

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

C.M.A No. \_\_\_\_\_/2023

In  
Constitution Petition No. 14/2023

Abid Shahid Zuberi,  
Advocate Supreme Court  
of Pakistan.

...Petitioner

**VERSUS**

Federation of Pakistan through Secretary  
Cabinet, Islamabad, etc.

...Respondents

Counsel for the Petitioner:  
AOR

Mr. M. Shoaib Shaheen, ASC  
Syed Rifaqat Hussain Shah.

Counsel for the Respondents:

**INDEX**

Sr.No.	Description	Date	Page No.
1.	CMA/Concise statement on behalf of Secretary to the Commission.	31.05.2023	1-12
2.	Annex A	22.05.2023	13-16
3.	Annex B1	25.05.2023	17
4.	Annex B2	24.05.2023	18
5.	Annex B3	24.05.2023	19
6.	Annex B4	25.05.2023	20
7.	Annex B5	25.05.2023	21
8.	Annex B6	24.05.2023	22
9.	Annex C	Receipt	23
10.	Affidavits	31.05.2023	24-25

Certified that the paper book as bound is complete and correct.

  
(HAFEEZULLAH  
KHAJJAK)  
Secretary of the  
Commission

Dated: 31.05.2023

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**CONCISE STATEMENT**

It is respectfully submitted by the Inquiry Commission, respondent No. 2, as under:

**Non-compliance with the rules.**

1. The Supreme Court Rules, 1980 (**‘the Rules’**) require that notices, prior to filing of any petition, must be sent by the petitioner/petitioner’s counsel to the respondents informing about the filing of the petitions, but this was not done. The Rules also require submission of an *affidavit of service* confirming service of notice on the respondents, and though such an affidavit was filed, service was not affected. Till date the Commission has not received copies of the petitions, therefore, the Commission reserves its right to attend to the same when and if the same are provided.

**Petitions filed under Article 184(3) of the Constitution.**

2. The petitions are statedly filed under Article 184(3) of the Constitution of the Islamic Republic of Pakistan (**‘The Constitution’**), but the order of the Supreme Court dated 26 May 2023 does not mention this provision, let alone that the petitions were maintainable thereunder. A petition under Article 184(3) can only be filed provided *‘a question of public importance with reference to the enforcement of any of the Fundamental Rights’* is involved. It

is respectfully submitted that Mr. Abid Shahid Zuberi is himself one of the persons allegedly talking in the audio recordings. Moreover, it needs consideration whether Mr. Abid Zuberi can represent the public interest in such circumstances. All other persons allegedly found talking in the audio recordings have not filed petitions, nor have objected to appear before the Commission. On the contrary, Messrs Khawaja Tariq Rahim and Abdul Qayyum Siddiqui, have shown their readiness to do so.

**Petitions could not be fixed for hearing or heard.**

3. The Supreme Court (Practice and Procedure) Act, 2023<sup>1</sup> states that:

'2. Constitution of Benches. -

(1) Every cause, appeal or matter before the Supreme Court shall be heard and disposed of by a bench constituted by the Committee comprising the Chief Justice of Pakistan and two most senior judges, in order of seniority.

(2) The decisions of the Committee shall be by majority.'

These petitions were not fixed *before a bench constituted by the Committee comprising the Chief Justice of Pakistan and the most senior judges*. Therefore, it is most respectfully submitted that these petitions cannot be heard till the said Committee determines which bench should hear them.

4. Khawaja Tariq Rahim, Advocate, who is one of the persons allegedly talking in the audio recordings and five others had filed petitions (**'the six Petitions'**) challenging the Supreme Court (Practice and Procedure) Bill, under Article 184(3) of the Constitution, even before it became law. The Office of the Supreme Court had noted five legal objections to the maintainability of the six Petitions, the first two of which are reproduced hereunder:

'a. That the petitioners have not pointed out as to what questions of public importance in the instant case are involved with reference to enforcement of any of the Fundamental Rights guaranteed under the Constitution, so as to directly invoke jurisdiction of the Supreme Court under Article 184(3) of the Constitution.

<sup>1</sup> Supreme Court (Practice and Procedure) Act, 2023, published in the Gazette of Pakistan Extraordinary, Part 1, dated 21 April 2023.

b. That ingredients for invoking extra ordinary jurisdiction of this Court under Article 184(3) of the Constitution have not been satisfied.'

