

Scenario 71

THE FAKE DEGREES CASE [2010-13]:

On 25th March 2010, MNA Jamshaid Dasti of PPP, MNA Nazir Jatt of PML(Q) and MPA Muhammad Ajmal of PML(Q) from PP-63 (Faisalabad-XIII) had submitted their resignations before the Supreme Court. On 30th March 2010, Sardar Allah Wasaya alias Chunnu Leghari, an MPA of PPP also tendered his resignation for having fake degree. It was the same week the PPP had earned plaudits for shepherding the 18th Amendment bill through parliament.

In the 2nd week of April 2010, the PPP parliamentary board, headed by party leader President Zardari, had bizarrely seen it fit to nominate the very same members who humiliatingly had to submit their resignations before the apex Court. And in another sordid twist, the PPP had even given its party ticket to a PML(Q) legislator who had to resign his National Assembly seat from Vehari on similar grounds.

Several points to note here; while the Bachelor's degree requirement for assembly men and women had been dropped, the members were hauled up before the SC for submitting fake documents, taking the same as grounds for disqualifying an elected representative. So the point here wasn't about higher education but the moral and legal lapses by the elected representatives. Why was the PPP continuing to support members who, being liars or fraud, did not deserve to be the representatives of the people?

The government had preferred to send a terrible signal to the electorate and the political class.

On 12th April 2010, a 3-member bench of the Supreme Court comprising of Justice Mian Shakirullah Jan, Justice MA Shahid Siddiqui and Justice Mian Saqib Nisar reserved the judgement on two petitions challenging the degrees of MNA Rasheed Akbar Nawani from NA-74 and MPA Saeed Akbar Nawani from PP-49; both constituencies of Bhakkar District.

The Punjab University official filed the academic record of the two lawmakers and told that the degrees acquired by them in 2002 were fake though both the brothers had earned genuine BA degrees in 2004.

On 21st April 2010, another 3-member Supreme Court (SC) bench finalised the case of PML(N)'s MPA from PP-160 (Lahore-XXIV) constituency named Rana Mubashir Iqbal who had tendered his resignation over possessing a fake graduation degree.

The bench – comprising Chief Justice Iftikhar M Chaudhry, Justice Ch Ijaz Ahmed and Justice Ghulam Rabbani – disposed of the said case, observing: *"The petition is disposed of without any prejudice and the Election Commission of Pakistan is required to issue the notification for holding by-elections"*.

JAMSHED DASTI's CASE:

The obvious message [that the PPP handed out tickets for the by-elections to the same alleged liars] conveyed was: the presidency could be thumbing its nose at the SC? Forgetting that it was a SC bench led by Chief Justice Iftikhar M Chaudhry that had shown great revulsion at the mischief of the politicians caught lying and left them to resign only. Was that a proper way to thank the judiciary for its mercy otherwise the members could have been sent to Adiala jail straightaway.

Ordinary citizens of Pakistan as well as sincere workers of the PPP were disappointed by such decisions by the party leadership. Could not President Zardari and the PPP identify a single person higher in integrity and commitment to the PPP's manifesto than Dastis, Jatts and Wa-says in their respective constituencies?

On top of it, PM Gilani appointed that former MNA Jamshed Dasti as his adviser on livestock after he resigned from his National Assembly seat when his degree was found fake. Instead of sending him to jail, the prime minister elevated him to a position where he enjoyed even more perks and privileges at poor nation's expense. Irony of the nation was that on the same day his namesake, Nasir Jamshed, a poor cricketer, was sent to jail for allegedly cheating in his Class IX exams, about six years earlier.

Hurray! One cheat was instantly arrested and sent to jail while the other was made adviser to the prime minister of Pakistan? The prime minister should have appointed Nasir Jamshed as his adviser on cricket affairs too. Politics in Pakistan, and its version practised by the PPP, was devoid of ethics. PPP's own sane and sincere workers felt disgusted at the PPP's decision to appoint Jamshed Dasti as an adviser to the PM; an insult of the collective public opinion.

The general populace was not surprised that the two major parties, PPP and PML(N), had adopted the 'cheats' and fielded them again. Besides the PPP's cheats with party tickets named above, the PML(N) also picked Mian Asif Ajmal for PP-63. PML(N)'s Senator Pervez Rashid had responded to a media question that:

"I think the people of his (Ajmal)'s constituency will reject him if they think that he had done something wrong by becoming an MPA on the basis of a fake BA degree."

Such logics of 'democratic steps' could only prevail in Pakistan where Senator Rashid was replying the next question as *"let me clarify that the PML-N will not re-award a ticket to any such candidate of its party keeping in view the moral grounds."*

[Later, during a fine evening after 15th May 2010, all those cheaters were again reading oath in their respective assemblies – a typical example of Pakistani Democracy. Where were the Articles of 62 & 63 or the ECP as the newly elected members were proven liars till then?]

Re-election of **Jamshed Dasti** as MNA is a case study in the politico-judicial history of Pakistan and a permanent chapter of humiliation and torture for courts and judges to come.

In June 2010, the Supreme Court of Pakistan passed a judgment '**on fake degrees of parliamentarians**' saying that FIRs should be registered against all of them who keep fake degrees while sitting in the Parliament. What happened at last?

Next, whether it was the lethargic procedures of the Election Commission or our 'parliamentarian supremacy' that since two years only 13 cases of fake degrees were reported to the police, though 37 degrees were declared fake within one month of judgment [till February 2013, 59 declared fake].

