

IN
Suo Moto Case No. 4/2021

1. A *Supplementary Cause List* for Monday 23 August 2021 was issued constituting a *Larger Bench* comprising of Mr. Justice Umar Ata Bandial, Mr. Justice Ijaz ul Ahsan, Mr. Justice Munib Akhtar, Mr. Justice Qazi Muhammad Amin Ahmed and Mr. Justice Muhammad Ali Mazhar. The Supreme Court (Bench-II), which had passed the order dated 20 August 2021 was not informed that a *Larger Bench* was contemplated, let alone constituted, nor the reasons for doing so. The *Supplementary Cause List* disclosed that the *Larger Bench* would consider, 'order dated 20.08.2021 in SMC No. 4/2021'. Paragraphs 1 to 13 of the Registrar's note have not been appended with the paper book. It is not known why these have not been disclosed. It is only the concluding paragraphs 14, 15, and 16 which are attached with the paper book.
2. The Constitution of the Islamic Republic of Pakistan (**'the Constitution'**) details different jurisdictions of the Supreme Court, which are *original jurisdiction, appellate jurisdiction, advisory jurisdiction, power to transfer cases jurisdiction, review jurisdiction, contempt jurisdiction and appellate jurisdiction with regard to decisions of administrative courts and tribunals*. Jurisdiction may also be conferred on the Supreme Court by law. No jurisdiction is conferred which permits one Bench to monitor the working of another Bench, let alone to hold its orders in *abeyance*. Article 175(2) of the Constitution stipulates that, 'No court shall have jurisdiction save as is or may be conferred on it by the Constitution or by or under any law.' With all due respect, the Constitution does not permit, what may be categorized as monitoring jurisdiction, first exercised by the Registrar, then by the Hon'ble Acting Chief Justice and then by the *Larger Bench*. With utmost respect, my distinguished colleagues do not have the

jurisdiction to hear the said case (SMC No.4/2021) and if they continue hearing it they will transgress the Constitution. Consequently, any purported order passed by the purported *Larger Bench* would be a constitutional nullity, void and of no legal effect.

3. Order dated 20 August 2021 was passed by the Supreme Court and stipulated that the Court was exercising jurisdiction under Article 184(3).

Paragraph 11 of the order is reproduced hereunder:

‘We have decided to treat this application as one under Article 184(3) of the Constitution because it demonstrates that matters of *public importance* have been raised *with reference to the enforcement of Fundamental Rights*, including Articles 9, 11, 13, 14(1), 14(2), 15, 18, 19, 19A, 23, 24(1) and 25A and as such it meets the stipulated criteria prescribed in Article 184(3) of the Constitution. Moreover, if the allegations which have been leveled are true then it would be a grave transgression of the Constitution requiring urgent redressal.’

The Supreme Court having taken notice, another Bench, albeit a *Larger* or *Special Bench*, could not assume monitoring powers to monitor the working of the said Bench or in any manner whatsoever interfere therewith. Order dated 20 August 2021 sought information which, incidentally, any citizen could seek pursuant to Article 19A of the Constitution and the applicable laws regarding access to information. Notices to all concerned were issued and notices under Order XVIII of the Code of Civil Procedure, 1908 were issued to the principal law officers of Pakistan, the provinces and of the Islamabad Capital Territory. No respondent or any law officer took any objection. And, if they had taken any objection it would have been attended to. However, the Registrar, who is a government servant, and one who undoubtedly considers himself a jurist and constitutional expert immediately did take notice, and proceeded to prepare a 6 page note for the consideration of the Hon’ble Acting Chief Justice.

4. To state the obvious, Bench-II had not decided anything as yet. Once the case had been decided any person who considered that the case had not been dealt with in accordance with the Constitution or the law, could have recourse to the *review jurisdiction* of the Supreme Court. But, with utmost respect, to constitute a purported *Larger* or *Special Bench* and for such Bench to monitor the working of another Bench is unconstitutional. Every Chief Justice, Acting Chief Justice and Judge of this Court before entering office takes oath (prescribed in the Third Schedule of the Constitution) which requires him/her to discharge duties and perform functions *in accordance with the Constitution* and to *preserve, protect and defend the Constitution*.