However, Chamber appeals against the said *Office Objections* were not filed, nor were the *Office Objections* set aside by this Court. Yet in the six Petitions *ex parte ad-interim* orders were passed suspending the said Bill and later on 2 May 2023, it was ordered '*That injunction continues and shall continue to be enforced against the Act till further orders*'. On 8 May 2023, the petitions were adjourned to 1 June 2023, that is, after 24 days.

5. With utmost respect the six Petitions filed under Article 184(3) of the Constitution appear not to be maintainable because the two pre-requisites mentioned in Article 184(3) were not attracted, as was correctly noted by the Office of this Court, because the subject matter of the six Petitions did not constitute a matter of *public importance* nor did they seek the enforcement of any Fundamental Right. The fate of these petitions is connected with that of the six Petitions and till they are decided these petitions should not have been fixed for hearing. And, all the more so because if the six Petitions are dismissed it will create a legal quagmire - whether conducting court in the interregnum violated section 2 of the Supreme Court (Practice and Procedure) Act, 2023?

**It would not be appropriate for this bench to hear these petitions.**

6. The oath taken by the Chief Justices and Judges of the Supreme Court and the High Courts require them to act, '*in accordance with the Constitution of the Islamic Republic of Pakistan and the law*'. They are also required to, '*abide by the code of conduct issued by the Supreme Judicial Council*' and not to allow their '*personal interest to influence*' their '*official conduct*' or '*official decisions*'. The code of conduct<sup>2</sup> also requires that:

'A Judge must decline resolutely to act in a case involving his own interest, including those of persons whom he regards and treats as near relatives or close friend.'

'A judge must refuse to deal with any case in which he has a connection with one party or its lawyer

<sup>2</sup> Code of Conduct to be observed by the Judges of the Supreme Court of Pakistan and of the High Courts of Pakistan, Article IV.

more than the other, or even with both parties and their lawyers.'

'To ensure that justice is not only done, but is also seen to be done, a Judge must avoid all possibility of his opinion or action in any case being swayed by any consideration of personal advantage, either direct or indirect.'

One of the audio recordings allegedly pertains to the mother-in-law of the Hon'ble Chief Justice. Hon'ble Mr. Justice Munib Akhtar may also be mentioned in the said recording. And, in another audio recording reference is made to case fixation before a particular bench headed by Hon'ble Mr. Justice Ijaz ul Ahsan.

**Members of the Commission are bound to act in accordance with the law.**

7. The Constitution, law and the code of conduct must also be observed by the Members of the Commission, who respectively are the senior puisne Judge of the Supreme Court, the Chief Justice of the High Court of Balochistan and the Chief Justice of the Islamabad High Court. The law includes the Act, which grants to the Federal Government the power, under section 3(2), to constitute inquiry commissions:

'3(2) The Federal Government shall, by Notification in the official gazette, appoint the members of the Commission and where more than one member are so appointed, the Federal Government shall designate one of the members to be the Chairman of the Commission.'

The Act does not stipulate that the Government must consult with the Chief Justice of Pakistan before it constitutes a commission. The Act also does not grant to the Chief Justice the power to nominate members of a commission. Merely because the Government may elect to consult the Chief Justice does not mean that it has to. The Act has existed for over six years and, to the best of the knowledge of the undersigned, no challenge to it or specifically to its section 3(2) has been made, let alone the same having been struck down.

**Constituting the Commission.**

8. Pursuant to Notification No. S.R.O. 596(I)/2023, dated 19 May 2023 ('the Notification'), issued under the Pakistan

Commissions of Inquiry Act, 2017<sup>3</sup> (**'the Act'**), an inquiry commission (**'the Commission'**) was constituted. The Notification's preamble states:

WHEREAS, recently wide circulations of controversial audios have been witnessed on the national electronic, print and social media, allegedly regarding the Judiciary and former Chief Justices/Judges, conversation raising serious apprehensions about the independence, impartiality and uprightness of the Chief Justices/Judges of the Superior Courts in the administration of justice.

2. AND WHEREAS, such audio leaks have eroded public trust and serious concerns have been raised by the general public regarding independence, impartiality and uprightness of the Chief Justices/Judges of the Superior Courts. Under the Constitution of the Islamic Republic of Pakistan, the independence, integrity and character of Chief Justices/Judges is of utmost importance for keeping the public trust and confidence in the administration of justice. Judiciary is one of the main pillars under the Constitution and the society's confidence is shattered when independence of the Judiciary is tarnished.

3. AND WHEREAS, it is imperative to inquire into the authenticity, correctness and veracity of these audio leaks in order to restore not just the credibility of the Judiciary but also the public interest and confidence in the Judiciary in the larger public interest, as a matter of definite public importance.'

