE JAVED IQBAL  
MR. JUSTICE MIAN SHAKIRULLAH JAN  
MR. JUSTICE TASSADUQ HUSSAIN JILLANI  
MR. JUSTICE NASIR-UL-MULK  
MR. JUSTICE RAJA FAYYAZ AHMED  
MR. JUSTICE MUHAMMAD SAIR ALI  
MR. JUSTICE MAHMOOD AKHTAR SHAHID SIDDIQUI  
MR. JUSTICE JAWWAD S. KHAWAJA  
MR. JUSTICE ANWAR ZAHEER JAMALI  
MR. JUSTICE KHILJI ARIF HUSSAIN  
MR. JUSTICE RAHMAT HUSSAIN JAFFERY  
MR. JUSTICE TARIQ PARVEZ  
MR. JUSTICE MIAN SAQIB NISAR  
MR. JUSTICE ASIF SAEED KHAN KHOSA  
MR. JUSTICE GHULAM RABBANI  
MR. JUSTICE KHALIL-UR-REHMAN RAMDAY

CMA NO. 2981 OF 2010

[REPORTS ALLEGING THAT GOVERNMENT IS  
CONSIDERING WITHDRAWAL OF THE  
NOTIFICATION OF RESTORATION OF JUDGES  
DATED 16.03.2009]

IN

CONSTITUTION PETITION NO. 9 OF 2009

Sindh High Court Bar Association v. Federation of Pakistan

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On Court notice:

Moulvi Anwarul Haq  
Attorney General for Pakistan

Mr. Mushtaq Ahmed Malik  
Chairman PEMRA

Voluntary appeared:

Qazi Muhammad Anwar, Sr. ASC  
President, Supreme Court Bar  
Association

Mr. Sanaullah Zahid, Finance Secretary,  
Supreme Court Bar Association

Malik Ghulam Mustafa Kandwal,  
Member, Punjab Bar Council

Syed Zulfiqar Abbas Naqvi, President,  
High Court Rawalpindi Bench Bar  
Association

Mr. Hashmat Ali Habib, ASC/Member,  
Executive Committee, Lahore High Court  
Bar Association

Malik Waheed Anjum, President, District  
Bar Association, Rawalpindi

Mr. Khan Muhammad, ASC  
Raja Muhammad Anwarul Haq, ASC

Date of hearing:

18.10.2010

## ORDER

IFTIKHAR MUHAMMAD CHAUDHRY, CJ. - Vide order dated 15.10.2010 while disposing of CMA to the extent of the matter of withdrawal of executive order/notification vis-à-vis restoration of Judges dated 16.03.2009 pronounced by this Court in Sindh High Court Bar Association's case, final order was passed and in Paragraph 8(i) of the order following directions were issued: -

"8. In the light of the above, we direct: -

- (i) All the constitutional and State functionaries and administrative heads in the country to ensure that no action *qua* initiation of proceedings concerning withdrawal of the executive order (order of "restoration of Judges") dated

16.03.2009, status whereof has already been determined by this Court in its judgment in Sindh High Court Bar Association's case (*supra*), is taken, intentionally or otherwise, by any of the functionaries as noted hereinabove, and all the constitutional and administrative heads/functionaries are restrained/refrained from doing so."

2. The learned Attorney General for Pakistan has stated that in compliance with the order of the Court dated 15.10.2010 whereby he was required to communicate immediately the said order to all concerned, he has served the same upon 105 constitutional and State functionaries and administrative heads and also has already sent the compliance report to the Registrar.

3. The matter was postponed to enable the authorities/functionaries to put up report and statements, if desired. As far as reference to the statement is concerned, it pertains to the denial issued by the Chief Executive/Prime Minister, although the matter was finally disposed of, but to know about the desire of the concerned functionaries, the matter was fixed for today. The learned Attorney General for Pakistan has categorically stated that no one has desired to submit a statement. Be that as it may, as the case has been disposed of by a binding order in terms of Article 189 read with Article 190 of the Constitution, as noted hereinabove, therefore, it is up to the concerned authorities/functionaries to submit the statement or not.

4. According to Paragraph 8(ii) of the order dated 15.10.2010, the Government of Pakistan/Prime Minister was required to conduct an inquiry through an appropriate responsible functionary that if the statement of the former that no such action was being

contemplated was true, then how that news in the print and electronic media was spread, and who was responsible for it, the learned Attorney General for Pakistan has submitted that a Committee comprising of the following persons has been constituted: -

- |     |   |          |
|-----|---|----------|
| (1) | Mr. Hameed Haroon, President, All<br>Pakistan Newspapers' Society:                    | Chairman |
| (2) | Mr. Muhammad Aslam Kazi,<br>Secretary General, Pakistan<br>Broadcasters' Association: | Member   |
| (3) | Mr. Pervez Shoukat, President,<br>Pakistan Federal Union of Journalists:              | Member   |
| (4) | Mr. Najibullah Khan, Joint secretary,<br>Ministry of Interior, Islamabad:             | Member   |
| (5) | Dr. Abdul Jabbar, Executive Member,<br>PEMRA:   | Member   |
| (6) | Mr. Muhammad Azam, Director<br>General (IP) M/O Information<br>& Broadcasting:        | Member   |

He further submitted that preliminary observations of the Committee of Inquiry serve as an interim report. Perusal of the observations indicates that in one of the Paragraphs, appropriate expressions have not been used for which the Court has its reservations and it wants to make it clear that the judiciary believes in the rule of law and constitutionalism and is performing its duty, and shall continue to perform it in future as well, according to the Constitution. However, the Committee may remove such expression in due course of time.

5. The learned Attorney General for Pakistan has stated that as the Committee could not complete its deliberations, therefore, for submitting final report, further time be given. We concede to the request so made by him. Case is adjourned to a date in office.

However, on receipt of the report from the Committee, if need be, matter shall be heard in Court.

IFTIKHAR MUHAMMAD CHAUDHRY, CJ.

JAVED IQBAL, J.

MIAN SHAKIRULLAH JAN, J.

TASSADUQ HUSSAIN JILLANI, J.

NASIR-UL-MULK, J.

RAJA FAYYAZ AHMED, J.

MUHAMMAD SAIR ALI, J.

MAHMOOD AKHTAR SHAHID SIDDIQUI, J.

JAWWAD S. KHAWAJA, J.

ANWAR ZAHEER JAMALI, J.

KHILJI ARIF HUSSAIN, J.

RAHMAT HUSSAIN JAFFERI, J.

TARIQ PARVEZ, J.

MIAN SAQIB NISAR, J.

ASIF SAEED KHAN KHOSA, J.

GHULAM RABBANI, J.

KHALIL-UR-REHMAN RAMDAY, J.

Islamabad,  
18 October 2010

APPROVED FOR REPORTING