'So far, 37 have been confirmed fake and only 183 real, said a senior member of the HEC. The rest are still being verified. If the nearly one-fifth ratio holds, he added, "a government could lose its majority", referring to both the federal and Punjab governments. If the ratio rises, a political crisis could emerge, furnishing an opportunity for opponents of the government to push for mid-term elections,' an analyst opined in UK's daily 'Independent' dated 21st July 2010.

Even in those 13 cases no further investigation. No member, except only one in Balochistan, was dislodged from his seat in any Assembly or Senate. No arrest, no disqualification and no reprimand what so ever. Higher Education Commission (HEC) and Parliamentary Standing Committee had completed their tasks of verification quite in time but the members of Election Commission of Pakistan [ECP] were there to compromise with the wrong doers.

During the process of verification of degrees, it is on record, that the Chairman HEC Javed Leghari and his family members were persecuted, threatened, maltreated and victimized on various counts but the Supreme Court never bothered to offer him protection, not even once, as it has been providing to Zafar Qureshi of FIA every time and again. What a justice it was.

When a matter of torture in Sialkot appeared in press, the whole hierarchy of administration including IG, Home Secretary, Interior Secretary, DIG, SSP and SHO concerned were called to attend the Court at Islamabad and made to sit outside in corridors for hours. When NICL case appeared, the DG FIA was charged under Article 190 of the Constitution for not taking care of Zafar Qureshi but when the matter of legislators with fake degrees cropped up, the Articles 62 & 63 were altogether ignored and the file was dumped; both by the ECP & the judiciary.

No member of ECP was called to stand in apex court to be labelled as guilty of Article 190. Where one man's case was involved, the court spent months in shouting at poor servicemen [especially of police] and when a case of two hundred parliamentarians cropped up, the file was sent to the cold room.

For Pakistan judiciary, the historians would be calling them '**penny wise & pound foolish**'.

After the SC's judgment, the HEC had sent 376 degrees to the Punjab University for verification but till the first week of 2012 [in 27 months], the University could only tell that eight degrees were fake while the six were declared 'suspicious'.

Much later; referring to a live **TV program [60 minutes] at 'Samaa' Channel dated 26th March 2013**, in which Afzal Khan of the Election Commission of Pakistan [ECP] and Javed Leghari Chairman of HEC were also the participants, Jamshed Dasti told the viewers that:

'I had not attended any regular school. I belonged to such a poor family who was not able to meet the two times bread requirements. I had to attend an Islamic Madrasah from where I got a certificate equivalent to FA [intermediate exam] pass in Pakistan.

However, I was the only person who was picked up by the superior courts and punished because I was a poor MNA. There were 54 cases in the lot but I was singled out.'

Chairman HEC Mr Leghari told that in 2010, the ECP had sent 1095 degrees of the sitting Parliamentarians to the HEC for want of verification. In the first instalment, HEC told them that 58 degrees were found fake whereas the action on rest of the degrees was in progress. Mr Leghari alleged that the ECP issued orders for taking penal actions against 'picked & chosen' 27 persons and put the other names 'under further scrutiny' for which ECP had no right.

MNA ABID SHER ALI GOT UP:

The fake degrees issue, originally initiated by the Supreme Court, was taken over by PML(N), not as a matter of party policy but simply to target PPP on account of Jamshed Dasti. Soon after, the whole issue was handed over to Ch Abid Sher Ali MNA to stand by the media to change the wind against the ruling party. When the fire spread, some faces of PML(N) were also got burnt. PML(N) at first issued tall press statements against their own members but soon opted to tighten their lips due to party pressure from within.

A rift prevailed between members of the PML(N) and the Parliamentary Committee on the issue of fake degrees because the Higher Education Commission (HEC) had told the media that no record was found about the degrees of 56 law makers of the PML(N) and 41 of the PPP and PML(Q).

The Chairman Standing Committee on Education Abid Sher Ali MNA was facing severe criticism from the ranks of his own party and due to this issue the PML(N) lawmakers allegedly having fake degrees turned their backs during the budget session of the National Assembly saying that no other party had left their members without support like the PML(N) did over the issue.

PML(N) members quoted example of Jamshed Dasti and said the PPP stood behind Dasti when he was held ineligible by the Supreme Court over his fake degree and gave him ticket in the by-election and got him re-elected. The party members were not happy with Ch Nisar Ali as he was then hotly pursuing the verification matters in the HEC.

The PPP had earlier retaliated to the Supreme Court's move of degrading the party in public and got Jamshed Dasti re-elected again from the same constituency of Muzaffargarh District. On this move, there were disagreements within the PPP on the strategy of 'adopting' the wrongs but the party vowed.

In early June 2010, an election tribunal, comprising Justice Nasir Saeed Sheikh of the Lahore High Court had disqualified PML(N) MNA from NA-100 Gujranwala, Haji Mudassar Qayyum Nahra, for obtaining a graduation degree by concealing facts. Nahra had won the MNA seat in 2008 general election as an independent candidate but later he had joined the PML(N).

On 30th June 2010, Justice Khwaja Imtiaz Ahmed of LHC's Rawalpindi bench in a short order had declared Malik Yasir Raza disqualified on a petition filed by Ishtiaq Mirza, a PPP candidate. The petition had challenged the validity of Raza's Higher Secondary School Certificate (HSSC) obtained from the Federal Board of Intermediate and Secondary Education in 1995 and the subsequent graduation degree.