5. If a Bench of the Supreme Court starts to monitor the workings and order/s passed by another Bench it would result in chaos and the collapse of the judicial system if different Benches start to undo, supplant and/or set aside the orders of other Benches. A case cannot be monitored by another Bench nor can a Bench, hearing a case be reconstituted, but this was done by a former Chief Justice of Pakistan, Mr. Justice Saqib Nisar, on 9 May 2018 in Peshawar in open court, by abruptly and verbally reconstituting the Bench and ejected a Member from the Bench. Copy of my order dated 9 May 2018 is attached hereto as 'A', which despite the passage of over three years, remains unattended. Mr. Justice Syed Mansoor Ali Shah also wrote a separate order (reported in PLD 2019 Supreme Court 183). The only plausible reason that these orders remain unattended is because some Chief Justice may wish to have unbridled and unfettered discretion, and not to be constrained by the requirements of Articles 184(3) of the Constitution. And, such a Chief Justice, even in respect of matters which require the immediate attention of the Supreme Court under Article 184(3), would want to act as a filter. The Constitution does not envisage such a role

either for the Chief Justice or for the Registrar, however such a role is assumed.

6. The Constitution grants / bestows onto the Chief Justice of Pakistan certain specific powers, duties and responsibilities which only he can undertake or perform such as those mentioned in Articles 10(4), 42, 146(3), 152, 159(4), 168(2), 175A(2) and (5), 182, 183(2), 200, 203C(6), 203F(3), 209(2) and (3), and 214 of the Constitution. However, save such powers or responsibilities specifically conferred the Chief Justice cannot assume additional ones. In all other matters, he is *first among equals*, nothing more and nothing less. Article 5(2) of the Constitution mandates that '*Obedience to the Constitution and law is the inviolable obligation of every citizen*', which includes Chief Justices and Judges.

7. An unusual practice prevails in the Supreme Court which is not sanctioned either by any law of the Constitution or the Supreme Court Rules, 1980 which is to seek prior approval of the cause list from the Hon'ble Chief Justice with regard to the cases listed therein before different Benches. While the Hon'ble Chief Justice is empowered to constitute benches, he cannot determine which particular case should be fixed before particular benches except when it is under the unusual circumstance that there is a division of opinion or a Member of a Bench states that a particular case should not be placed before him. I remained as Chief Justice of Balochistan High Court for over five years but never once sought a proposed cause list of cases to determine whether the listed cases should or should not be placed before any particular bench. Once the Hon'ble Chief Justice has constituted the benches then cases should be fixed in routine before such benches without any filtration thereof.

8. The prompt note prepared by the Registrar suggests that he like his predecessor, who was also a government servant, acted to serve the interest of the Executive and protect his colleagues. Article 175(3) of the Constitution, categorically and emphatically mandates the complete separation of the Judiciary from the Executive. To appoint a government servant as Registrar of the Supreme Court violates this constitutional provision. The Constitution had severed the umbilical cord that had existed between the Executive and the Judiciary, which is now sought to be re-stitched with the induction of government servants as Registrars, enabling the Executive's overreach into the Judiciary. Such induction of government servants also affects the rights of those in the judicial service, blocking their promotions and future prospects. Inducting a government servant unfamiliar with the judicial process or experience of the workings of the Supreme Court, disregards dedicated and long serving judicial officers and those in the judicial service and sends a message that none of them are competent to occupy the position of Registrar. The Judiciary had recalled all its officers serving on deputation with the government but surprisingly government servants are still appointed as Registrars. The present Registrar, before assuming the position of Registrar, was working in the Prime Minister's office. It is essential to ensure the purity of the judicial process, which is brought into question by appointing an officer borrowed from the government, which is the largest single litigator before the Supreme Court. The different ministries and agencies of the government were complained against as having violated guaranteed Fundamental Rights in the application which was submitted to the Supreme Court on 20 August 2021.
9. Registrars borrowed from the government are known to misuse the office of the Registrar, for instance by immediately fixing cases in which the government is interested and intentionally delaying or never fixing those

cases which the government does not want heard or to never fix them. There is a very long list of such cases. It appears that the Registrar, who is a government servant, on the very day of passing the order dated 20 August 2021 proceeded to protect the government's interest and that of his former colleagues.

