

## Scenario 47

### **JUDICIARY vs ARMY (2007)–II:**

#### **CJP GETS RELIEF – REINSTATED:**

**26<sup>th</sup> May 2007:** The Sindh High Court (SHC), taking *suo moto* notice of the government's failure to remove the siege of the High Court and City Courts buildings by mobs on 12<sup>th</sup> May 2007 summoned the Attorney General, the Advocate General Sindh, the Chief Secretary Sindh, the Home Secretary, DG Rangers, IG Police Sindh, City Police Officer, and TPO Saddar for explanation. The *suo moto* notice was taken by SHC CJ Sabihuddin Ahmed on a report of the In-charge Registrar of SHC, submitted to him regarding the 12<sup>th</sup> May blockade. The court converted the registrar's report into a petition and constituted a seven-member full bench for hearing it.

The bench comprised Justice Sarmad Jalal Osmany, Justice Anwar Zaheer Jamali, Justice Mushir Alam, Justice Azizullah Memon, Justice Khilji Arif Hussain, Justice Maqool Baqar and Justice Ali Sain Dino Metlo. The court had directed the officers and respondents to appear in person on the next working day with the plausible explanations.

On the same day the Sindh High Court had taken another step towards making of Independent judiciary in Pakistan by taking a decision that ***no Judge of the SHC would officiate as Acting Governor in absence of the Governor Sindh***. The decision was made at a meeting of the SHC judges presided over by CJ SHC Sabihuddin Ahmed. The decision was immediately conveyed to the Sindh government and the federal cabinet secretary. The meeting observed that:

*'The judicial work is affected when a judge or CJ is asked to officiate as the Acting Governor. Besides, it also violates the very principle of separation of the Judiciary from Executive provided in the Constitution.'*

On the same day of **26<sup>th</sup> May 2007** at Islamabad, regarding a law point as to whether the Chief Justice Iftikhar M Chaudhry could move the Supreme Court under Article 184(3) of the Constitution, Justice Khalilur Rahman Ramday had observed that the full court was concerned with the determination of its jurisdiction for hearing of the chief justice's case. It was held that the matter involving bloodbath on streets could not be termed a matter of no-interest for public; however, the point was that to what extent, the court could exercise its jurisdiction.

Justice Khalilur Rahman Ramday headed the 13-member full court to hear the said case. CJ Iftikhar Chaudhry's counsel Ch Aitzaz Ahsan submitted that under Article 209 of the Constitution, opinion of the president on the reference was not final rather the SJC had to review it.

In 1989's Haji Saifullah case, Wasim Sajjad had delivered a message of the then Army Chief Mirza Aslam Beg, to a judge of the Supreme Court J Nasim Hasan Shah. The Army chief had asked Justice Nasim Hasan Shah not to restore the PM M K Junejo's government on a petition against the dissolution of the then National Assembly. [*Wasim Sajjad, later, had however denied the said statement of COAS Mr Beg.*]

While hearing Justice Chaudhry's petition against the presidential reference in the Supreme Court, a 13-member full court, on 2<sup>nd</sup> July 2007 banned intelligence agencies' personnel from entering the superior courts of the country. The court commanded that no unauthorized person, including officials of the intelligence agencies of whichever department of the state,

would enter the offices of the apex Court or of the high courts and that no one would seek access to any record of the superior courts.

The bench ordered the registrar of the Supreme Court and the registrars of the respective high courts to ensure compliance of this order. The bench ruled that the concerned registrar would be personally responsible and liable for any deviation or non-compliance of this order. The full court also ordered the DG IB to inspect the premises of the apex Court and residences of the judges regarding presence of any bugging instruments or devices and submit a personal affidavit about their non-existence within one week.

Strangely Barrister Aitzaz Ahsan had relied much on the arguments of Sharifuddin Pirzada, which he had once given in the Zafar Ali Shah's case. (Quite opposite to it, in the current scenario Mr Pirzada was appearing as the counsel for Gen Musharraf opposing the maintainability of the CJ's petition) In the Zafar Ali Shah case, Sharifuddin Pirzada had argued that the power of judicial review could not be ousted despite ouster clauses while discussing a peculiar situation.