#### **Commission's working.**

9. The Commission was given an initial thirty days to complete its task. Therefore, it immediately held its first meeting on 22 May 2023. The Commission's order dated 22 May 2023 is attached hereto and marked as 'A', which was uploaded the same day on the webpage of the office of the learned Attorney-General for Pakistan ('AG'). In compliance with the Commission's order, public notices were published in three Urdu newspapers (*Jang*, *Daily Express* and *Nawa-i-Waqt*), and three English newspapers (*Dawn*, *The News* and *Express Tribune*), which are attached hereto and respectively marked as 'B1' to 'B6'. The notices called upon the general public to provide information they may have regarding the matter, which was to be inquired into by the Commission, to the following:

'Mr. Hafeezullah Khajjak, Secretary to the Commission  
Cell phone number: 0301-5579326  
Email address: inquirycommission2023@gmail.com

<sup>3</sup> Pakistan Commissions of Inquiry Act, 2017, enacted on 31 March 2017.

Postal address: Supreme Court Building,  
care of Private Secretary to Mr. Justice Qazi Faez Isa,  
3<sup>rd</sup> Floor, Judges Block, Supreme Court Building,  
Constitution Avenue, Sector G-5, Islamabad.'

10. The following were issued summons to attend before the Commission on 27 May 2023:

Mr. Abid Shahid Zuberi, Advocate,  
Kh. Tariq Rahim, Advocate,  
Mr. Najam Saqib, Advocate and  
Mr. Qayyum Siddiqui, journalist.

The aforesaid were also sent summons through TCS Courier Service.

11. The Commission was to meet next on 27 May 2023, when it was learnt that a number of petitions were filed before the Supreme Court in its *original jurisdiction* under Article 184(3) of the Constitution. The Commission was informed that in two of these petitions,<sup>4</sup> the Commission, through its Secretary, was arrayed as a respondent.

**The Commission was stopped from working.**

12. It transpired that a Bench headed by the Hon'ble Chief Justice and four Hon'ble Judges of the Supreme Court heard these petitions on 26 May 2023, and the very same day suspended the Notification and the order of the Commission dated 22 May 2023 and the proceedings of the Commission were also stayed. Therefore, on 27 May 2023, the Commission, after noting the filing of the petitions and the order passed therein, adjourned its proceedings. The Commission required the learned AG to apprise the Commission of further developments in these petitions.

**Non-attendance and non-disclosure.**

13. Of the four gentlemen summoned on 27 May 2023, only Mr. Abdul Qayyum Siddiqui attended the Commission. Khawaja Tariq Rahim, Advocate, submitted an application (through email) stating that he had to undergo pre-scheduled '*bi-annual medical tests relating to my medical condition*' on 27 May 2023 and also stated that:

'I understand that the Commission has already indicated that keeping in view the age of two females whose audio is also in issue is willing to hold

<sup>4</sup> Constitution Petitions No. 14 and 15/2023.

proceedings relating to them in Lahore. Since one of the ladies concerned is my wife it would be appropriate and in fitness of things that matter pertaining to my alleged audio leaks be also heard on the same day and date at Lahore.'

Messrs Abid Zuberi and Najam Saqib, Advocates, who had been summoned, did not attend nor did they inform the Commission why they were not doing so. They also did not bring to the Commission's notice that petitions had been filed and that the Supreme Court had stayed the Commission from proceeding further.

**Submissions made by Mr. Abid Zuberi's counsel.**

14. The order of the Supreme Court dated 26 May 2023 refers to, '*the submissions made by Mr. Shoaib Shaheen, ASC*', who represents Mr. Abid Zuberi. The learned counsel submitted that the Commission had assumed the powers of the Supreme Judicial Council ('SJC'). However, the learned counsel failed to point out the Commission's order dated 22 May 2023, which had also stated that:

'At the very outset it is clarified that the Commission is not the Supreme Judicial Council ('SJC') constituted under Article 209 of the Constitution of the Islamic Republic of Pakistan ('**the Constitution**'). This Commission will not be assuming the powers of the SJC and it will endeavor to perform its functions to the best of its ability as per the Notification and in accordance with the Act.'

Given that the Commission had specifically clarified that it was neither the SJC nor was it assuming the powers of the SJC, it was incumbent upon the petitioners and their learned counsel to point this out and not make submissions to the contrary.