10. The purported order dated 23 August 2021 passed by the monitoring Bench is subject to a number of misconceptions, including that notice was taken by Bench-II *suo motu*. In fact an application was submitted in Court, the application was carefully considered to first determine whether it was maintainable under Article 184(3) of the Constitution and the stipulated requirements of (1) *public importance* and whether it (2) sought the *enforcement of Fundamental Rights*. And, only thereafter, the Court proceeded to pass the order dated 20 August 2021, with regard to which umbrage has been taken. *Suo motu* means 'on its own motion' when the Court, without an application before it, takes notice. The Latin legal term - *suo motu* - is mentioned six times in the order of 23 August 2021 however, with respect, this Latin legal term (*suo motu*) has not been used, even once, in the Constitution. Internationally, the term *suo motu* is no longer in usage.
11. The order of 23 August 2021 states that the '*procedural issue of how Suo Moto motions may be entertained by the Court*' requires consideration and determination. However, I want to bring it to the kind attention of my distinguished colleagues that this Court, comprising of a Bench of nine distinguished Judges, has already decided this very issue in the case of *Watan Party v Federation of Pakistan* (PLD 2012 Supreme Court 292, at pages 327-328), as under:

'Following principles are highlighted to exercise jurisdiction under Article 184(3) of the Constitution:

- (1) It is not necessary that who has approached the Court for the enforcement of fundamental rights as information has to be laid before the Court, may be by an individual or more than one person.
- (2) The case must involve decision on an issue in which the public-at-large is interested.
- (3) The case also relates to the enforcement/violation of any of the fundamental rights mentioned in Chapter I, Part-II of the Constitution, namely, Articles 8 to 28.
- (4) If it is permissible for the next friend to move the Court on behalf of a minor or a person under disability, or a person under detention or in restraint, then why not a person, who were to act bona fide to activate a Court for the enforcement of the Fundamental Rights of a group or a class of persons who are unable to seek relief.
- (5) Under Article 184(3), it is not a traditional litigation which, of course, is of an adversary character where there is a *lis* between the two contending parties, one claiming relief against the other and the other resisting the claim.
- (6) The Court while dealing with a case under Article 184(3) of the Constitution is neither bound by the procedural trappings of Article 199 nor by the limitations mentioned in the said Article for exercise of power by the High Court.
- (7) The provisions of Article 184(3) of the Constitution are self-contained and they regulate the jurisdiction of this Court on its own terminology.
- (8) In a given case where a question of public importance with reference to the enforcement of any of the Fundamental Rights conferred by Chapter I of Part II is involved, it should directly interfere, and any rigid or a

strait-jacket formula prescribed for enforcement of the Rights would be self-defeating.

(9) In order to ascertain the violation of a fundamental right, the Court has to consider the direct and inevitable consequences of the action which is sought to be remedied or the guarantee of which is sought to be enforced.'

12. Article 191 of the Constitution enables the Supreme Court itself to '*make rules regulating the practice and procedure of the Court*'. However, rules must conform to the Constitution. The Court hearing a case has every right/power to regulate its *practice and procedure*. The Supreme Court Rules, 1980 have been made. Incidentally, Order XXXIII of the Supreme Court Rules, titled '*Inherent Powers*,' stipulates under its Rule 1 that the Court may '*excuse the parties from compliance with any of the requirements of these Rules*'. Rule 6 thereof stipulates that, '*Nothing in these Rules shall be deemed to limit or otherwise affect the inherent powers of the Court to make such orders as may be necessary for the ends of justice... .*' And, Rule 7 provides that, '*Where at any stage of the proceedings in the Court, there has been a failure to comply with these Rules, the failure shall be treated as an irregularity and shall not nullify the proceedings or the judgment*'

13. This Court has for the last six decades, and consistently, held that rules of procedure are designed to help and not to thwart the grant to the people of their rights. In the case of *Imtiaz Ahmed v Ghulam Ali* (PLD 1963 SC 382, p. 400) it was held, that:

'The proper place of procedure in any system of administration of justice is to help and not to thwart the grant to the people of their rights. All technicalities have to be avoided unless it be essential to comply with them on

grounds of public policy. The English system of administration of justice on which our own is based may be to a certain extent technical but we are not to take from that system its defects. Any system which by giving effect to the form and not to the substance defeats substantive rights is defective to that extent. The ideal must always be a system that gives to every person what is his.'