Referring to Justice Yaqoob Ali's verdict, it was a historical fact for Pakistan that '*when tyrannical system comes in the hands of usurper, then the courts and people become silent.*' Earlier, in Zafar Ali Shah case Sharifuddin Pirzada had supported doctrine of necessity and in Haji Saifulah case it was held that although the Assembly was dissolved illegally, but the court was not going to restore it. Chief Justice Nasim Hasan Shah had later uttered in one of his interviews that '***we should have restored the Assembly***'.

On **20<sup>th</sup> July 2007**, while announcing re-instatement of Chief Justice Iftikhar M Chaudhry, full bench of the Supreme Court of Pakistan headed by Justice Khalil ur Rehman Ramdey issued a Short Order regarding Constitutional Petition No. 21 of 2007 filed by the Chief Justice of Pakistan and other 22 related petitions. For detailed reasons to be recorded later, the following issues arising out of this petition were decided:

- **Maintainability of CoP#21 of 2007** filed under Art. 184(3) of the Constitution:  
This petition is unanimously declared to be maintainable.
- **Validity of the reference issued by the President** under Art. 209 of the Constitution: By a majority of ten to three (J Faqir Muhammad Khokhar, J M Javed Buttar, and J Syed Saeed Ashhad dissenting), the said direction to reference in question dated 9<sup>th</sup> March 2007, for separate reasons to be recorded by the honourable judges so desiring, is set aside.
- **Vires of Judges (Compulsory Leave) Order** (President's Order No. 27 of 1970) and the consequent validity of the order dated 15<sup>th</sup> March 2007 directing that the Chief Justice of Pakistan shall be on leave: The said President's Order No. 27 of 1970 is unanimously declared as ultra-vires of the Constitution and consequently the said order of the President dated 15<sup>th</sup> March 2007 is also unanimously declared to have been passed without lawful authority.
- **Validity of the order of the President dated 9<sup>th</sup> March 2007** and of the order of the same date of the Supreme Judicial Council restraining the Chief Justice of Pakistan from acting as a Judge of the Supreme Court and as Chief Justice of Pakistan: Both these orders are unanimously set aside as being illegal. However, since according to the minority view of the question of the validity of the direction of the reference in question, the said reference has been competently filed by the President. Therefore, this court should pass a restraining order under Article 184(3) read with Article 187 of the Constitution.
- **Validity of the appointment of the Honourable Acting Chief Justice** of Pakistan in view of the annulment of the two restraining orders and the compulsory leave order in respect to the Chief Justice of Pakistan: The appointments in question of the Honourable Acting Chief Justices of Pakistan by notification dated 9<sup>th</sup> March 2007

and the notification dated 22nd March 2007 are unanimously declared to have been made without lawful authority. However, this invalidity shall not affect the ordinary working of the Supreme Court or the discharge of any other constitutional and / or legal obligation by the Honourable Acting Chief Justices of Pakistan during the period in question and this declaration is so made by applying the de-facto doctrine.

- **Accountability of the Honourable Chief Justice** of Pakistan. It has never been anybody's case before us that the Chief Justice of Pakistan was not accountable: The same issue does not require any adjudication and other legal and constitutional issues raised before us shall be answered in due course through detailed judgments to follow.

**Order of the Court:** By majority of ten to three (J Faqir Muhammad Khokhar, J M Javed Buttar, and J Saeed Ashhad dissenting), this original Constitutional Petition No. 21 of 2007 filed by Mr Justice Iftikhar Muhammad Chaudhry, the Chief Justice of Pakistan is allowed as a result of the above mentioned direction the reference of the President dated 9<sup>th</sup> March 2007 is set aside.

- As a further consequence thereof, the petitioner Chief Justice of Pakistan shall be deemed to be holding the said office and shall always be deemed to have been so holding the same.
- The other connected petitions shall be listed before the appropriate benches in due course for their disposal in accordance with law.

*[Signatures of judges on the 13-member bench]*

*20<sup>th</sup> July 2007*

Next day Justice Iftikhar Chaudhry had taken over his seat as Chief Justice of Pakistan exercising his full control on judiciary and judicial matters with restored grace and honour.