**The Supreme Judicial Council - SJC.**

15. Article 209 of the Constitution stipulates that the SJC comprises of the Chief Justice of Pakistan, the two next senior Judges of the Supreme Court and the two most senior Chief Justices of the High Courts. And, that if the SJC is, '*inquiring into the capacity or conduct of a Judge who is a member of the Council*' then he cannot be part of the SJC and is to be substituted by the person next in seniority. If Article 209 of the Constitution is

extrapolated as a principle, then making the next senior most Judge head the Commission accords therewith.

**Independence of the Judiciary.**

16. The petitioner's learned counsel also referred to the *independence of the judiciary*, and assumed that the same was under threat if the senior puisne Judge of the Supreme Court and two Chief Justices of the High Courts comprised of the Commission. It is not understandable why the *independence of the judiciary* would be threatened or even undermined if the senior most Judge of the Supreme Court and two Chief Justices are its members.

**'Privileged Communication'.**

17. The petitioner's learned counsel also contended that communications between Mr. Abid Zuberi, an Advocate, and his client is '*privileged communication*'. However, Mr. Abid Zuberi did not claim privilege before the Commission. Moreover, under Article 9 of the Qanun-e-Shahadat, 1984, the said privilege is not absolute as it excludes *illegal purpose, crime or fraud*.

'9. Professional communications. No advocate shall at any time be permitted, unless with his client's express consent, to disclose any communication made to him in the course and for the purpose of his employment as such advocate, by or on behalf of his client, or to state the contents or condition of any document with which he has become acquainted in the course and for the purpose of his professional employment, or to disclose any advice given by him to his client in the course and for the purpose of such employment:

Provided that nothing in this Article shall protect from disclosure—

(1) any such communication made in furtherance of any illegal purpose; or

(2) any fact observed by any advocate, in the course of his employment as such, showing that any crime or fraud has been committed since the commencement of his employment, whether the attention of such advocate was or was not directed to such fact by or on behalf of his client.'

If Mr. Abid Zuberi as an Advocate claims that any communication of his was privileged, the Commission would consider the same.

**Mr. Abid Zuberi's public discussion on his alleged recordings.**

18. Mr. Abid Zuberi has repeatedly spoken about the alleged audio recordings, including on national television both prior to, and after, passing of the order of this Court dated 26 May 2023. He did so on several television talk-shows, including the following:

Date	Programme
20 May 2023	'Face to Face' on GNN News <sup>5</sup>
23 May 2023	'Off the Record with Kashif Abbasi' on ARY News <sup>6</sup>
26 May 2023	'Sawal yeh hai with Maria Memon' on ARY News <sup>7</sup>
26 May 2023	'Ab Pata Chala' on Bol News. <sup>8</sup>

In each of these programmes, he was attired as an Advocate, and spoke about the audio recordings / the subject of his petition.

Mr. Abid Zuberi's counsel, Mr. Shoaib Shaheen, also participated in several television programmes to discuss the workings of the Commission. These include the following:

Date	Programme
22 May	'Faisla aap ka with Asma Shirazi' on Aaj News <sup>9</sup>
23 May	'11 <sup>th</sup> Hour with Waseem Badaami' on ARY News <sup>10</sup>
24 May	GNN News <sup>11</sup>
26 May	ARY News <sup>12</sup>

Mr. Abid Zuberi, together with his counsel, also did a press talk outside the Supreme Court Building on 26 May 2023.<sup>13</sup>

**Right of Privacy.**

19. The petitioner's learned counsel also contended that there was an absolute right of privacy stipulated in the Constitution. However, Article 14(1) of the Constitution stipulates that, 'The

<sup>5</sup> [https://www.youtube.com/watch?v=PE5mtZ0Bm5c&ab\\_channel=GNN](https://www.youtube.com/watch?v=PE5mtZ0Bm5c&ab_channel=GNN) (last accessed on 29 May 2023).

<sup>6</sup> [https://www.youtube.com/watch?v=MTH7aAyZLZk&ab\\_channel=ARYNews](https://www.youtube.com/watch?v=MTH7aAyZLZk&ab_channel=ARYNews) (last accessed on 29 May 2023).

<sup>7</sup> [https://www.youtube.com/watch?v=4\\_iEpzLS6cQ&ab\\_channel=ARYNews](https://www.youtube.com/watch?v=4_iEpzLS6cQ&ab_channel=ARYNews) (last accessed on 29 May 2023).

<sup>8</sup> [https://www.youtube.com/watch?v=7uBdfRGq5c8&ab\\_channel=BOLNews](https://www.youtube.com/watch?v=7uBdfRGq5c8&ab_channel=BOLNews) (last accessed on 29 May 2023).

<sup>9</sup> <https://www.youtube.com/watch?v=IgtfGk4aLwo> (last accessed on 29 May 2023).