14. Reliance has also been placed on a circular dated 19 July 2005 ('Circular') titled '*Standing Operational Procedure for Exercising Suo Motu Powers within the Contemplation of 184(3) of the Constitution.*' The Circular states that the Chief Justice of Pakistan had, himself, formulated the said Standing Operational Procedures. However, as stated in paragraph 6 above, the Chief Justice of Pakistan does not have any power to formulate standing operational procedures. With respect, the Circular is self-serving to empower the Chief Justice, which the Constitution does not permit. And, after the judgment of the 9-Member Bench in the *Watan Party* (above) the Circular is no longer of any relevance; 5 Hon'ble Judges cannot undo the judgment, given by 9 Hon'ble Judges.
15. With utmost respect, sometimes notices by this Court have been taken under Article 184(3) of the Constitution, without considering whether the matter came within its purview, and without considering the mandatory prerequisites of (1) *public importance* and whether (2) it required the *enforcement of Fundamental Rights*. With respect to my distinguished colleagues of the monitoring Bench, it is humbly pointed out that they were also part of Benches which disregarded the requirements of Article 184(3).

16. In one such instance, notice was taken of an anonymous WhatsApp message received from an undisclosed number by an undisclosed recipient, copy attached hereto and marked as 'B'. This completely anonymous WhatsApp message prompted the Director General of the Human Rights Cell to submit a note to the Chief Justice of Pakistan who directed that the WhatsApp message be converted into Human Rights Case No.18877 of 2018. The Judges who from time to time heard the case included the present Acting Chief Justice Mr. Justice Umar Ata Bandial, Mr. Justice Ijaz ul Ahsan, Mr. Justice Sajjad Ali Shah and Mr. Justice Munib Akhtar. However, at no stage did any one of my distinguished colleagues consider the constitutional requirements, contained in Article 184(3) of the Constitution, that the matter was one of *public importance* and whether it required the *enforcement of Fundamental Rights*. This *WhatsApp case* challenged the levy of Federal advance income tax and excise duty and sales tax on services levied by four provinces through two federal statutes and four provincial statutes. A Bench comprising of the then Chief Justice, Mr. Justice Saqib Nisar, Mr. Justice Umar Ata Bandial and Mr. Justice Ijaz ul Ahsan *vide* order dated 11 June 2018 suspended the levy of all these taxes, which remained suspended till the case was finally decided on 24 April 2019. The judgment in the *WhatsApp case* (PLD 2019 SC 645) decided that the grievance with regard to the levy of taxes did not come within the purview of Article 184(3) of the Constitution. The total revenue loss suffered by the Federation and the provinces was about 100 billion rupees, which amount is irretrievably lost as it cannot be recovered. Mr. Justice Ijaz ul Ahsan, recorded his separate note, but agreed with the result.
17. To cite just one more example, and one in which Pakistan has suffered an astronomical financial loss, was when five applications were filed under Article 184(3) of the Constitution, which were entertained with a