Lawyers and civil society activists whooped with joy at the verdict in favour of Justice Chaudhry, the first time in Pakistan's 60-year history that a civilian had challenged a military leader in the court and won. This was a defining moment for Pakistan, first time the people had true liberty and raised high slogans of **'Go Musharraf Go'**

*'Gen Musharraf said he would respect the verdict and would adhere to. Mr Chaudhry, a stubborn judge with a tendency to rambling speeches, became an unlikely national hero when Gen Musharraf tried to fire him in March'; commented **daily 'the guardian' of 21<sup>st</sup> July 2007.***

Gen Musharraf's support had actually plunged on 12<sup>th</sup> May 2007 after his supporter's sparked violence in Karachi which left 43 dead. A veteran human rights activist and a lawyer, Asma Jahangir, commented that there was a 'clear divide' between civilians and military. *'Not only should Musharraf resign, I think he owes this country an apology too,'* she said.

Another potential winner / beneficiary from this decision were exiled opposition leader Benazir Bhutto. She described it as one of the most remarkable judgments in Pakistan's history; the legal protest had become a *"struggle against dictatorship"*.

The detailed judgment in the case of the restoration of the Chief Justice of Pakistan [on 20<sup>th</sup> July 2007] was written by Justice Ramday after about 30 months when all the team resumed their portfolios in March 2009. The detailed judgment revealed some stunning facts which were, though known to the people, but were not believed.

The Supreme Court also made it clear that the case had nothing to do with army as an institution but concerned with acts of one person who happened to be the Army Chief. The judgment said regarding the statement of Ch Shuja'at Hussain [*'it was a matter between army and judiciary'*] that:

*'This, in our opinion, was a naive attempt to create a wedge between two important and indispensable arms of the State and to put them on a war-path. What was in question before us was an act of the President and it was just an accident or a coincidence that the said President also happened to be the Chief of Army Staff. The matter had obviously nothing to do with the Army as an institution.'*

A retired General who was close to Gen Musharraf afterwards told that the later tried to expel the chief justice because he wanted extension in his tenure that was expiring; election results of his own desire and government of his own choice. Gen Musharraf had used his senior colleagues, to press the chief justice to quit. The then DG MI Gen Nadeem, who was also a relative of Gen Musharraf, crossed all limits in dealing with the opponents of the former dictator. The DG MI was the strong man of Gen Musharraf and the government had taken aggressive steps against judiciary on advice of the DG MI, who was in fact responsible for spoiling Gen Musharraf's all matters related to judiciary. The DG IB had also gone too far in bid to protect the interests of his boss, Gen Musharraf.

The fact remains that under Gen Musharraf's pressure the DG MI Nadeem, DG IB Ejaz Shah, the then secretary interior Kamal Shah and some others had submitted affidavits in the Supreme Court against the chief justice. DG ISI, Gen Ashfaq Kayani, did not submit an affidavit. The army on the whole hailed the chief justice and the members of his court; all deserved praise and esteem for showing rare courage. Justice Khalilur Rehman Ramday also mentioned the reasons for delay in writing the detailed judgment.

In short, Gen Musharraf had become a lesson for others that even Washington, to whom he had sold his soul and served even at the cost of damaging Pakistan, had abandoned him. US special envoy to Pakistan and Afghanistan (late) Richard Holbrooke had once said *'President Pervez Musharraf is now history and that the US will not come to defend him'*.

The reputation of Pakistan Army was at its worse when Gen Musharraf handed over the military command to the incumbent Army Chief Ashfaq Parvez Kayani, who took no time to get the army out of politics and repeatedly proved military's neutrality in political and government related matters. Gen Kayani, kept army out of any electoral manipulation though Gen Musharraf was keen to rig the elections to get his choice parties elected, especially the JUI & PML(Q).

### **GEN MUSHARRAF'S 2 PORTFOLIOS CHALLENGED:**

Those were the days of 2007 when Pakistani masses under the banner of 'Judiciary's Freedom' went so volatile that everywhere the army and Gen Musharraf were being discussed in derogatory sense. The trend went so popular that the people started taking pride in abusing army and the military junta of Pakistan. Taking stock of this alarming situation Gen Musharraf called a meeting of Corps Commanders at GHQ Rawalpindi. At a time when the opposition parties and the legal fraternity were hurling contemptuous and disdainful criticism on president's cannons and policies, the top military commanders minced no words in lending their support to Gen Musharraf and standing behind him.

The Corps Commanders, in its routine monthly meetings at GHQ, used to discuss the internal situation in the context of an outburst against the national security institution, its chief and the president. Held at the General Headquarters (GHQ) Rawalpindi, Gen Musharraf used to chair all the meetings attended by corps commanders and principal staff officers (PSOs). A threadbare discussion used to be there with detailed briefing on the country's situation, including 'behind the scene' attempts to chop up the system by politicizing chief justice issue.