<sup>10</sup> [https://www.youtube.com/watch?v=oFGzah-0yrI&ab\\_channel=ARYNews](https://www.youtube.com/watch?v=oFGzah-0yrI&ab_channel=ARYNews) (last accessed on 29 May 2023).

<sup>11</sup> [https://www.youtube.com/watch?v=rd\\_JQjg2B0c&ab\\_channel=GNN%2B](https://www.youtube.com/watch?v=rd_JQjg2B0c&ab_channel=GNN%2B) (last accessed on 29 May 2023).

<sup>12</sup> [https://www.youtube.com/watch?v=MNU1BM5D13E&ab\\_channel=ARYNews](https://www.youtube.com/watch?v=MNU1BM5D13E&ab_channel=ARYNews) (last accessed on 29 May 2023).

<sup>13</sup> [https://www.youtube.com/watch?v=hV0FJyUZ5EE&ab\\_channel=CapitalTV](https://www.youtube.com/watch?v=hV0FJyUZ5EE&ab_channel=CapitalTV) (last accessed on 29 May 2023).

*dignity of man and, subject to law, the privacy of home, shall be inviolable*'. Whether the alleged audio recordings constitute *privacy of home* would have to be considered by the Commission, if this is contended before it. The Supreme Court in the case of *Benazir Bhutto v President of Pakistan*<sup>14</sup> had also restricted the phrase *privacy of home*, by excluding therefrom certain matters:

'25. ...Article 14 guarantees to protect dignity of man and the privacy of home which shall be inviolable subject to law. ...If a person intrudes into the privacy of any man, pries on the private life, it injures the dignity of man, it violates the privacy of home, it disturbs the peace and tranquility of the family and above all it puts such person to serious danger of being blackmailed. Such acts are not permissible under law and if any occasion arises for such operation, then it can be only in cases of defence and national security.'

It is submitted that if it be urged before the Commission, that the audio recordings constitute *privacy of home* in terms of Article 14(1) of the Constitution, this submission would be considered by it. The Commission would also consider whether evidence, if it is gathered illegally, is inadmissible and/or whether those gathering it would have to face prosecution under the relevant law, and may also have to consider Article 164 of the Qanun-e-Shahadat, 1984, if these points are taken up.

#### **International Practice.**

20. Though reference was made by this Court to paragraph 48 of a judgment of this Court,<sup>15</sup> the learned counsel failed to point out paragraph 46 thereof, which stated that:

'46. The Irish Supreme Court has in *DPP v. JC56* laid down the following principles with regard to the admission or exclusion of the evidence obtained in violation of the constitutional rights, in order to balance the legitimate competing public interests: (i) The onus is on the prosecution to establish the admissibility of all evidence; (ii) If a claim is raised that evidence was obtained in breach of constitutional rights, the onus is on the prosecution to establish either (a) that there was no unconstitutionality, or (b) that despite any interference with constitutional rights the evidence should still be admitted; (iii) Where evidence is obtained in deliberate and conscious violation of constitutional rights, it should be excluded except in exceptional circumstances; (iv) Where evidence was taken in breach of constitutional rights, there

<sup>14</sup> PLD 1988 Supreme Court 388.

<sup>15</sup> PLD 2021 SC 1.

is a presumption in favour of exclusion, which can be rebutted by evidence that the breach of rights was either (a) inadvertent or (b) derived from subsequent legal developments; and (v) Whether or not a breach of constitutional rights was deliberate and conscious requires analysis of the conduct or state of mind of the individual who actually gathered the evidence, as well as, any senior official or officials within the investigating or enforcement authority concerned who was involved either in that decision or in decisions of that type generally or in putting in place policies concerning evidence-gathering of the type concerned.'

### **Federalism.**

21. The order of this Court dated 26 May 2023 has referred to the *settled principles of Federalism*, and on the basis of the same it was noted that permission of the Hon'ble Chief Justice of Pakistan was required before appointing the two Chief Justices as members of the Commission. With the greatest of respect, the *Federation* includes territories mentioned in the Constitution, including the Province of Balochistan and the Islamabad Capital Territory.<sup>16</sup> The Constitution stipulates that, '*Each High Court shall supervise and control all courts subordinate to it*'.<sup>17</sup> The Constitution does not grant a similar supervisory and/or controlling role to the Supreme Court of Pakistan with regard to the High Courts, let alone exclusively to the Chief Justice of Pakistan. On the contrary, *Federalism* requires, as endorsed by the Constitution, that the High Courts function independently. The Supreme Court is only the appellate Court before which the decisions of the High Courts are assailed. And, the decisions of the Supreme Court are binding on '*all other courts in Pakistan*', which include the High Courts. The constitutional autonomy of the High Courts is also reflected in Article 209, whereunder the SJC is established. Of the five SJC members, two are Chief Justices of the High Courts. In addition, Article 198(6) of the Constitution grants to the *Governor in consultation with the Chief Justice of the High Court*, the power to make rules with regard to the matters mentioned in clause (a) thereof and *all incidental, supplemental or consequential matters*, as per clause (6) of Article 198(6). Rules of procedure are made by the High Court alone, without the consultation with the Chief Justice of Pakistan or with the concurrence of the Supreme Court.<sup>18</sup> The