The HEC had submitted its report with the apex court over the *Sanad* obtained by Zahoor Hussain Khosa, MPA from Balochistan which was not recognized by it.

Above mentioned three appeals of Haji Mudassar Qayyum Nehra of PML(N) who was elected from NA-100 Gujranwala; of Malik Yasir Raza PML(N) MPA from PP-13 Rawalpindi and of Mir Zahoor Hussain Khan Khoso, MPA elect from PB-26 Jaffarabad-II Balochistan were dismissed by the Supreme Court later. A 3-member bench comprising Chief Justice Iftikhar M Chaudhry, Justice Ghulam Rabbani and Justice Khalil ur Rehman Ramday heard separate pleas filed by these ex-members against verdicts of election tribunals.

In nut shell, amidst differences amongst the party members, the PML(N) cooled down because the Supreme Court, **on 29th July 2010**, had upheld decisions against three legislators. The Election Commission of Pakistan (ECP) was directed to proceed against the disqualified legislators under the law laid down in its decision on Rizwan Gill and for violating Representation of Peoples Act 1976.

The intelligentsia went critic upon that judicial activism on part of the apex court because the matter was left at the mercy of ECP, a total failure and inefficient organization. The Election Commission and Higher Education Commission had both failed to check the authenticity of

the educational degrees in time. The Supreme Court had failed to hold the ECP accountable for this grave act of negligence on which millions of the taxpayer's money went waste.

The ECP's attitude could be judged from its ill-intentions that the SC had ordered for FIRs to be lodged against the fake degree holders but, through various gimmicks, most of the fake parliamentarians kept seated there in assemblies. When asked, the ECP itself filed a petition in the SC for 'seeking further guidance'.

In the first week of November 2010, a 3-member bench of the apex court heard that petition filed by the Secretary ECP. The bench was chaired by the CJP Justice Iftikhar M Chaudhry [Justice Tariq Pervaiz and Justice Ghulam Rabbani were other two members]. Attorney General Maulvi Anwaar ul Haq said that the ECP was incomplete; a flimsy excuse it was. Any responsible officer of the ECP could send cases to the session courts but nothing moved. The SC could not get its own orders implemented.

The Attorney General had taken stand that the said law was inequitable because with adult literacy at only 55%, nearly half the country would be ineligible to run for elections. Nevertheless, the court wanted to know if the then sitting parliamentarians [*who had been elected for office while the law was in effect*] had abided by its rules.

The SC, on the same basis, ruled that any authorized officials including Chief Election Commissioner could challenge fake degrees, wrong details of assets and corrupt practices; according to the Section 80 of the relevant act.

What happened later, nothing? The cheaters again became legislators and the Supreme Court could do nothing but had to follow the acts and amendments passed by the same fake legislatures. What a mockery of justice for all times to come. However, ruthless media trials continued to change the minds of the youth at least.

Till after about a year even, the CEP was incomplete. It was being kept so with a specific purpose; fake members continued sitting in the assemblies till the completion of their 5 years term – democracy hurray.

WORLD PRESS LAUGHED AT PAKISTAN:

This peculiar situation made Pakistan a laughing stock in the whole world. All leading newspapers and magazines brewed spicy connotations out of that scenario; see daily ***Al-jazira dated 30th June 2010:***

'Scores of Pakistani politicians could lose their seats in parliament after authorities opened an inquiry into claims 10 per cent of federal and provincial legislators had lied about their qualifications.

'Up to 160 elected officials have been accused of faking their degrees in order to meet a requirement for holding office. The supreme court has ordered the elections commission to vet the credentials of most of Pakistan's 1,100 federal and provincial politicians.'

Al-Jazira mentioned that President Zardari had also faced questions about his qualifications. He claimed to hold a bachelor's degree from a business school in London but his party was unable to produce a certificate or establish what he studied. Mr Zardari, however, escaped the scandal because of the immunity available in the Constitution.

The fact however, was that [traditionally] feudal ties or business successes had more appeal in Pakistani politics than academic achievements.

TIME Magazine of 21st July 2010 held that:

'Zardari's ruling PPP tried to make that point with Jamshed Dasti, [MNA] of southern Punjab, whose complicated case came up for judgment shortly before the controversial ruling in June. Dasti had been hauled before the Supreme Court to be tested on claims that he completed a master's in Islamic studies.

But when the judges asked Dasti to name the first 15 chapters of the Koran, no reply was forthcoming. "How about the first two?" one judge inquired. Dasti's silence endured. He was asked to resign and save himself the indignity of going to jail.'

The TIME mentioned about PPP vs SC row, Jamshed Dasti was elevated to the post of special adviser to the Prime Minister on livestock affairs. Within days, he was renamed as the PPP's candidate in a special election for his vacated seat. Development funds were lavished on his constituency as politicians, including PM Gilani himself, were flown in to campaign for him. He won and has become even more popular in his constituency.

The PPP leaders especially made it a point because the Supreme Court itself had knocked out the PPP, though on correct footing.

The task of verifying the parliamentarians' degrees was handed to the Higher Education Commission [HEC], headed by Javaid Laghari, a former PPP Senator with a Ph.D from the State University of New York. When Laghari initiated the process, he was urged by the 'high executive' to bring it to halt or at least slow it down. Laghari refused. In mid-July 2010, his brother was picked up on corruption charges and kept in police custody. Three days later, for no stated reason, local police raided Laghari's own village farmhouse, breaking doors and taking eight servants into custody. Never mind, it is true Pakistani culture.

