

IN THE SUPREME COURT OF PAKISTAN
(Original Jurisdiction)

PRESENT:

Mr. Justice Umar Ata Bandial, CJ
Mr. Justice Ijaz ul Ahsan
Mr. Justice Mazhar Alam Khan Miankhel
Mr. Justice Munib Akhtar
Mr. Justice Jamal Khan Mandokhail

SUO MOTO CASE NO.1 OF 2022

(Re: ruling by the Deputy Speaker of the National Assembly under Article 5 of the Constitution qua voting on No-confidence Motion against the Prime Minister of Pakistan)

Constitution Petition No.3 to 7 of 2022

(Re: ruling passed on 03.04.2022 by the Deputy Speaker of the National Assembly on No-confidence Motion)

Pakistan Peoples Party Parliamentarians **...Petitioner(s)**
(PPPP) through its Secretary General
Mr. Farhatullah Babar and others
(in Const. P.3/2022)

Supreme Court Bar Association of
Pakistan through its President,
Islamabad
(in Const. P.4/2022)

Pakistan Muslim League-N through its
representative Malik Ahmed Khan
(in Const. P.5/2022)

Sindh High Court Bar Association
through its Hon. Secretary, Karachi
(in Const. P.6/2022)

Sindh Bar Council through its Secretary,
High Court Building, Karachi
(in Const. P.7/2022)

Versus

Federation of Pakistan through Secretary
M/o Law and Justice Islamabad and
others
(in Const. P. 3/2022)

President of Pakistan through Secretary
to the President, Islamabad and others
(in Const. P. 4/2022)

Deputy Speaker of the Provincial
Assembly of the Punjab and others
(in Const. P. 5/2022)

Federation of Pakistan through the
Secretary, Islamabad and others
(in Const.P.6/2022)

Federation of Pakistan through the
Secretary, Islamabad and others
(in Const. P. 7/2022)

...Respondent(s)

- | | |
|--------------------|--|
| For Federation | : Mr. Khalid Javed Khan, Attorney General for Pakistan Mr. Sohail Mehmood, Addl. AGP Assisted by: Mr. M. Usman Piracha, Adv, Ms. Mayam Rasheed, Adv. Ms.Faryal Shah Afridi, Adv. |
| For the President | : S. Ali Zafar, ASC S. M. Ali Bokhari, ASC Mr. Ahmed Nawaz Ch. AOR |
| For Prime Minister | : Mr. Imtiaz Rasheed Siddiqui, ASC Mr. Faisal Fareed, ASC S. Hasnain Ibrahim Kazmi, ASC Assisted by Ch. Atif Khan, Advocate |
| For ECP | : Mr. Sikandar Sultan Raja, CEC Mr. Omer Hameed Khan, Secretary Mr. Zafar Iqbal, Spl. Secretary Mr. Muhammad Arshad, DG (L) Mr. Khurram Shahzad, ADG(L) |
| For SCBA | : (SMC 1 & Const.P.4/22) Mr. Mansoor Usman Awan, ASC Mr. Ahsan Bhoon, ASC (President) Mr. Waseem Mumtaz Malik, ASC (Secretary) Mr. Khawar Ikram Bhatti, ASC S. Rifaqat Hussain Shah, AOR Assisted by: Mr. Umair Ahmed, Adv. Asfand Yar Khan, Adv. |
| For PPPP | : (SMC 1 & Const.P.3/22) Mr. Farooq H. Naek, Sr. ASC Mr. Bilawal Bhutto Zardari Mian Raza Rabbani, ASC Mr. Kamran Murtaza, Sr. ASC Mr. Azam Nazir Tarar, ASC Raja Shafqat Abbasi, ASC Sardar M. Latif Khan Khosa, Sr. ASC Sardar Shahbaz Ali Khan Khosa, ASC S. Rifaqat Hussain Shah, ASC |