<sup>16</sup> Constitution of the Islamic Republic of Pakistan, Article 1(2)(a) and (b).

<sup>17</sup> Ibid, Article 203.

<sup>18</sup> Ibid, Article 202.

language of Article 184(3) of the Constitution is also significant in that it commences by referring to Article 199 (jurisdiction whereunder is to be exercised by the High Courts), and states that the Supreme Court can *make an order of the nature mentioned in the said Article 199*. Significantly, the powers of the High Courts, exercised under Article 199, are not circumscribed by the constitutional prerequisites of *public importance* and *enforcement of any of the Fundamental Rights*. It is further submitted that where the Chief Justice of Pakistan has been empowered, the Constitution specifically states this, for instance, with regard to the transfer of High Court Judges under Article 200 of the Constitution.

**Copies of concise statement**

22. Copies of this Concise Statement have been supplied to all concerned, receipt whereof is attached hereto and marked as 'C'.

23. This Concise Statement is submitted by the Secretary of the Commission without engaging the services of an Advocate-on-Record to save public resources. The Commission also does not consider the need to engage the services of an Advocate Supreme Court as it would unnecessarily waste public resources. The Commission however expects that this Concise Statement will be read out in Court by the petitioner's counsel or by the learned AG.

**Conclusion.**

24. It is most respectfully submitted that the Commission has no interest in the matter other than to undertake the assignment given to it and to do so strictly in accordance with the Constitution and the law. The Commission also assures that legal objections and concerns raised before it will be considered.

Islamabad

Dated: 31st May 2023



Secretary

Inquiry Commission

Inquiry Commission

PRESENT: Mr. Justice Qazi Faez Isa, Chairperson.  
Mr. Justice Naeem Akhtar Afghan, Member.  
Mr. Justice Aamer Farooq, Member.

In attendance: Mr. Mansoor Usman Awan,  
Attorney-General for Pakistan.

Date of Hearing: 22.05.2023

ORDER

1. The Chairman and the Members of the Commission received on 20 May 2023 notification bearing No. S.R.O. 596(I)/2023, dated 19 May 2023, published in the Gazette of Pakistan, Extraordinary, Part II on 19 May 2023 (**'the Notification'**). The Notification was issued pursuant to the Pakistan Commissions of Inquiry Act, 2017 (**'the Act'**).

2. The Commission assembled in a courtroom of the Supreme Court building at 10.30 am. The learned Attorney-General for Pakistan (**'AG'**) was in attendance and he was asked to read the relevant provisions of the Act and the Notification.

3. At the very outset it is clarified that the Commission is not the Supreme Judicial Council (**'SJC'**) constituted under Article 209 of the Constitution of the Islamic Republic of Pakistan (**'the Constitution'**). This Commission will not be assuming the powers of the SJC and it will endeavor to perform its functions to the best of its ability as per the Notification and in accordance with the Act.

4. Section 14(2) of the Act stipulates that the Commission *'shall fix the places and times of its sittings and decide whether its proceedings shall be open or in camera'*. To ensure transparency and openness the Commission opined that the proceedings should be open and inquired from the learned AG whether he had any objection thereto. He stated that he did not, but added that if some information is not appropriate to be shared in the open then the Commission may meet in camera. Accordingly, it was decided that unless any request to proceed in camera is made, which will be

considered at that juncture, the Commission's proceedings will be open to all.

5. It is clarified that any person/witness appearing before the Commission is neither an accused nor will be treated as such; and, will be called upon to ascertain facts as per the task assigned to the Commission. It is further clarified that every person/witness will be treated with due regard and respect, and we expect that this will be reciprocated. Undoubtedly, the Act read with the Notification empowers the Commission to employ coercive means to ensure attendance/compliance, however, we hope, and expect, that all concerned will come forward when called upon to do so without the Commission having to resort to coercive measures to secure attendance and/or compliance with the directions of the Commission.