Civil Petition filed under Article 185(3) of the Constitution for leave to appeal. All these cases were decided *vide* a short order dated 7 July 2003 by a bench comprising of the then Chief Justice of Pakistan, Mr. Justice Iftikhar Muhammad Chaudhry, Mr. Justice Gulzar Ahmed (as his lordship then was) and Mr. Justice Sh. Azmat Saeed. The detailed reasons of the judgment were subsequently given in the case of *Abdul Haque Baloch v Government of Balochistan* (PLD 2013 SC 641). Neither in the short order nor in the detailed judgment, the mandated constitutional requirement of Article 184(3) of the Constitution which required that only matters of (1) *public importance* (2) seeking the *enforcement of Fundamental Rights* can be accepted, yet it was ordered that, '*the Constitution petitions under Article 184(3) of the Constitution are allowed with costs throughout.*' In paragraph 116 of the detailed judgment, which comprised of a total of 122 paragraphs, reference was made to Article 184(3) of the Constitution, but without considering its ingredients, and instead it was held, '*that this Court has wide powers in terms of Article 184(3) of the Constitution to oversee the acts/actions of the other organs of the State, namely Executive and Legislator*' (page 767ZZ). It was further held that, '*The Judiciary is entrusted with the responsibility of the enforcement of Fundamental Rights*' (page 4768) but without mentioning a single Fundamental Right, the enforcement of which was required. As a consequence of this judgment, those whose rights to extract copper and other minerals in the Rejo Diq area of Balochistan were effected resorted to international arbitration which resulted in a whopping \$6.4 billion award against Pakistan, and now such amount is sought to be recovered and all assets of the country are exposed to attachment and sale.

18. However, whenever a Bench of which I have been a member, exercised jurisdiction under Article 184(3) it did so by first considering the stipulated constitutional requirement of *public importance* and after

satisfying itself that the *enforcement of Fundamental Rights* was required, and further by mentioning which particular Fundamental Right/s had been infringed. With regard to the order dated 20 August 2021 passed by Bench-II, the mandated prerequisites of Article 184(3) of the Constitution were also considered and only after it was noted that the matter was one of *public importance* seeking *enforcement of Fundamental Rights* and also after listing the Fundamental Rights that may have been infringed (paragraph 11 of the said order) did the Court proceed to pass the order. Therefore, it has come as a great surprise to me that a monitoring Bench was constituted on the very next working day of the passing of the said order which held that the order dated 20 August 2021, '*shall remain in abeyance.*' This is inexplicable because the grievance brought before the Supreme Court (Bench-II) pursuant to which order dated 20 August 2021 was passed did not cause any loss nor had the potential to do so.

19. That, in the paper book assiduously prepared by the Registrar, he attached orders passed in certain cases to pedantically show that in the present case, I had departed from the earlier practice of referring the matter for constitution of the Bench to the Chief Justice. However, not every case is urgent, whereas the grievance submitted in Court by the Supreme Court Press Association President and his colleagues was most urgent and the order dated 20 August 2021 stated that, '*if the allegations which have been leveled are true then it would be a grave transgression of the Constitution requiring urgent redressal.*' While it does not behoove a Registrar to resort to such tactics, I do not object as I have always welcome critique of my orders/judgments. However, the Registrar should then have made full disclosure and not suppressed material information; for instance he attached order dated 3 February 2021 passed in CMA No. 490/2021, but concealed my two letters, both dated 12 February 2021, recording my serious objections, copies whereof are attached herewith respectively as 'C' and 'D'. The esteem that a government servant

Registrar has for a Judge of the Supreme Court can be gauged from the fact that till date neither letter has been answered.

20. The most important of all Fundamental Rights guaranteed by the Constitution is the right to life (Article 9). The matter which was brought before the Supreme Court on 20 August 2021 was urgent and time sensitive. Journalists were being abducted, beaten and shot at. Therefore, immediate attention was required. If on account of the tardiness of the Supreme Court harm came to another journalist, he/she was abducted or shot who would then be responsible?

21. The Holy Qu'ran (Surah Maida (5) verse 32) states that, if anyone murders a human being it would be as if he murdered all of humanity and if anyone saved a human life it would be as if all human lives had been saved. The Constitution commences '*In the name of Allah, the most Beneficent, the most Merciful*' and the Preamble (now a substantive part of the Constitution) recognizes the sovereignty over all things of '*Almighty Allah alone*' and the exercise of authority is stipulated to be '*a sacred trust.*' The Preamble further requires that, '*Muslims shall be enabled to order their lives ... in accordance with ... Islam....*' The Preamble concludes by stating that we are, '*conscious of our responsibility before Almighty Allah and men.*' Therefore, to shy away from exercising powers vested in this court under Article 184(3) of the Constitution or compelling applicant/s to first have recourse to the Registrar's office in a matter of extreme urgency involving the lives of journalists would, in my opinion, constitute dereliction of duty. In any case the manner in which the Supreme Court (Bench-II) proceeded on 20 August 2021 fully accorded with the 9-Member Bench's judgment in the *Watan Party case*.