Once there was likelihood that a government could lose its majority, be it the Punjab government or the federal government, if the verifications would have done speedily. That was why HEC's Leghari was attacked with full force. Had the ratio gone up a little more as per HEC's original pace, there could be crisis showing the way for a new general election. At that moment no one was sure about SC's mood with the results of verifications: Jail the offenders or would throw them out of office.

The Higher Education Commission [HEC] and the Election Commission of Pakistan [ECP] had locked horns over the speed of moving forward plans.

The ECP once asked the HEC not to overstep its remit and stick to checking only bachelor degrees. Whereas the HEC believed that many members of parliament possessed though original bachelor degrees but some of this might have been obtained on the basis of fake school-leaving qualifications, which would make the degrees invalid.

Thus the HEC wrote a letter to the ECP asking it to provide copies of the intermediate and metric certificates of 428 lawmakers. The ECP officials denied receiving the letter. HEC later issued a press release asking the lawmakers to provide the certificates directly for onward verification. Till ending 2012, the HEC had received 1,084 degrees of provincial and federal legislators for verification; returned 603 degrees to the ECP after checking, declaring 545 to be genuine and 58 to be fake or invalid.

It was evident that the number of fake degrees could go up if verification of certificates below the bachelor's level was taken up by the HEC. Abid Sher Ali, Chairman of the NA Standing Committee on Education, once told the media that:

"Many parliamentarians did not submit even copies of their educational certificates to the ECP at the time when they filed their nominations, and the ECP never bothered to check whether one of the prerequisites to contest election was fulfilled or not."

Abid Sher [*who holds a master's degree in business and finance*] had written to the Commission demanding that his Standing Committee would suspend the membership of parliamen-

tarians who had not submitted their degrees to it; but no action was reported. Once he opined that:

'Nations have to sacrifice some individuals in the process of becoming great, so we should not be scared of the situation we're facing now.'

However, the membership of 148 MPs was suspended for not providing declarations of their assets to the ECP – also a legal requirement in Pakistan for members of parliament and other public office holders but the education side was ignored.

It was in January 2012, when the Supreme Court had to issue directions again to the ECP and police to register cases against fake degree-holding parliamentarians. It could not bring fruit as most of the disqualified parliamentarians were re-elected in by-elections held after a constitutional amendment that ended the requirement that those contesting an election be in possession of a degree.

A big crowd of politico-religious activists staged a sit-in outside Pakistan's parliament in January 2013 in protest against large numbers of parliamentarians having fake degrees. Dr Tahirul-Qadri, during his march and speeches, had slated the parliamentarians as liars, cheats and thieves. His words were:

"Shame on this parliament, which has most of the cheaters re-elected through the 18th amendment approved by political thugs of both opposition and treasury benches. You have changed the law to suit your own interests and the place for criminals like you is jail, not parliament."

Independent observers were of the view that the fake degrees issue had been buried and nothing further would happen, as all parties in parliament had got within their ranks members holding bogus degrees.

It is on record that when 59 parliamentarians were exposed as having forged degrees, government institutions, including the HEC and ECP, were directed not to disclose or answer media queries on the number of MPs holding fake degrees. However, independent sources had the exact numbers and their track records also for onward pass to the next generations.

Court orders against the offending Parliamentarians were not taken seriously by the government. Former minister and HEC Chairman Atta-ur-Rahman once opined before the media that: *"We suspect that the number of fake degree holders in parliament might go to 300 if it is probed honestly. They [the MPs] refused to provide their papers for verification in spite of the orders of the Supreme Court."*

See an excerpt from the **daily 'Independent' dated 21st July 2010:**

'Scores of Pakistani parliamentarians who faked university qualifications could be unseated in a growing political crisis with echoes of the British expenses furore that has raised the prospect of change in government and even a fresh general election.

The crisis has unnerved senior members of the ruling Pakistan People's Party (PPP), headed by the President Asif Ali Zardari. Among those suspected of holding fake degrees are the sitting federal ministers including Faryal Talpur, the President's sister and top party operator.'

Because of HEC's behaviour towards their dearest members of national and provincial assemblies, the PPP once thought that why not the whole HEC be dissolved by taking away its independent status. The government issued a notification saying that *'the HEC would be an attached department of the Ministry of Education and the Secretary Education would be its Executive Director'*. Its privileges and prerogatives were immediately withdrawn.

The matter was challenged in the superior court.

In the second week of April 2011, the Supreme Court (SC) ordered the government to restore all the privileges of HEC and to keep it operating until the new legislation promulgated. A 3-member bench, hearing the case regarding devolution of the HEC, observed that:

'The notification dated 31st March 2011, shall have no effect on the functioning of the HEC in view of the provisions of the Ordinance of 2002, and in case of any conflict between the notification and provisions of the ordinance, the ordinance shall prevail.'

Attorney General of Pakistan, Maulvi Anwarul Haq, appeared in the court and told that *'the commission still existed and after the consultation with educational experts and vice chancellors a new law would be constituted for HEC.'*

SUMAIRA MALIK & OTHERS:

MNA Jamshed Dasti was sent home on the charges of having a fake Master's degree in 'Islamiat [Islamic Studies]'; as mentioned in earlier paragraphs, he was not able to recite some very basic verses before the apex court's bench. Mr Dasti resigned from the seat. The PPP took it to the heart very seriously and got him elected MNA again from the same constituency two months later.