The wind against Gen Musharraf's tyrannical rule was aggravated by an alarming domestic security threat because about 285 people had died since 3<sup>rd</sup> July 2007, when the Red Mosque siege in Islamabad triggered a violent backlash from Islamists. Killing and kidnapping numerous civilians and soldiers in suicide attacks in North Waziristan and Bajaur Agency were in

addition. This upsurge of violence also chased the Chief Justice's supporters, with a bomb blast in a rally at Islamabad killing 18 people at the spot.

In early September 2007, Qazi Hussain Ahmed, Chief of *Jamat e Islami* (JI), approached the Supreme Court of Pakistan with a writ petition that '*Gen Musharraf cannot hold two offices (of President of Pakistan & the Chief of the Army Staff) at one time, and that he should resign from one post immediately*'. The petition was admitted for hearing.

In fact this petition was meant to reconsider two earlier judgments given on the same subject by the apex Court in the past. One of these was reported in **PLD 2005 SC 719**, titled "*Pakistan Lawyers Forum vs. Federation of Pakistan and others*" and decided on 13<sup>th</sup> April 2005, by a bench of five judges perhaps also including the CJP Iftikhar Chaudhry as a judge. This was based on yet another decision, titled "*Qazi Hussain Ahmad vs. General Pervez Musharraf Chief Executive and others*" and reported in **PLD 2002 SC 853**, which also included Justice Iftikhar Chaudhry in the nine-member bench.

The question placed before the Supreme Court of Pakistan in September 2007 was:

*'Whether a person who is disqualified under Article 63(1)(d) of the Constitution of Islamic Republic of Pakistan 1973, and also Article 63(1)(k), can be allowed to contest the elections'.*

This matter had earlier surfaced in the issue of former president *Rafique Tarar vs. Justice Mukhtar A Junejo*, acting Chief Election Commissioner of Pakistan and six others. In this judgment it was held that:

*'Article 41 of the Constitution does not by itself provide disqualification from contesting the election to the office of president but adopts the method of what is commonly known as legislation by reference, and provides that a candidate to the office of president must be qualified to be a member of the National Assembly' ..... 'That the qualifications and disqualifications are not inter-changeable terms and have separate and distinct connotations. Qualification is a virtue while disqualification is a vice.'*

In the light of above judgment, the provisions of Article 63 of the Constitution were not made applicable to Gen Musharraf. This was so held in Qazi Hussain Ahmad's case by seven judges of the apex Court and then was repeated in the Pakistan Lawyer Forum's case comprising five judges and when the 17th Amendment was enforced on 31<sup>st</sup> December 2003, it incorporated a proviso to Article 41(6)(h) of the Constitution which reads as follows:

*'.....Provided that Para d of Clause 1 of Article 63 shall become operative on or from the 31st day of December 2003'.*

The Parliament approved this judgment of the Supreme Court then.

*'It was an act of omission or a deliberate act, whereby the dictum of the Supreme Court of Pakistan was given effect by the legislature to the extent of only Para d of Clause 1 of Article 63 of the Constitution'. (Ref: An opinion appeared in **'the News' dated 24<sup>th</sup> Sep 2007**)*

**18<sup>th</sup> September 2007:** Mr Sharifuddin Pirzada, Gen Musharraf's counsel in the Supreme Court, submitted a written undertaking on behalf of the President that '*Gen Musharraf will leave the post of the Army Chief if he would be elected as president by the sitting assemblies in the coming days*'. It categorically meant that leaving one portfolio was conditional. A nine-member bench hearing the case was told that:

*'If elected' the president "shall relinquish charge of the office of the Chief of Army Staff soon after election, but before taking oath of office of the President of Pakistan for the next term".*

This scheme to re-elect the president was relying on certain questionable measures. These involved the Election Commission of Pakistan which, two days earlier, had regrettably shown it to be working in a manner not entirely similar to being independent of the executive. First

blow was its notification of a change in rules governing the president's re-election whereby it amended them to exempt the president from being subject to Article 63 of the Constitution. A bar on a person was that:

*'Who has been in the service of Pakistan or of any statutory body or any body which is owned or controlled by the Government or in which the Government has a controlling share or interest from contesting an election for public office until at least two years have passed since the individual ceased to be in such service.'*

It meant that the said condition was not going to be applied to the president. One could imagine who other than Gen Musharraf would benefit from such an amendment. This was followed by another amendment, which curtailed the power of returning officers to reject, on the basis of Article 63, the papers of a candidate who stands for the president's slot.