22. Mr. Justice Umar Ata Bandial responding to Mr. Abdul Latif Afridi, the President of the Supreme Court Bar Association, sought to dispel the

impression that the Supreme Court was divided. However, a legitimate public perception cannot be assuaged by platitudes when I have been targeted for no reason other than for doing my duty. On 3 February 2021, the Supreme Court (Bench-IV, comprising of Mr. Justice Maqbool Baqar and myself) in respect of the purported grant of 500 million rupees to each member of the National Assembly and of the Provincial Assemblies was taken note of. A government servant serving as Registrar took it upon himself to put up the matter to the Chief Justice before the stated date of 10 February 2021 and a larger bench was suddenly constituted, comprising the Hon'ble Chief Justice Mr. Justice Gulzar Ahmed, Mr. Justice Mushir Alam, Mr. Justice Umar Ata Bandial, Mr. Justice Ijaz ul Ahsan and myself. Mr. Justice Maqbool Baqar was excluded from the Bench. The matter was quickly wrapped up, but a completely unconstitutional order was passed whilst the Hon'ble Chief Justice was rising from the courtroom, by restraining me to hear any matter involving the Prime Minister which were in complete violation of the precedents of larger benches of the Supreme Court. I wrote my dissent. The judgments are published as case titled, *Action Against Distribution of Development Funds to MNAs/MPAs by Prime Minister* (PLD 2021 SC 446). My four learned colleagues passed an order without hearing anyone, without granting or permitting me an opportunity to even speak, and did so without application of mind as demonstrated by the fact that such order was verbally passed by the Hon'ble Chief Justice while rising to leave the courtroom. Therefore, the public perception cannot be gainsaid by simply denying that a Judge of the Supreme Court is not targeted and persecuted.

23. On the other hand, despite such treatment, I have done my utmost to maintain maximum cordiality with my colleagues. I never reciprocated in kind, let alone pass an order restraining any of my distinguished colleagues in like manner. I still maintain good relations with all my

colleagues. The citizens of this country not only expect every Judge to strictly abide by the Constitution and his oath of office but also to work in a congenial and amicable atmosphere, one which facilitates the dispensation of justice and to ensure maximum disposal of cases without fear or favour.

24. If my distinguished colleagues had any apprehensions or misgivings, they could have discussed the matter with the Members of Bench-II, which had taken notice and passed the order dated 20 August 2021, but none of them did so and the Registrar maintained utmost secrecy. Instead the matter was immediately and publicly disclosed, and I learnt of it, not through the Supreme Court, but through the press.
25. The purported *order* dated 23 August 2021 states that my distinguished colleagues, '*would like to hear the principal stakeholders*'. Since every citizen of Pakistan is a stakeholder with regard to a free and independent press which only serves them therefore this document should be immediately uploaded on the Supreme Court website for their information. For the same reason, I shall endeavour to translate this document into Urdu, which should also be uploaded on the Supreme Court website.

24 August 2021.

Justice Qazi Faez Isa.

‘A’

IN THE SUPREME COURT OF PAKISTAN
(Original Jurisdiction)

H. R. C. No. 14959-K/2018

(In the matter regarding disposal of
infectious hospital wastes in Khyber
Pakhtunkhwa)

ORDER

Qazi Faez Isa, J. Today before a Special Bench eight cases were listed for hearing in the ‘Supplementary Cause List 6-P of 2018’ (**‘the List’**). The file of this case (HRC No.14959-K/2018) comprised all of two pages. Its first page reads as under:

“It is submitted that your honour has desired to call report with respect to disposal of infectious hospital wastes in province of KPK.

In view of above, if approved, notices be issued to Advocate General, Chief Secretary, Secretary Health and Secretary Local Government, and Secretary Environment Protection Agency (EPA) KPK to appear in person on 19.04.2018 (Thursday) at Branch Registry Peshawar with the requisite report.