6. The Notification empowers the Commission to establish a Secretariat and to appoint a Secretary as per clause 9 of the Notification. The Commission appoints Mr. Hafeezullah Khajjak, Deputy Registrar, High Court of Balochistan, as the Secretary of the Commission. The interaction of the office of the learned AG and all concerned, including witnesses, shall be with the Secretary of the Commission. The Chairperson and Members of the Commission shall not be contacted. The Federal Government is directed to provide an android cell phone with SIM to the Secretary immediately, and the Secretary's contact details will be shared with all.

7. All concerned, including witnesses and the general public will be informed through advertisements, published in three Urdu and three English language national newspapers of wide circulation; Urdu advertisement shall be published in Urdu and English advertisement in English newspaper. The advertisements shall inform all those mentioned in the Notification and by those who may have any information to provide the same to the Secretary through email, messages on cell phone and/or by post, as under:

Mr. Hafeezullah Khajjak, Secretary to the Commission  
Cell phone number: 0301-5579326  
Email address: [inquirycommission2023@gmail.com](mailto:inquirycommission2023@gmail.com)  
Postal address: Supreme Court Building,  
care of Private Secretary to Mr. Justice Qazi Faez Isa  
3<sup>rd</sup> Floor, Judges Block, Supreme Court Building,  
Constitution Avenue, Sector G-5, Islamabad.

Any information and/or document which anyone wants to provide to the Commission must be done so by the person mentioning his name, address and contact details (address, email and cell phone number).

8. The venue of the Commission will be Court Room No. 2, Supreme Court Building, Islamabad. If the elderly ladies residents of Lahore whose statements are required to be recorded request that their statements be recorded at Lahore the venue of the Commission may be shifted to Lahore, in a courtroom in the Supreme Court Branch Registry, Lahore.

9. The learned AG shall designate a competent person in his office who, whenever required, will interact with the Secretary of the Commission, and we expect this person will not be assigned any other work during the duration of the work of the Commission. The persons, allegedly mentioned in the audio recordings, will be issued notices under the signature of the Secretary, of the Commission and notices will be handed over to the office of the learned AG, to ensure service through an officer of the Federal Government, which shall also be sent through courier service. The person serving the notice will take a photograph of the person receiving such notice. In case service cannot be effected repeated attempts at different times of the day will be made, but if still service cannot be effected the notice will be pasted on the outer door of the addressee's premises and photograph thereof be taken showing the locality and the actual residence of the addressee.

10. The learned AG is directed to provide to the Commission the particulars of department/agency, including the Punjab Forensic Science Agency, whose services may be required in case the person making the statement regarding any audio recording denies that the same is his/her voice or states that the same has been manipulated/fabricated/tampered. Whenever the concerned/witness statement is being recorded an expert of such department/agency should be in attendance.

11. The learned AG shall provide four sets of the recordings with accurate and verified transcripts duly verified and signed by a senior officer that the same is true and correct transcript of the recording. Additional sets of the recording and transcripts should be made and kept with the learned AG to be shared with the concerned at the relevant time, if so required. The learned AG shall also provide the names, addresses and contact details of all those mentioned in the transcript whose statement may be required to be recorded. The names of the persons shall be provided by or before Wednesday, 24 May 2023. If any person who is not examined and/or who thinks that his/her interest may be adversely effected such person will be entitled to record his/her statement and on his/her request may be permitted to cross-examine the person making the statement.

12. To come up on Saturday, 27 May 2023, at 10 am in Court Room No. 2 of the Supreme Court Building, Islamabad.

13. This order shall be uploaded by the office of the learned AG on the website of the office of the learned AG on a separate webpage titled 'Commission 2023'. Further orders, whenever directed, shall also be uploaded on the said website.

Chairperson

Member

Member

Islamabad  
22.05.2023



24-5-2023

(18)

B2



# اطلاع عام

حکومت پاکستان نے عمران اور یارک ڈیفنس سٹریٹجز/عجرت سے متعلق سینئر ڈیولپمنٹ کیلکولیشن کے لئے پاکستان کمیشن آف انویسٹری ایکٹ 2017 کی دفعہ 3 کے تحت ایک تحقیقاتی کمیشن تشکیل دیا ہے۔ اگر کسی شخص کے پاس مذکورہ معاملہ اور کمیشن کو تفریقیں کردہ ایسوی کی بائٹ کوئی معلومات ہوں تو درج ذیل پتہ پر فراہم کی جائیں۔