Assisted by:
Barrister Shiraz Shaukat Rajpar

- For BNP (M) : Mr. Mustafa Ramday, ASC
Mr. Rashid Hafeez, ASC
assisted by:
Mr. Ahmed Javaid, Advocate
Mr. Akbar Khan, Advocate
Ms. Zoe Khan, Adv.
- For ANP : Mr. Babar Yousafzai, ASC
Mr. M. Sharif Janjua, AOR
- For PML(N) : (SMC 1/2022)
Mr. Makhdoom Ali Khan, Sr. ASC
Mian Shahbaz Sharif
(Opposition Leader)
Assisted by:
Mr. Saad M. Hashmi, Adv.
Mr. Sarmad Hani, Adv.
Mr. Yawar Mukhtar, Adv.
Mr. Ammar Cheema, Adv.
- (Const. P. 5/2022)
Ch. Sultan Mehmood, ASC
Mr. Khalid Ishaq, ASC
Mr. Azam Nazir Tarar, ASC
S. Rifaqat Hussain Shah, AOR
- For PML : Mr. Imtiaz Rasheed Siddiqui, ASC
S. Hasnain Ibrahim Kazmi, ASC
Mr. Ahmed Nawaz Ch. AOR
- For PTI : Dr. Babar Awan, Sr. ASC
Mr. Azhar Siddiqui, ASC
Mr. Ahmed Nawaz Ch. AOR
- For JUP : Mr. Kamran Murtaza, Sr. ASC
Qari Abdul Rasheed, ASC
- For Dy. Speaker, NA : Mr. Naeem Bokhari, ASC
Mr. Anis M. Shahzad, AOR
- For Sindh :
: Mr. Salman Talibuddin, AG
(V.L. Karachi)
Mr. Sibtain Mehmood, Addl. AG
(V.L. Karachi)
Mr. Fawzi Zafar, Addl. AG
(V.L. Karachi)
- For Punjab : Mr. Ahmed Awais, AG Punjab
- For Balochistan : Mr. Asif Reki, AG
Mr. M. Ayaz Sawati, Addl. AG

| | |
|------------------|---|
| For KP | : Mr. Shumial Butt, AG Mian Shafaqat Jan, Addl. AG Mr. Atif Ali Khan, Addl. AG |
| For ICT | : Mr. Niazullah Khan Niazi, AG |
| For M/o Interior | : Mr. M. Ayub, Addl. Secretary Mr. M. Naeem Saleem, Dy. Secretary |
| For NA | : Mr. Abdul Latif Yousafzai, ASC Mr. M. Mushtaq, Addl. Secretary Mr. Haq Nawaz, SO |
| For SHCBA & SBC | : <u>Const.P. 6 & 7/2022</u> Mr. Salahuddin Ahmed, ASC Mr. Haider Imam Rizvi, ASC Mr. Anis Muhammad Shahzad, AOR |
| Date of Hearing | : 07.04.2022 |

ORDER

For detailed reasons to be recorded later and subject to what is set out therein by way of amplification or otherwise, these matters are disposed of in the following terms:

1. The ruling of the Deputy Speaker of the National Assembly (“Assembly”) given on the floor of the House on 03.04.2022 (“Ruling”) in relation to the resolution for a vote of no-confidence against the Prime Minister under Article 95 of the Constitution (“Resolution”) (for which notice had been given by the requisite number of members of the Assembly on 08.03.2022, and in relation to which leave was granted to move the Resolution on 28.03.2022), and the detailed reasons for the Ruling (released subsequently and concurred with by the Speaker) are declared to be contrary to the Constitution and the law and of no legal effect, and the same are hereby set aside.

2. In consequence of the foregoing, it is declared that the Resolution was pending and subsisting at all times and continues to so remain pending and subsisting.

3. In consequence of the foregoing, it is declared that at all material times the Prime Minister was under the bar imposed by the Explanation to clause (1) of Article 58 of the Constitution and continues to remain so restricted. He could not therefore have at any time advised the President to dissolve the Assembly as contemplated by clause (1) of Article 58.