### **ANOTHER BLACK DECISION OF SC IN 2007:**

**28<sup>th</sup> September 2007:** Supreme Court's 6-3 verdict rejecting the petitions filed by Qazi Hussain Ahmed, Imran Khan and the Pakistan Lawyers Forum challenging Gen Musharraf's eligibility for the presidential election scheduled for 6<sup>th</sup> October brought a massive relief for Gen Musharraf and his supporters, especially Ch Shuja'at's PML(Q). For the opposition, especially the All Parties Democratic Movement (APDM) and the lawyers opposing military rule and those who campaigned for the restoration of the chief justice and for a large section of civil society, the verdict came as a surprise and disappointment. The grounds for rejecting the petitions were given as *'non-maintainable'*.

*[Normally, in court cases, the maintainability or otherwise of a petition is adjudged before regular hearings commence: in fact, common sense would dictate that it was a pre-requisite.]*

The people wondered that if non-maintainability was to be cited as being the reason then why several hearings, beginning from 17<sup>th</sup> September, were held to examine the petitions. The fact was that the question of maintainability of the petitions had already been settled. The demand of natural justice was that the apex Court should have given a ruling that:

*'General Musharraf must first relinquish the post of army chief and then seek re-election.'*

It was more appropriate especially when Gen Musharraf's lawyer had earlier told the court that *'while he would contest the election as army chief, if successful, he would take the oath of the president's office as a civilian.'*

Harsh comments immediately came from the opposition politicians and lawyers. Right after the announcement of the verdict, many lawyers and others inside the court room began shouting **'not acceptable, not acceptable'** and cries of **'shame shame'** rang out as well. One top lawyer named Ali Ahmed Kurd told the media right after the announcement of the verdict that: **'the ruling was written and sent from Aiwan e Sadr and would be seen as a black mark on the country's judicial history.'**

The full judgment was, of course, to be written later, but going by what the judges had said during the hearing, the 17th Amendment was a major consideration before them. The MMA leadership was to blame itself for a bad bargain while voting for the 17th amendment in December 2003: it made the entire Legal Framework Order part of the Constitution in exchange for such minor concessions as those relating to the NSC, the judge's age and action under 58(2)(b) being made justifiable.

It may not be out of place to reclaim that the past 3 year's political sins of top MMA leaders had once again given a second lease of political life to Gen Musharraf at a very crucial phase, as the infamous 17th Amendment became the basis of the Supreme Court's decision of 28<sup>th</sup>

September to allow a uniformed president to get himself re-elected for next five years from the dying assemblies.

On 28<sup>th</sup> September 2007, it was felt that the Supreme Court had again taken a turn like Pakistan's old character of judiciary since Justice Munir Ahmed's days. It was a day when the apex Court provided a fulcrum to Gen Musharraf to become a candidate for President's office while at the same time being an Army Chief. Going by the decision the question was:

*'Whether the top court goes back to its old ways of behaving like a junior partner of the Army? The Chief Justice of Pakistan might be in a minority in the court'. A question was posed by M B Naqvi in Daily 'the News' of 3<sup>rd</sup> October 2007.*

Their lordships might have a hard time swallowing many observations about doctrine of 'State Necessity' being dead. This rejection of Qazi's petition was [allegedly deliberately made] on technical grounds: the 17th Amendment and the 'Two Offices Act' allowed the General to become the President until 2012. The SC was hiding behind technicalities and had chosen to fight each day as it came. These petitions were based on major principles: natural justice makes a good law (and the Constitution); the principle of the general scheme, spirit and natural justice underlying the Constitution override hasty or ill-considered amendments. The SC had ignored these precepts once for all.

The jurists may give any explanation for it but historians would remember that through this decision the SC had permitted a serving General to rule for five years more just as Justice Irshad Hussain had earlier given three years to the same army General to rule & ride Pakistan. The apex Court provided him another smooth sail through 6<sup>th</sup> October's election. He needed another 14 votes only in addition to his loyal party's votes. Those could be begged, bribed or coerced; after all, the NAB and ISI had enough experience and powers to persuade weak politicians. There was enough time to stitch a deal either with Maulana Fazlur Rahman's JUI or Benazir Bhutto's PPP whatsoever.