حفظ اللہ سیکریٹری کی کمیشن  
 0301-5579326  
 inquirycommission2023@gmail.com

مخبر: حضرت پرائیویٹ سیکریٹری جناب جسٹس قاضی فاروق علی  
 حیدر آباد، سبھری منزل پورہ کورٹ بلڈنگ، شاہراہ دستور، سیکریٹری - 5، اسلام آباد

براہ مہربانی معلومات/ دستاویزات فراہم کرنے والا شخص اپنا سبب نام لکھ کر اور اللہ سبھری ای میل میں بھیج کر اپنے تمام معلومات قابل قبول بنائے ہوں گی۔

حفظ اللہ انجیکٹ  
 سیکریٹری تحقیقاتی کمیشن

BID(1)7192/22



## **PUBLIC NOTICE**

The Government of Pakistan has constituted an Inquiry Commission under section 3 of the Pakistan Commissions of Inquiry Act, 2017 to inquire into the alleged audio leaks concerning the Judiciary and retired Chief Justices / Judges.

If anyone has any information relating to the said matter and the Commission's Terms of Reference they should provide it to the following:

Mr. Hafeezullah Khajjak, Secretary to the Commission

Cell Phone Number: 0301-5579326

Email: [inquirycommission2023@gmail.com](mailto:inquirycommission2023@gmail.com)

Address: Care of Private Secretary to Mr. Justice Qazi Faëz Isa, 3rd Floor, Judges Block, Supreme Court Building, Constitution Avenue Sector G-5, Islamabad.

Person providing information/documents should disclose his / her full name, address and email / cell number. Anonymous communications will not be accepted.

**Hafeezullah Khajjak**

Secretary to the Inquiry Commission

# THE NEWS

Thursday

May 25, 2023

## Public Notice

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Mrs Hafeezullah Khajjak, Secretary to the Commission.

Cell phone number: 0301-5579326

Email: [inquirycommission2023@gmail.com](mailto:inquirycommission2023@gmail.com)

Address: Care of Private Secretary to Mr. Justice Qazi Faiz Isha, 3<sup>rd</sup> Floor, Judges Block, Supreme Court Building, Constitution Avenue, Sector G-5, Islamabad.

Person providing information/documents should disclose his/her full name, address and email/cell number. Anonymous communications will not be accepted.

Hafeezullah Khajjak

Secretary to the Inquiry Commission

# THE EXPRESS TRIBUNE

PARTNER OF  
**The New York Times**

INTERNATIONAL EDITION

24-5-2023

Wednesday  
MAY 24 2023  
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tribune.com.pk  
ISLAMABAD

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**Hafeezullah Khajjak**  
Secretary to the Inquiry Commission

B6

Receipt

23

C

Abid Shahid Zuberi  
son of Shahid Aziz Zuberi.

Federation of Pakistan through Secretary,  
Cabinet Division.

Pakistan Electronic Media Regulatory Authority  
through Chairman.

Pakistan Telecommunication Authority  
through Chairman.

Mr. Muqtedir Akhtar Shabbir  
son of Muhammad Akhtar.

(24)

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

C.M.A No. \_\_\_\_\_/2023

In  
Constitution Petition No. 14/2023

Abid Shahid Zuberi, Advocate Supreme Court  
of Pakistan

...Petitioner

**VERSUS**

Federation of Pakistan through Secretary  
Cabinet, Islamabad, etc.

...Respondents

**AFFIDAVIT OF FACTS**

Hafeezullah Khajjak  
Secretary to the Commission

I the above named deponent do hereby solemnly affirm and declare  
on oath as under:

1. That the facts contained in accompanying CMA/Concise  
Statement are true and correct to the best of my knowledge  
and information.
2. That the said facts have been obtained from the perusal of  
the record as well as instructions received from the  
respondent No. 2.

SWORN at Islamabad on 31.05.2023.

  
DEPONENT

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

C.M.A No. \_\_\_\_\_/2023

In  
Constitution Petition No. 14/2023

Abid Shahid Zuberi, Advocate Supreme Court  
of Pakistan

...Petitioner

**VERSUS**

Federation of Pakistan through Secretary  
Cabinet, Islamabad, etc.

...Respondents

**AFFIDAVIT OF SERVICE**

Hafeezullah Khajjak  
Secretary to the Commission

I the above named deponent do hereby solemnly affirm and declare  
as under:

1. That I did serve the petitioner and the other respondents of  
my having filed this CMA/Concise Statement in the above  
noted case in the Supreme Court of Pakistan, Islamabad.

SWORN at Islamabad on 31.05.2023.

  
DEPONENT