

IN THE SUPREME COURT OF PAKISTAN

(Original Jurisdiction)

Present:

Mr. Justice Iftikhar Muhammad Chaudhry, HCJ.

Mr. Justice Jawwad S. Khawaja

Mr. Justice Khilji Arif Hussain

Const. Petition No.40 of 2012 & CMA No.2494/12

Muhammad Azhar Siddique **Vs.** Federation of Pakistan etc.

Const. Petition No.41 of 2012 & CMA No.2495/12

Imran Khan **Vs.** Federation of Pakistan etc.

Const. Petition No.42 of 2012

Kh. Muhammad Asif **Vs.** Federation of Pakistan etc.

Const. Petition No.43 of 2012

Syed Zafar Ali Shah **Vs.** Federation of Pakistan etc.

Const. Petition No.44 of 2012

S. Mehmood Akhtar Naqvi **Vs.** Federation of Pakistan etc.

Const. Petition No.45 of 2012

Ch. Khalid Farooq, ASC **Vs.** Federation of Pakistan etc.

Const. Petition No.46 of 2012 & CMA 2496 OF 2012

Shahid Naseem Gondal, Adv. **Vs.** Federation of Pakistan etc.

Const. Petition No.47 of 2012

Ch. M. Asghar Saroha etc. **Vs.** Mohtarma Dr. Fehmida Mirza,
Speaker National Assembly etc.

Const. Petition No.50 of 2012

Lahore High Court Bar **Vs.**
 Association, thru. Sh. Ahsan
 ud-din, President of High Court

Speaker National Assembly
 and others

For the petitioners:

Mr. A. K. Dogar, Sr. ASC
 Mr. Azhar Siddique, ASC
 Mr. Mehmood A. Sheikh, AOR
 (in Const.P. No.40/2012)

Mr. Hamid Khan, Sr. ASC
 Mr. M. Waqar Rana, ASC
 S. Safdar Hussain, AOR
 (in Const. P. No.41/12)

Kh. Muhammad Asif, MNA (In person)
 (in Const. P. No. 42/12)

S. Zafar Ali Shah, Sr. ASC (in person)
 (in Const. P. No.43/12)

S.Mehmood Akhtar Naqvi (in person)
 (in Const. P. No.44/12)

Mr. Abdul Rehman Siddiqui, ASC
 (in Const. P. 45/12)

Mr. A.K. Dogar, Sr. ASC
 (in Const. P. 46/2012)

Khan Attaullah Tareen, ASC
 Ch. M. Asghar Saroha, ASC
 (in Const. P.47/12)

Mr. Taufiq Asif, ASC
 (in Const. P. 50/2012)

On Court Notice:

Mr. Irfan Qadir,
 Attorney General for Pakistan

For Syed Yousaf Raza Gillani:

Ch. Aitzaz Ahsan, Sr. ASC

For the Federation:

Mr. Muhammad Munir Peracha, ASC
 Mr. M.S. Khattak, AOR

For the Speaker, N.A:

Mr. Muhammad Latif Qureshi,
 Joint Secretary (L), N.Assembly

For the ECP:

Mr. Muhammad Nawaz, Director (L)

Date of hearing: 14,15,18 & 19 June, 2012

O R D E R

Iftikhar Muhammad Chaudhry, CJ.— For reasons to be recorded later, the titled petitions are disposed of as under: -

- (1) This Court in exercise of jurisdiction under Article 184(3) of the Constitution of Islamic Republic of Pakistan is competent to ensure enforcement of the fundamental rights of the citizens in all matters of public importance;
- (2) The Speaker of the National Assembly under Article 63(2) of the Constitution exercises powers, which are not covered by the definition of internal proceedings of *Majlis-e-Shoora*, therefore, this Court, in exercise of power of judicial review, is not debarred from inquiring into the order dated 25.05.2012. Reference in this behalf may be made to the cases of *Mining Industries of Pakistan (Pvt.) Ltd. v. Deputy Speaker, Balochistan Provincial Assembly* (PLD 2006 Quetta 36), *Madad Ali v. Province of Sindh* (1996 SCMR 366), *Shams-ud-Din v. Speaker, Balochistan Provincial Assembly* (1994 MLD 2500), *Muhammad Naeem Akhtar v. Speaker, Sindh Provincial Assembly* (1992 CLC 2043), *Farzand Ali v. Province of West Pakistan* (PLD 1970 SC 98); *Muhammad Anwar Durrani v. Province of Baluchistan* (PLD 1989 Quetta 25); *Jagjit Singh v. State of Haryana* (AIR 2007 SC 590) and *Rajendra Singh Rana v. Swami Prasad Maurya* (AIR 2007 SC 1305);
- (3) As a Bench of 7 Hon'ble Judges *vide* judgment dated 26.04.2012 followed by the detailed reasons released on 08.05.2012 has found Syed Yousaf Raza Gillani guilty of contempt of Court under Article 204(2) of the Constitution of the Islamic Republic of Pakistan, 1973 read with section 3 of the Contempt of Court Ordinance, 2003 and sentenced him to undergo imprisonment till rising of the Court under section 5 of the said Ordinance, and since no appeal was filed against this judgment, the conviction has attained

finality. Therefore, Syed Yousaf Raza Gillani has become disqualified from being a Member of the *Majlis-e-Shoora* (Parliament) in terms of Article 63(1)(g) of the Constitution on and from the date and time of pronouncement of the judgment of this Court dated 26.04.2012 with all consequences, i.e. he has also ceased to be the Prime Minister of Pakistan with effect from the said date and the office of the Prime Minister shall be deemed to be vacant accordingly;

- (4) The Election Commission of Pakistan is required to issue notification of disqualification of Syed Yousaf Raza Gillani from being a member of the *Majlis-e-Shoora* w.e.f. 26.4.2012; and
- (5) The President of Pakistan is required to take necessary steps under the Constitution to ensure continuation of the democratic process through parliamentary system of government in the country.

2. We place on record our thanks and appreciation to learned counsel appearing for the parties for providing valuable assistance in deciding these petitions.

CHIEF JUSTICE

JUDGE

JUDGE

Islamabad, 19th June, 2012
ANNOUNCED IN OPEN COURT

CHIEF JUSTICE

APPROVED FOR REPORTING