**Director
(HRC)
12.04.2018”**

Underneath the signature of the said Director is written in hand:

“Seen by HCJ. Approved. [signed] 12.4.18.”

The second page in the file is a copy of the notice issued to those mentioned in the Director’s above note.

2. Due to complete lack of material on file and to understand the genesis of the case, I enquired whether the said Director was present in court so we could examine the file (if any)

containing the material (if any) on the basis of which he had written the aforesaid note, and whether the original jurisdiction of the Supreme Court under Article 184(3) of the Constitution of the Islamic Republic of Pakistan ("**the Constitution**") could be invoked. The learned Advocate General of the province (who was standing at the rostrum) was asked to read Article 184(3).

3. Article 184(3) of the Constitution grants to the Supreme Court the power to make an order of the nature mentioned in Article 199 of the Constitution if *"the Supreme Court...considers that a question of public importance with reference to the enforcement of any of Fundamental Rights conferred by Chapter I Part-II is involved"*. Once the Supreme Court is satisfied that these two conditions (public importance and Fundamental Rights) are involved then the question of enforcement of the relevant Fundamental Rights arises. Needless to state the powers that the Constitution has granted to the Supreme Court cannot be assumed by the said Director. The approval of the Hon'ble Chief Justice is also not a substitute for an order of the Supreme Court.

4. The Director had written similar notes, also dated April 12, 2018, in the cases at serial number 3, 4 and 5 of the List (HRC Nos. 14960-K of 2018, 14962-K of 2018 and 14964-K 2018 respectively). The files of these cases and of those listed at serial numbers 6, 7 and 8 of the List (HRC Nos. 16549-K/2018, 18200-K/2018 and 18879-K/2018) also did not indicate that the Supreme Court had satisfied itself that the abovementioned two conditions had been met.

5. However, before Article 184(3) could be read the Hon'ble Chief Justice intervened and said that he will be reconstituting the

Bench and suddenly rose up. The Bench was then presumably reconstituted, I say presumably because no order was sent to me to this effect. However, a two member Bench did assemble later, from which I was excluded. This for me is a matter of grave concern. In my humble opinion it is unwarranted and unprecedented to reconstitute a Bench, in such a manner, whilst hearing a case. To do so undermines the integrity of the system, and may have serious repercussions.

6. Before exercising its original jurisdiction the Supreme Court must satisfy itself that the jurisdiction it is assuming accords with the Constitution. However, even before any opinion could be expressed thereon the matter was cut short as mentioned above.

7. I am constrained to write this as not doing so would weigh heavily on my conscience and I would be abdicating my responsibility as a judge.

Peshawar
May 9, 2018
(Tauseef)



A fast CAMPAIGN;

اللہ! جناب چیف جسٹس آف پاکستان سے ایک عاجزانہ درخواست کہ اس بات کا نوٹس لیا جائے کہ یہ موبائل کمپنیوں کا رجسٹر کیا ڈھونڈ ہے یا حکومت کی جال

کے لوٹ پیر ٹیکس = 25 روپے 100»

باقی رقم = 75 روپے تقریباً

روپے اتنا کم کرنے پر 19 فیصد ٹیکس کے حساب سے 15 روپے مزید بطور ٹیکس کٹا جاتے ہیں اور 75»
باقی کی رقم جو بچتی ہے وہ ہے صرف اور صرف 60 روپے

مطلب ہر 100 روپے کے بدلے ہم 40 روپے بطور ٹیکس ادا کرتے رہے ہیں»

پاکستان میں تقریباً 10 کروڑ سے زائد موبائل فون صارفین ہیں۔

اگر 5 کروڑ لوگ بھی ایک دن میں 100 روپے کا لوٹ کھوائیں تو اس کا مطلب وہ 5 ارب کا لوٹ کھوائیں گے

جس پر بطور ٹیکس کٹے والی رقم 1.25 ارب روزانہ بنتی ہے۔

اور ایک مہینے میں اس ٹیکس کی رقم 37.5 ارب روپے بنتی ہے اسی طرح ایک سال میں یہ تقریباً 450