This reaction of the ruling party PPP made the law and political ethics a mockery; a Pandora box opened all around. Even some seasoned parliamentarians like Gohar Ayub and Abida Hussain, who had obtained their degrees by appearing in regular examinations in their old ages of 50s, were also dragged in courts by their opponents.

Before general elections of 2002, one Parliamentarian named Sumaira Malik, an agriculturist by profession, was considered having FA certificate only because she had got married during her 3rd year in college. Later she graduated with an M A in Political Science [*daily 'Jang' of 29th July 2010 said that she had appeared in BA's exam then*] from University of the Punjab in 2002 after obtaining a diploma in Interior Design from Home Economics College, Lahore in 1987.

However, she had contested election from NA-69 Khushab and won after securing 71,500 votes. His opponent, who had got 58,500 votes, approached the court in 2003 challenging her degree. Lahore High Court [LHC] rejected the plea but that opponent took the case in the Supreme Court which also rejected the challenge in 2006.

When Sumaira Malik again contested from the same seat in general elections of 2008, his opponent did not challenge her nomination papers. When she got elected, her opponent again made her degree an issue. On 23rd February 2013 once more, an election tribunal of the LHC sought her computerised national identity card (CNIC) record from NADRA on a plea for her disqualification.

The tribunal, consisting of Justice Ijazul Ahsan, passed the order on a petition filed by Malik Umer Aslam Awan, seeking directions to disqualify the respondent MNA for having a fake degree. However, on 4th April 2013, the high court formally declared Sumaira Malik's credentials as genuine; she was qualified to contest elections of May 2013 and she won.

The Balochistan High Court had disqualified Syed Ehsan Shah from his post of Minister for Industries for possessing and using a forged degree. When media asked the Chief Minister Balochistan, **Aslam Raisani of the PPP**, to comment upon, he sarcastically placed his mind before the media by saying that

"My position is clear; a degree is a degree! Whether fake or genuine, it's a degree! It makes no difference!"

The Chief Minister had himself claimed to have a master's degree in political science.

During the same days Sardar Assef Ahmed Ali, a cabinet member in PPP's government, placed his deliberations on **TV channel GEO News**:

"I am accountable to the parliament not to HEC. It is the education ministry, not the HEC, which is legally authorised to review the degrees of parliamentarians and we shall review the HEC decisions regarding fake degrees."

Ultimately, the row between HEC and the education ministry had led to reduction in the HEC's powers and its funds curtailed [*later reinstated by the Supreme Court*]; HEC used to send its budget-related proposals on higher education directly to the prime minister or the federal cabinet.

One more episode; that after SC's judgment, the media immediately came out with the list [known till then] of suspected fake-degree holders which included two senior cabinet ministers and others close to President Zardari. In one of the cases, ***a provincial lawmaker belonging to PML(N) claimed to have obtained a master's degree in 2002, graduated from college in 2006 and finished high school in 2007.***

He should be ***"disqualified for stupidity, not fraud,"*** Salmaan Taseer, the late Governor of Punjab had commented.

Another lawmaker claimed to have passed from high school at the age of 10, prompting local wits to dub him "Doogie Howser, MNA"; another claimed to hold three degrees, each with a different surname.

Marvi Memon, a prominent opposition lawmaker and a graduate of the London School of Economics, once commented that *'for the past two years, I had trouble believing that I was sitting in a parliament full of graduates.'* For others, however, this was all too much protest [and excitement] about a piece of paper.

Strange enough that Gen Musharraf's original law, though it appeared to put education on a pedestal, was also a disguised device used by the dictator to exclude some of his opponents. It accredited Gen Musharraf's allies in the religious parties, in MMA — where a stay in *madrasah* [religious school] for about five years was certified as being equivalent to master's degrees.

Gen Musharraf had included that condition of being 'graduate' through the Conduct of General Elections Order 2002. The Representation of people's Act [RPA] 1976 was then amended to include the said 2002 Order, which was later also included in the constitution by the Musharraf-led parliament. Parliament abolished this condition through an 18th amendment to the constitution, which was enacted in 2010. But a court ruling declared that the degree condition was applicable to legislators who contested 2008 election, when the law was still in force.

TWO ECP MEMBERS SOLD OUT?

To hold the fair general elections of 2013, the ECP, **on 7th February 2013**, issued a letter to the concerned office heads of the PPP government to procure degrees of 249 Members of National and Provincial Assemblies for verification within 15 days. The letter said:

"The Honourable Election Commission has taken a serious view for the delay in completion of verification process and has directed that it should be completed without further loss of time.

It is, therefore, requested to produce original Secondary and Higher Secondary School Certificates or copies thereof (duly verified by the Board of Intermediate & Secondary Education concerned) before the Higher Education Commission, Islama-

bad, within 15 days of the issuance of this letter, failing which your degree / sanad will be treated as fake and criminal proceedings will be initiated against you."

In the ECP's letter, the MPs were also told that the Supreme Court of Pakistan, in its judgment dated 14th June 2010, passed in CP No 409/2010 [*Rizwan Gill vs Nadia Aziz*] reported as **PLD 2010 SC 828**, directed the Election Commission to initiate action against all such persons who were accused of commission of corrupt practices; of committing forgery of using, as genuine, documents which they knew as forged. In compliance copies of bachelor's degrees / sanads were sent to Higher Education Commission for verification, but the process could not be completed even in almost three years.

Interestingly, as enumerated in above lines, even before the intervention of the apex court in 2010, it was the Chairman of the NA Committee on Education Abid Sher Ali, PML(N) MNA, who had sought the verification of degrees of all MPs after the publication of news reports in that regard.

