

IN THE SUPREME COURT OF PAKISTAN
(ORIGINAL JURISDICTION)

PRESENT:

MR. JUSTICE IFTIKHAR MUHAMMAD CHAUDHRY, CJ
MR. JUSTICE TASSADUQ HUSSAIN JILLANI
MR. JUSTICE KHILJI ARIF HUSSAIN

Suo Moto Case No. 18 of 2010

(Suo moto action regarding violation of Public Procurement Rules, 2004 in procurement loss of billions of rupees to public exchequer caused by National Insurance Company Ltd.)

On Court Notice

Maulvi Anwar-ul-Haq, AGP

Captain (R) Zafar Ahmed Qureshi,
Additional D.G. FIA.

Date of Hearing: 07.07.2011

ORDER

Learned Attorney General placed on record the following:-

- (i) Notification dated 1st of July, 2011, a perusal whereof indicates that members of the investigation team working under the supervision of Captain (R) Zafar Ahmad Qureshi, Additional Director General, FIA, were transferred to different places. It is worth noting that Captain (R) Zafar Ahmad Qureshi and his team had succeeded in making breakthrough in the NICL scandal case as a result whereof Rs. 1.75 billions belonging to national ex-chequer had been recovered. They had also succeeded in collecting evidence to the effect that out of the alleged amount of NICL scam, a considerable amount has been deposited in the United Kingdom. They had collected this evidence

through Mirza Sultan Baig, Deputy Director, FIA through Serious Criminal Issues Agency.

No sooner the order was passed by this Court on 1st of July, 2011 suspending the notification dated 18th of April, 2011 in pursuance whereof Mr. Zafar Ahmad Qureshi, Additional Director General FIA was disassociated from the investigation, his team members were transferred although in the said order Director General FIA was directed *“to extend all necessary assistance to Captain (R) Zafar Ahmad Qureshi for carrying out investigation of the cases registered at Lahore in respect of N.I.C.L scam and any other matter connected and related thereto in terms of earlier notification dated 24.1.2011 issued by the Establishment Division.”* This order was dictated in the presence of Muhammad Azam, Director FIA and copy thereof was also served upon the Director General, FIA by the Implementation Branch of this Court. Despite of this, following persons out of the investigating team of Captain (R) Zafar Ahmad Qureshi have been transferred as per notification dated 1.7.2011:-

- (1) Dr. Javed Hussain, Deputy Director (BS-18).
- (2) Mr. Muhammad Ahmed, Assistant Director (BS-17).
- (3) Mr. Khalid Anees, Assistant Director (BS-17).
- (4) Mr. Muhammad Sarwar, Inspector (BS-16).

Prima facie, we are of the opinion that transfer of above named officers had taken place in order to undermine the authority of this Court and to influence the course of investigation which

is in clear violation of the directions of this Court. Had the transfer of those officers taken place in the ordinary course of manner, we would have not questioned the same but in the background of the case, details of which have been mentioned in the earlier order dated 1st of July, 2011, it seems that in order to prevent those officers from performing duties according to their conscience, with honesty and dedication and in order to keep them away from the NICL scam, they were transferred.

We, therefore, direct the Director General, FIA, through learned Attorney General, to reverse the transfer orders of the afore-named officers/members of the investigating team of Captain (R) Zafar Ahmad Qureshi immediately and post them at the places where they were earlier performing their duties, pending decision of this matter.

- (ii) Learned Attorney General has also placed on record order of suspension of Captain (R) Zafar Ahmad Qureshi dated 4th of July, 2011 and as directed also provided copy of explanation dated 2nd of July, 2011, in pursuance whereof Captain (R) Zafar Ahmad Qureshi was called upon by the Joint Secretary (Establishment) to explain within 24 hours of the receipt of explanation about the allegations that he had written a letter to Director General FIA to the effect that transfer order of various officers of FIA by him are irregular and illegal and had asked the Director General, FIA to withdraw the said order forthwith. It was further alleged in the letter dated 2.7.2011 that this news was also flashed in the electronic media on the evening of 2nd of July 2011 but he failed to

contradict the same giving the impression that the said news reports were correct. Mr. Zafar Ahmed Qureshi was directed to submit his explanation within 24 hours whereas under the E&D Rules, 1973, such explanation is to be called for by a competent authority or an authorized officer within the minimum period of seven days and maximum 14 days.

At this stage, learned Attorney General submitted that the explanation was not issued under rule 6 of the E&D Rules, 1973, therefore compliance of this was not mandatory. However, explanation was called to know about the stand of the officer.

This explanation was followed by suspension order of 4th of July, 2011. It seems, *prima facie*, that an attempt has been made not to allow Mr. Zafar Ahmed Qureshi to continue the investigation of the case of NICL inasmuch as the accused persons who are outside the country have not been brought back as yet nor interim challans against them have been submitted in those cases, nor the alleged amount deposited by them outside the country has been brought back. In this scenario, Mr. Zafar Ahmed Qureshi was required to continue with the investigation of the case and also to further probe the matter in depth because allegedly in the province of Punjab, there is a scam of Rs. 5.00 billions and so far Rs. 1.74 billions have been recovered.

It is also pertinent to note here that some of the reputed newspapers of print media including 'The News International', 'Dawn', 'Express Tribune' and 'The Nation' etc had widely published this

news. Some of the newspapers have also written editorials in this behalf, perusal whereof indicates that perhaps on account of some political intervention, action against Mr. Zafar Ahmed Qureshi had been taken and he was placed under suspension. There are also serious allegations against the Interior Minister to the effect that he had summoned the officer and, according to the reports in the newspapers, had given him following four options which allegedly are:

- (i) leave the country immediately;
- (ii) go on a long leave;
- (iii) tell the Supreme Court in writing that he cannot continue with NICL investigation for personal reasons; and
- (iv) if all the three are not possible then bail out Ch. Monas Elahi son of Ch. Pervez Elahi, the new coalition partner of PPP government.

This news item was published in the 'The News International' on 5th of July, 2011. This statement was contradicted but 'The News' stands by its story.

When we confronted the learned Attorney General with the above news material appeared in various newspapers, etc., he stated that some time be given to him to seek instructions. We have informed him that this is a very grave and serious matter and has its own repercussions and that this Court, otherwise, would be appointing some retired Judge of this Court or of the High Court who would probe in to the matter, record evidence and thereafter would give findings.

Prima facie, we are of the opinion that a person who has stood for rule of law and has been performing his duties with commitment and dedication in compliance with the directions of this Court is being punished just for doing the right job. We enquired from the learned Attorney General as to whether any proceedings have been started against Mr. Zafar Ahmad Qureshi to which he stated that so far an authorized officer has been appointed and till he takes instructions, departmental proceedings against Captain (R) Zafar Ahmad Qureshi will not be undertaken. Order accordingly.

The case is adjourned for 13th of July, 2011.

CHIEF JUSTICE

JUDGE

JUDGE

Islamabad, the
7th of July, 2011.
Khurram Anis