ارب روپے بنتے ہیں۔

انکا پیسہ کہا جا رہا ہے کوئی سبب نہیں آ رہی۔

جناب چیف جسٹس آف پاکستان جہاں اتنے بڑے بڑے احسن کام انجام دے رہے ہیں وہاں اس شاکر راج کا بھی

نوٹس لین

یہ ان کا شریب عوام پر ایک بہت بڑا احسن ہو گا

پاکستانی عوام سے لیا ہے کہ اس کو اتنا زیادہ شیر کر یں کہ جناب چیف جسٹس لین دن میں اس مسئلے پر

غور کرنے پر مجبور ہو جائیں

جانگو عوام جانگو

اللہ! کہ جو ایسے حالات بدلنے کے لئے خود جوجہ نہیں کرتا خدا بھی اس کے حالات کبھی نہیں بدلتا

منجانب

پاکستان کے (20) بیس کروڑ مظلوم عوام



12 February 2021

Dear Registrar,

Sub: CMA No. 490/2021 in CP No. 20/2013.

The subject case was being heard by a Bench comprising of Hon'ble Mr. Justice Maqbool Baqar and myself ('2-member Bench'). On 3 February 2021, the last order passed by the 2-member Bench concluded as under:

"6. Depending on the responses/replies, this matter may either be concluded or if the responses/replies are considered by us to not accord with the Constitution and the cited precedent, the same may be required to be taken further; and if we come to the latter conclusion, to refer the matter to the Hon'ble Chief Justice for the constitution of a bench for determination thereof.

7. To come up on 10 February 2021."

However, much to my surprise, the 2-member Bench was reconstituted and expanded to comprise of the Hon'ble Chief Justice, Mr. Gulzar Ahmed, Hon'ble Mr. Justice Mushir Alam, Hon'ble Mr. Justice Umar Atta Bandial, myself and Hon'ble Mr. Justice Ijaz ul Ahsan.

When a case is being heard by a bench it cannot, without the consent of its members and through an administrative order, be arbitrarily taken away from the bench, and the bench reconstituted and expanded. This is all the more surprising since the highlighted portion of the order of the 2-member Bench stated that it would 'refer the matter to the Hon'ble Chief Justice for the constitution of a bench for determination thereof'.

Kindly provide me copies of your note and the Chief Justice's order on it, on the basis of which the case was taken away from a 2-member Bench and the bench reconstituted and expanded.

Yours faithfully,

Copies to: Hon'ble Chief Justice and all Judges of the Supreme Court.

received
P.A. to Registrar
Mashtag
(M)
12.2.21 at 10:30am

Received
Rabbani
12/02/21
Ghulam Rabbani
Private Secretary
Supreme Court of Pakistan

MR. JUSTICE
QAZI FAEZ ISA



SUPREME COURT OF PAKISTAN

12 February 2021

Dear Registrar,

Sub: CMA No. 496/2021 in CP No. 20/2013.

I have learnt that an order/judgment (don't know which one) was passed in the subject case on 11 February 2021, and released to the media. This is shocking since, as yet, I have not received the file with the order/judgment.

It is settled practice that after the Judge heading the Bench (in this case, the Hon'ble Chief Justice) writes the order/judgment, it is sent to the next senior judge, and so on; however, Hon'ble Mr. Justice Ijaz ul Ahsan apparently received it, but I never did, and the world knows of it before I've seen it.

Kindly let me know: (1) Why the order/judgment was not sent to me? (2) Why the settled practice of sending it to the next senior judge was not followed? (3) Why was it released to the media before I read it (let alone had the opportunity to sign it in agreement / disagreement)? (4) Who ordered its release to the media? (5) And, provide me the case file so I may finally read the order/judgment.

Yours faithfully,

Copies to: Hon'ble Chief Justice and all Hon'ble Judges of the Supreme Court.

Received
Mushaf P.A. to Registrar
(M) 12.2.21 at 10:30

Received

Ghulam Rabbani
Private Secretary
Supreme Court of Pakistan