However, the ruling PPP in federation and the PML(N) in Punjab got immediately furious and joined hands over this letter. The end reaction was seen when the PML(N)'s leader Ch Nisar Ali Khan told the media loudly that **'he'll prefer not to contest the election but will not submit his degree to the ECP'**. [*Later, when the SC ordered on 29th March that all the 249 members should get their degrees verified from HEC before 5th April 2013, Ch Nisar Ali Khan was seen amongst the first ten persons in the queue at HEC gate.*]

The ECP was previously seen almost surrendered to the pressure from parliamentarians on that issue of unverified degrees because highly influential members belonging to both sides of the political factions were included in the list of 249.

More disturbing development was that the Chief Election Commissioner Fakhru Bhai personally called the leader of the opposition, Ch Nisar Ali Khan, **on 21st February**, a day before the target date of 15 days, and tried to pacify him. The fact remained that the letter of 7th February was issued to the 249 MPs following the decision of the five-member Election Commission. The **'independent ECP'** could have lost confidence to implement the 2010's orders of the Supreme Court.

The intelligentsia knew that the ECP was doing this exercise of calling the degrees of 249 representatives just to sort out the **'character'** of would be candidates of the coming elections of 2013 otherwise neither it was a constitutional requirement nor mandatory under the Peoples Representation Act 1976.

Leader of the Opposition, Ch Nisar Ali Khan was actually indicating towards this aspect of **'character scrutiny'** and was demanding that *'this character analysis should also be done for those who had been members of assemblies in 2002 elections'*.

That was another issue that the MQM, **on 24th February 2013**, had formally demanded through a press conference in Karachi that *'Ch Nisar Ali Khan should display his degree before the media if he does not want to send it to the ECP'*. PML(N) had no answer perhaps.

However, the ECP took a firm stand and clarified next day that **"it has not withdrawn from the fake degrees' issue; that it is determined to implement the judgment of Supreme Court in letter and spirit; the process of verification of degrees would be completed so as to achieve the objective of Article 62 and 63 of the constitution."**

On 27th February 2013: the ECP got embarrassed by a mega scandal just two weeks before the announcement of the schedule of general elections 2013 as they had illegally 'cleared' 27 degrees [out of 59] of sitting MPs which were declared invalid by the Higher Education Commission [HEC]. It was clear flouting of SC's orders and noble intentions.

Only 32 cases were sent to concerned police for initiation of criminal proceedings as per the apex court 2010 judgment; thus clean chit was given to 27 MPs in sheer and blatant violation of law and rules. As per definition:

"If a candidate has managed to take a bogus degree of any recognised institution, it is termed as 'fake' whereas if a candidate has managed to prepare or fake some document / degree in the name of some unknown institution, it will be termed as invalid. There is no difference between a 'fake' or an 'invalid' degree and an 'invalid' is also a 'fake' degree."

The HEC was the only authority as law of the land to decide validity or invalidity of any education degree.

On 1st March 2013, Dr Atta ur rehman, a former minister, wrote to media that there was, in making, a strong group of allegedly fake degree-holders in the outgoing Parliament, who wished to contest the next elections of 2013. The group was gaining strength because of the failure of the ECP to properly verify their credentials.

The fake people were allowed to continue in power despite the SC decision that the ECP should check their documents. For three years ECP kept on sleeping over that order thus those fake degree-holders would again be contesting the upcoming elections.

The HEC has been rightly asking for the matriculation and HSC certificates for verification, according to its normal procedures, because some politically affiliated vice chancellors had refused to cooperate with HEC in verifying the nature of degrees. The ECP remained under pressure by politicians that *'there should be no requirement to check school certificates.'*

Had some older politicians genuinely lost their credentials they could ask the HEC to examine their annual attendance records in the respective institutions. HEC could be requested to check their mark sheets in various tests that appeared in.

The fact remained that four of the members of the ECP were nominated by political parties; so they were acting in the interests of their parties. In this scenario, how one could expect the ECP to be fair and unprejudiced? The ECP, therefore, needed to be revamped as per scheme trumpeted by Dr Tahirul Qadri by getting the four new members nominated by the Supreme Court.

'None of the persons involved in holding fake degrees should be allowed to contest the next elections; if they do not have genuine degrees, criminal cases must be initiated against them', Dr Rehman held in the end.

The gimmicks of the Pakistani system, however, prevailed and in general elections of 2013, all those fake degree holders were allowed to contest elections through one loophole or the other. Mostly it was the judiciary which helped them out in appeals.

Earlier, **on 5th March 2013**, the ECP had categorically stated that none of those MPs whose degrees had been found fake by the HEC and even endorsed by the ECP as such, would be barred from contesting the next election unless convicted by a court of law. Two members of the commission, Justice (retd) Riaz Kayani and Justice (retd) Shahzad Akbar Khan told the media that:

'The SC's order does not allow the commission to bar such MPs from contesting the polls or disqualify them without a conviction from a court of law.'

Till then, amongst dozens who had been found to be fake degree holders, only two MPs were convicted by the respective Sessions Courts but even in their cases they had got stay orders from high courts, thus were declared eligible to contest the elections.

This was strange to say the least. It was not a question of being a graduate or not, but it was matter of character failing. Any person who proffers any fake document for any office is committing an act of perjury and is a cheat. What else did the ECP want to have to disqualify a person under articles 62 and 63 of the constitution than such a proof?