Leaving aside the local press, the reactions in the world media was much robust and strapping because the Pakistan's Supreme Court had provided them enough laughing stock. Some parts of an article written by Declan Walsh in '*the guardian*' of 29<sup>th</sup> September 2007 are being placed below:

*'Pakistan's supreme court cleared the way for President Pervez Musharraf to seek another five-year term yesterday when it threw out a major legal challenge to his controversial re-election plans. Inside the normally quiet courtroom, lawyers cried "Shame! Shame!" and "Go, Musharraf, Go!" after six of the nine judges rejected a tangle of petitions against General Musharraf standing in next Saturday's poll.*

*"This is shameful. It is not a judgment, it is the dictation of a dictator," said Ali Ahmad Kurd, a prominent anti-military advocate, addressing supporters from a courtroom bench. Outside the mood was equally black as opposition supporters threw eggs and tomatoes at the [Supreme Court's] building.'*

**Roedad Khan**, a retired civil servant openly said that:

*'They have given this judgement at gunpoint. It proves that as long as Gen Musharraf is there no institution can be free in Pakistan.'*

The intelligentsia and the media analysts grilled that the decision was a blow to hopes of driving out the military from politics. An eminent columnist **Ayaz Amir** noted that:

*'Pakistan's Prague Spring has come to an end in September [2007]. His election should be smooth sailing from now on.'*

Gen Musharraf's electoral woes might have diminished but the political crisis rumbled on, with enraged opposition leaders vowing to take their protests to the streets. *'We will not simply go home. We will launch a protest movement. With the support of the people he will be overthrown,'* said Javed Hashmi of PML(N), who was then freed after four years in jail. But the

opposition had proven incapable of mounting large rallies since four months, when a lawyer-led anti-military movement fizzled out after the Chief Justice Iftikhar Chaudhry was reinstated and his portfolio was restored on 20<sup>th</sup> July 2007, but his fellow judges had simply proved themselves coward sheep in tiger's skins always at the look out at issuing contempt notice to any one to show their false strength.

On that black day of 28<sup>th</sup> September 2007, the nine member bench of Supreme Court of Pakistan, which in a 6-3 split verdict held that petition as non maintainable comprised of Justice Rana Bhagwandas as head of the bench [dissenting], Justice Mian Shakirullah Jan [dissenting], Justice Sardar Muhammad Raza Khan [dissenting] whereas other six stooge judges were Javed Iqbal, Abdul Hameed Dogar, M Javed Buttar, M Nawaz Abbasi, Faqir Muhammad Khokhar and Falak Sher.

For the presidential elections to be held a week later [on 6<sup>th</sup> October 2007], although 43 people had put their names forward but the only serious contender was Gen Musharraf. The lawyers had nominated Wajihuddin Ahmed, a retired Supreme Court judge who had refused to validate Gen Musharraf's 1999 coup, as a protest candidate.

The '*Time*' magazine of 28<sup>th</sup> September 2007 had commented that the lawyers who only two months ago had been celebrating the Supreme Court judges for standing up to Gen Musharraf by reversing his dismissal of the popular and independent Chief Justice Iftikhar Chaudhry [who did not preside in this case] denounced the ruling as 'despicable.' It was not an independent decision at all because the Supreme Court had maintained the legitimacy of the dictatorship.

Outside the Supreme Court building members of one religious party had hoisted a coffin on their shoulders emblazoned with the words JUSTICE and SUPREME COURT. "***This coffin is a symbol of the death of the Supreme Court,***" explained one Khalid Abbasi, a telecom engineer from Islamabad adding that '***Justice has died in Pakistan today.***'

A lawyer and talk-show host Ayesha Tammy Haq said that:

*'It means that from now on we can always have a military leader running for the office of President. The only people left with any credibility are the lawyers. They are the only ones taking a stand, and they will win in the end. The court decision is a setback but we have not lost hope.'*

The '*Time*'s reporter at another place noted that:

*'Not all were dismayed by the decision. Some lawyers at the court expressed relief, explaining that while a decision against Musharraf may have upheld the integrity of the Constitution, the consequences for the country could have been devastating. No one knows what Musharraf would have done had the court ruled against him, but rumours were rife that he would declare martial law, suspending basic rights and civilian institutions [which he otherwise did after 35 days].'*

The poor 'Time' reporter had no idea that in Pakistan most of the rulers; Generals and civil, are characterless creature. The reporter might be repenting on his assessment or analysis when he had learnt later that '*even then Gen Musharraf had promulgated (mini) martial law on 3<sup>rd</sup> November 2007, just 35 days after that decision*'. For some of them the minutes of the meeting or agreed political announcements are not '*Qura'an & Hadith*', a meeting between the PPP & PML(N) leaders at Murree a year after can be cited here.