4. In consequence of the foregoing, it is declared that the advice tendered by the Prime Minister on or about 03.04.2022 to the President to dissolve the Assembly was contrary to the Constitution and of no legal effect.

5. In consequence of the foregoing, it is declared that the Order of the President issued on or about 03.04.2022 dissolving the Assembly was contrary to the Constitution and of no legal effect, and it is hereby set aside. It is further declared that the Assembly was in existence at all times, and continues to remain and be so.

6. In consequence of the foregoing, it is declared that all actions, acts or proceedings initiated, done or taken by reason of, or to give effect to, the aforementioned Order of the President and/or for purposes of holding a General Election to elect a new Assembly, including but not limited to the appointment of a care-taker Prime Minister and Cabinet are of no legal effect and are hereby quashed.

7. In consequence of the foregoing, it is declared that the Prime Minister and Federal Ministers, Ministers of State, Advisers, etc stand restored to their respective offices as on 03.04.2022.

8. It is declared that the Assembly was at all times, and continues to remain, in session as summoned by the Speaker on 20.03.2022 for 25.03.2022 ("Session"), on the requisition moved by the requisite number of members of the Assembly on 08.03.2022 in terms of clause (3) of Article 54 of the Constitution. Any prorogation of the Assembly by the Speaker prior to its dissolution in terms as stated above is declared to be of no legal effect and is set aside.

9. The Speaker is under a duty to summon and hold a sitting of the Assembly in the present Session, and shall do so immediately and in any case not later than 10:30 a.m. on Saturday 09.04.2022, to conduct the business of the House as per the Orders of the Day that had been issued for 03.04.2022 and in terms as stated in, and required by, Article 95 of the Constitution read with Rule 37 of the Rules of Procedure and Conduct of Business in the National Assembly Rules, 2007 ("Rules").

10. The Speaker shall not, in exercise of his powers under clause (3) Article 54 of the Constitution, prorogue the Assembly and bring the Session to an end, except as follows:

- a. If the Resolution is not passed by the requisite majority (i.e., the no-confidence resolution is defeated), then at any time thereafter;
- b. If the Resolution is passed by the requisite majority (i.e., the no-confidence resolution is successful), then at any time once a Prime Minister is elected in terms of Article 91 of the Constitution read with Rule 32 of the Rules and enters upon his office.

11. If the Resolution is passed by the requisite majority (i.e., the no-confidence resolution is successful) then the Assembly shall forthwith, and in its present Session, proceed to elect a Prime Minister in terms of Article 91 of the Constitution read with Rule 32 of the Rules and all other enabling provisions and powers in this behalf and the Speaker and all other persons, including the Federal Government, are under a duty to ensure that the orders and directions hereby given are speedily complied with and given effect to.

12. The assurance given by the learned Attorney General on behalf of the Federal Government in C.P. 2/2022 on 21.03.2022 and incorporated in the order made in that matter on the said date shall apply as the order of the Court: the Federal Government shall not in any manner hinder or obstruct, or interfere with, any members of the National Assembly who wish to attend the session summoned as above, and to participate in, and cast their votes, on the no confidence resolution. It is further directed that this order of the Court shall apply both in relation to the voting on the Resolution and (if such be the case) in relation to the election of a Prime Minister

thereafter. It is however clarified that nothing in this Short Order shall affect the operation of Article 63A of the Constitution and consequences thereof in relation to any member of the Assembly if he votes on the Resolution or (if such be the case) the election of a Prime Minister thereafter in such manner as is tantamount to his defection from the political party to which he belongs within the meaning of the said Article.

13. The order of the Court made in SMC 1/2022 on 03.04.2022 to the following effect, i.e., “Any order by the Prime Minister and the President shall be subject to the order of this Court” shall continue to be operative and remain in the field, subject to this amplification that it shall apply also to the Speaker till the aforesaid actions are completed.

CHIEF JUSTICE

JUDGE

JUDGE

JUDGE

JUDGE

Islamabad
07.04.2022

APPROVED FOR REPORTING.