It was Justice (retd) Riaz Kayani, a member of the ECP, who was openly flouting the apex court's orders with sarcastic smiles that '*...as of today, not even a single fake degree holder, whether found so by the HEC, or even convicted by the court of law, could be barred from contesting the next election.*'

Regarding the tax and loan defaulters, the two members of the ECP held that they would not allow any tax and loan defaulter to contest but only if the State Bank of Pakistan and Federal Bureau of Revenue would give their final verdicts respectively. About the ECP's decision not to touch six senators whose degrees were found fake, the two members said that '*Section 76 of the Senate (Election) Act 1975 does not allow them to look into such forgery or corruption cases after six months.*'

It was all Justice Riaz Kayani's ill intention or wilful wrong interpretation because the SC order in the fake degree issues had made such a legal provision irrelevant as the court itself took up the matter after the expiry of six months and had directed the ECP to initiate criminal proceedings against them.

In a way it made clear that Dr Tahirul Qadri's deliberations regarding ECP's ineptness was based on facts. It also embarrassed the Supreme Court who had directed the ECP at a number of times to go strong but on each step the ECP proved its wilful weakness. The SC was looking for an appropriate moment to put the things right.

On 8th March 2013; the HEC challenged the ECP's above contention for opening green gates for the fake degree holders to contest the upcoming elections. In a letter to the ECP, the HEC declared in categorical words that there were '**discrepancies**' in the ECP press release admitting that it had cleared cases of 27 fake degree-holder parliamentarians.

Four of these 27 did not exist in the HEC's list of fake degree-holders whereas according to this letter, only in three cases out of the remaining 23, the concerned universities confirmed to the HEC that degrees were found genuine after a later investigation. Thus 20 out of 23 MPs cleared by the ECP were given a clean chit wrongly. In many cases the ECP declared some one's degree fake but did not proceed against him on 'other' grounds such as that MP was re-elected or had resigned.

However, HEC admitted that only in three cases, the decision was reversed out of its list of 59 fake degree-holders. In a press release, ECP had given details of about 27 parliamentarians; declaring two parliamentarians who had resigned were given clean chit by the former CEC on 15th January 2011, whereas four members were re-elected and inducted in office by administering oath to them on 13th June 2011.

On 14th March 2013, annoyed and irritated MNA Jamshed Dasti vowed to file a petition in the Supreme Court saying that "*Why the ECP inquiring about him only while many of the other parliamentarians were given green signal despite having fake degrees.*" Jamshed Dasti was issued a fresh notice then and was summoned for 13th March.

On 26th March 2013, the Supreme Court of Pakistan once more ordered the ECP that action be taken against fake degree holders within two days; reiterating that elections would not be allowed to be delayed in any way.

A 3-member bench headed by Chief Justice Iftikhar M Chaudhry took up for hearing the **fake degree implementation case**. The CJP said:

"No one should remain under any delusion. Those contesting the election will be subjected to all types of scrutiny. Why action has not been taken against fake degree holders so far? No other matter can be of more public interest than this. Why are names of candidates not being published?"

Voters should have all information about their respective candidates. Enough is enough. No corrupt elements will be allowed to go to parliament. Fake degree holders have not only deceived the nation but also made a mockery of their mandate. Such elements don't deserve any leniency."

[The beauty of the Pakistani politics remains that despite repeated 'threats' from the SC, ALL fake degree holders contested the said election]

Till then the number of bogus degree cases had gone up from 58 [59-1] to 68 and 34 degrees were still pending. Cases of eight people were pending with respective District & Sessions judges. The bench ordered that voters should seek access to all information under Article 19. Nomination paper be posted at websites and mode of websites should be simple.

Contrarily, the general populace declared all such court exercises as **'topi drama'**. In their opinion *'the SC kept on sitting on all these cases for years and now that the govt's term is over they want to come out as heroes; shame on them for trying to fool the nation.'*

On 30th March 2013: the Chief Justice of Pakistan Iftikhar M Cahudhry took notice of the 189 Parliamentarians whose degrees were still pending verification even after a passage of two-and-a-half years and despite repeated reminders by the ECP. The parliamentarians had failed to provide their certificates to the ECP or the Higher Education Commission (HEC).

In a way it was a fresh *suo moto* notice on a press clipping of a daily Urdu newspaper of that day wherein it was reported that the HEC sent a list with regard to verification of fake degrees of 54 members of parliament. It also appended a list of 189 Parliamentarians whose cases were still pending verification since long and despite repeated reminders by the ECP; they had failed to provide their certificates to the ECP or the HEC.

According to the HEC letter sent to the ECP, Akhunzada Chataan, Samina Khawar Hayat, Ghulam Dastagir and Wasim Afzal Gondal had all been proven having fake degrees. Nasir Ali Shah, Mir Badshah Qaisarani, Seemal Kamran and Shumaila Rana also had fake degrees while the degrees of Israrullah Zehri, Imtiaz Safdar Warraich, Qasim Zia and Umar Gorgage were not recognised.

The HEC also submitted the names of 189 members who had not submitted their Matric and / or Intermediate certificates to the ECP. These politicians included Khurshid Shah, Chaudhary Nisar, Bushra Gauhar and Faisal Saleh Hayat. Afrasiyab Khattak, Javed Hashmi, Samsam Bukhari had also not submitted in their certificates till then. HEC had further stated that cases of 19 Parliamentarians were under litigation in various courts for verification of their degrees.