*'The war is not over. It was a skirmish. It was disappointing. But we will be back,'* said Munir Malik, President of the Supreme Court Bar Association. But everybody knew that it was difficult to derail Gen Musharraf after the controversial verdict from the Supreme Court in Qazi Hussain Ahmed's petition.

In addition to the taunting narrations from the foreign press, the Pakistani press also roared while taking the people back to the same kind of situation in 2004. With the background facts that at the time of passage of the Legal Framework Order (LFO) in 2004 after the MMA lead-

ers decided to betray the political forces engaged in desperate struggle against the rule of Gen Musharraf, it was widely assumed that it might be only one-time 'political sin' of the MMA leaders. But, later the SC verdict confirmed the wild doubts of critics of the MMA that the country was continuously suffering from the havoc created by the so-called two champions of Islamic rule in the country. This background politics in the garb of Islam was explained better by Rauf Klasra through following words:

*'The MMA, nicked named as a "B team" of General Musharraf, had given a false impression after the 2002 elections that it would fight for the supremacy of the Parliament when President Musharraf would push his LFO for approval from the Legislature.*

*Qazi Hussain Ahmed and Fazlur Rehman simply hijacked the agitation movement of the opposition parties to oppose Gen Musharraf and his LFO in the Parliament. The movement became so aggressive and popular in nature that at one stage, it emerged that Gen Musharraf might yield to the rising political power of these forces.*

(Ref: **Rauf Klasra's** opinion in **'the News' dated 30<sup>th</sup> September 2007**)

Rauf Klasra's article further divulged that the international media and community were giving serious attention to the political turmoil in Pakistan amidst the rising pressure from the Commonwealth and the European Union on Gen Musharraf to get legitimacy from the Parliament or he might lose their vital support. The agitation movement within and outside the Parliament against the LFO was so effective that it crippled PM Jamali's government. At that time, Gen Musharraf appointed two of his top and trusted generals, Major Gen Zaki and Maj Gen Ehtasham Zamir, assisted by S M Zafar, to negotiate a secret deal with the MMA.

***[Qazi, Fazl and Liaquat Baloch started meeting these Generals late nights. Finally, a deal was brokered between the Generals and the MMA, which exclusively benefited both the parties. The rewards were the continuation of the MMA-led NWFP government, share in the Balochistan cabinet and slot of the Opposition Leader in the National Assembly. MMA also got the references against its MPs blocked after certain forces tried to get them disqualified on account of [fake] educational qualifications.]***

It was also [and rightly] opined that after initial dents in its lost credibility, the MMA leaders once again revived their political credentials using Nawaz Sharif who, too easily, accepted their role as a major opposition figure [referring to the All Parties Conference at Nawaz Sharif's residence at London in mid 2006] when he started giving them more importance despite being partners of Gen Musharraf in the government. Despite being part of Gen Musharraf regime, Nawaz Sharif and those MMA leaders had later formed an alliance (named APDM) with them. But, afterwards Nawaz realised that he was only being used by smart and shrewd politicians of the MMA as none of them turned up at the Islamabad airport on 10<sup>th</sup> September 2007 to receive him.

And the poor guy, Nawaz Sharif, was expelled back just after 3 hours stay at the Airport.

The most-important thing was that verdict of the Supreme Court had justified the claim of Gen Musharraf that **'let the agitators do their job, he would have the last laugh'**.

The critical role of the MMA in facilitating the rule of Gen Musharraf in uniform was so irritating that during the two week [2<sup>nd</sup> half of September 2007] long proceedings on the case, some judges did not forget to keep on reminding the religious parties about their 'deeds' during December 2003 followed by their tyrannical partnership with the General. However, it is interesting to note that the MMA leaders were so smart that they had not only been facilitating Gen Musharraf in power but they had also been successfully acting as the 'real opposition' to the regime in the Parliament and outside, as PML(N) did for the PPP in the Parliament during 2008-12.