However, surprisingly, no prosecution was initiated against both the categories of the Parliamentarians in accordance with Para 18 of the judgment in the case of **Rizwan Gill v. Nadia Aziz (PLD 2010 SC 828)**, which had said that:

"The Election Commission is, therefore, directed to initiate action against all such persons who are accused of commission of corrupt practices; of committing forgery and of using, as genuine, documents which they knew or at least had reason to believe to be forged.

The Election Commission shall ensure that the investigations in these matters are conducted honestly, efficiently and expeditiously and shall depute one of its senior officers to supervise the same.

The learned Sessions Judges to whom these trials shall then be entrusted, are also directed to conclude the same without any delay, in consonance with the spirit of the Elections laws as displayed, inter-alia, by the Provisos newly-added to subsection (1-A) of section 67 of the said Act of 1976 through the Amending Act No.IV of 2009 promulgated on 2-11-2009.

In any case, it should not take each learned Sessions Judge who gets seized of the matter, more than three months to conclude the same."

In view of this order, the apex court sought explanation from the ECP for not implementing this judgment in letter and spirit. The SC issued notices to the concerned and directed the trial courts to dispose of all cases against fake degree holding parliamentarians **until 5th April 2013** by all means.

A 3-member bench headed by Chief Justice Iftikhar M Chaudhry had also directed the Registrars of the High Courts to place the names of Sessions Judges before the respective chief justices so that appropriate order could be issued against them for not disposing of the cases expeditiously. The court also directed the Sessions Judge Muzaffargarh to decide Jamshed Dasti case before 4th April 2013. The CJP asked Dasti to demonstrate his qualification to contest election in the forthcoming elections.

The first assembly elected with the graduation condition, was elected in 2002, and then the second in 2008, though Parliament passed the constitutional amendment that reverted to the previous situation where educational qualification was not a condition. However, members of these assemblies were liable for the degrees they submitted.

The Returning Officers were asked to carry out 'strict scrutiny', which they were supposed to, but the process was not supposed to defeat the purpose of the poll. The graduation condition was no longer a requirement for 2013 polls too.

The ECP, on the other side, did its best to facilitate candidates and parties, and did not use its powers to keep away the loan defaulters or utility bills eaters. Simple interpretation of the whole exercise was that people guilty of fraud and deception should not be allowed to stand for public office but the ECP ensured that SC's directions and the Constitutional requirements of Art 62-63 MUST not be met at all.

Due to such shady compromises within the Parliament and the ECP's conduct, Pakistan became a banana republic; self-respect lost and spirit of democracy both either crushed or lost.

The superior judiciary could not assert its authority due to certain restraints; could not punish even a single cheating parliamentarian and the people started losing faith in justice and judicial set up.

Every profession has its rogues; why to confine up to [some] Generals & [some] judges; why not all who are wrong. No cheating – let the truthfulness prevail.

As an old Chinese saying goes, ***"When small men begin to cast big shadows, it means that the sun is about to set."***

On 12th April 2013, following an order from the Supreme Court, lower courts started convicting former members of parliament who contested the 2008 elections using fake degrees; several politicians were given jail sentences. Holding a degree qualification was a precondition for contesting the 2008 poll.

The apex court's orders were based on its earlier verdict in Rizwan Gul Case passed in June 2010 [*discussed in above paragraphs*], which ordered the HEC and the ECP, to verify the degrees of all 1,095 parliamentarians and members of provincial assemblies.

In a continuing series of convictions, former federal minister Humayun Aziz Kurd was sen-

tenced to one year in prison; Abdul Qayyum, a former MPA of the Khyber PK was imprisoned for three years. Ali Madad Jattak, a former provincial minister from the PPP, was sentenced to a two-year prison term by the Session Court in Quetta. Another former minister from Khyber PK, Aqil Shah, was given one-year jail term for his fake degree. Shah was minister of Sports & Culture.

Two other former members of the Khyber PK were convicted and sentenced for submitting forged degrees to the ECP in 2008. Sardar Ali Khan was jailed for three years, and Javed Khan Tarakai was sentenced to one year. Some politicians with fake degrees, who were sure to receive jail terms, had fled from their respective areas and their whereabouts went unknown. Courts declared them absconders, and verdicts were passed in their absence.

All the former lawmakers convicted for having fake or bogus university degrees were barred from taking part in the upcoming elections. All of the convicted parliamentarians were arrested in the respective courts immediately after sentencing because one former MPA from Punjab, Rizwan Gul of PML(N) had fled seconds after he was given a three-year sentence.

Jamshed Dasti, a former MNA of the PPP, was sentenced to three years in prison on 5th April by a district judge. He challenged the conviction in the Lahore High Court, which declared his conviction null and void three days later and ordered his release from jail.

However, the whole world laughed at us because next day in appellant tribunals, headed by the high court judges mostly, ALL [invariably all] the convicted fake degree holders were not only released from jails but were also allowed to contest the May 2013 elections.

On 14th April 2013, the ECP de-notified 11 former parliamentarians in fake degree case; those de-notified by ECP included three Senators, five Member Punjab Assembly, two from Sindh and one from Balochistan Assemblies.

Samina Khawar Hayyat, Shabina Khan, Rana Ejaz, Semal Kamran and Shumaila Rana of Punjab Assembly; Nadir Magsi and Bashir Ahmed from Sindh Assembly; Tariq Magsi from Balochistan were de-notified.

The former Senators included Israrullah Zehri, Rehana Yehya Baloch and Mir Muhabbat Mari.

What happened to them finally is not known.