

Scenario 66

PAKISTAN'S JUDICIARY IN 2009-10:

On 21st March 2009; Chief Justice of the Supreme Court of Pakistan, Justice Abdul Hameed Dogar, retired and Justice Iftikhar M Chaudhry took over his seat again. No 'Full Court Reference' was held in the honour of out-going CJP because he had assumed his office on 3rd November 2007, the Emergency day promulgated by Gen Musharraf.

JUSTICE DOGAR RETIRED WITHOUT REFERENCE:

Chief Justice Dogar was not the only CJP who had not been given the Full Court Reference [FCR] while departing, there were eight [out of total 19] other chief justices of Pakistan (CJP) also who had left that office unceremoniously on the completion of their tenure.

Traditionally, an FCR – a gathering of all judges of the Supreme Court – is held on the retirement of every judge of the court to honour the outgoing arbitrator. Papers are read out by a senior judge of the SC, the Attorney General, the Pakistan Bar Council and the Supreme Court Bar Association highlighting historic verdicts delivered by the outgoing judge. The details as collated by Masood Rehman of the '*Daily Times*' are given below.

Justice Sheikh Riaz Ahmad – who held the office of CJP from 1st February 2002 to 31st December 2003 – went without a 'full court reference', possibly because he had validated the controversial 'referendum' that gave a five-year term to Gen Musharraf as president and had accepted a three-year increase in the retirement age of judges of the SC and high courts, a decision that was later withdrawn.

Justice Bashir Jehangiri – who held office of CJP from 7th January 2002 to 31st January 2002 – could not get a full court reference, perhaps due to his short stay in the office.

Justice Irshad Hasan Khan – who remained the chief justice of Pakistan from 26th January 2000 to 6th January 2002 – could not get FCR possibly because he had validated the 12th October 1999's military takeover on the basis of the doctrine of necessity. He also gave Gen Musharraf the authority to amend the constitution and continue to rule the country uninterrupted for three years.

Justice Saeeuzzaman Siddiqui – who had declined to validate the 12th October 1999's military coup of Gen Musharraf – also went without an FCR because he was not allowed to come out of his residence when he had refused to take new oath under PCO. He remained the CJP from 1st July 1999 to 26th January 2000.

Justice Sajjad Ali Shah -- who held the top SC office from 5th June 1994 to 2nd December 1997 – also went unceremoniously. His fellow judges had declared him 'inefficient and not fit to hold office of a judge' in the light of his own judgment of 20th March 1996 called 'Judges Case'.

Justice Muhammad Afzal Zullah – who was the CJP from 1st January 1990 to 18th April 1993 – also went without a reference in his honour.

Justice S Anwarul Haq: No reference was held in the his honour – who was the CJP from 23rd September 1977 to 25th March 1981 – possibly because he upheld the death sentence awarded to Zulfikar Ali Bhutto.

Justice Muhammad Yaqub Ali – who remained the CJP from 1st November 1975 to 22nd September 1977 – also did not get a full-court send off, possibly because he had accepted the bail application of Ms Nusrat Bhutto in respect of PPP's Mr Bhutto when he was arrested 2nd time on 13th September 1977.

CORRUPTION IN PAK JUDICIARY:

3rd July 2009: Chief Justice Iftikhar M Chaudhry directed the high courts to take action against those judges against whom complaints had been filed in the Supreme Court. Till then there were 10 complaints received by the Supreme Court office from high courts against the judges in the superior judiciary. Under the new Judicial Policy enforced from 1st June 2009 a cell was created for receiving complaints of misconduct and corruption in the judiciary.

Chief Justice of Pakistan was supposed to take appropriate action on such complaints in the capacity of Chairman of the National Judicial Policy Committee. Interalia, a complaint filed against the former chief justice of Islamabad High Court, Justice Muhammad Bilal Khan, was also pending before the Supreme Judicial Council (SJC), which was mandated to check misconduct, moral degradation and corruption in the higher echelon of the judiciary.

8th August 2009: In a meeting of the Supreme Judicial Council (SJC) presided over by the Chief Justice of Pakistan (CJP) Iftikhar M Chaudhry, a new clause was added to the code of conduct for superior court judges, forbidding any oath of office other than the one provided in the Constitution of Pakistan.

A 14-judges bench of the Supreme Court, earlier on 31st July 2009, had ordered the addition of a new clause to the code of conduct prescribed for the judges of superior courts in terms of Article 209 of the Constitution, decreeing that any such violation of the clause would be deemed to be misconduct. The new clause, approved by the SJC, said:

"No judge of the superior judiciary shall render support in any manner whatsoever, including taking or administering oath in violation of the oath of office prescribed in the Third Schedule to the Constitution to any authority that acquires power otherwise than through the modes envisaged by the Constitution of Pakistan."

12th August 2009: Justice **Abdul Shakoora Paracha** of the Lahore High Court resigned in the second week of August 2009 to avoid facing references pending against him in the Supreme Judicial Council (SJC) for having taken oath under the 3rd November 2007's PCO and for alleged corruption. The SJC issued him notice in the corruption reference in its meeting held on 8th August 2009. Justice Paracha was brought in the Lahore HC on 2nd May 2001. He was to retire on 30th June 2011.

The SJC, under the chairmanship of Chief Justice Iftikhar M Chaudhry, had also issued notices to another judge of the High Court on the charges of misconduct and corruption. It was Justice **Muhammad Afzal Soomro**, Judge of the Sindh High Court.

The SJC decided to constitute a two-member committee comprising Justice Sardar Muhammad Raza Khan, Judge Supreme Court (SC), and Justice Khawaja Sharif, CJ Lahore High Court (LHC), to further probe into the allegations levelled against the above mentioned judges. The committee visited Karachi in the third week of August 2009 for hearing and recording the statements of the complainants; they were also asked to submit affidavits and provide further material to substantiate their allegations.

The SJC, heard and examined complainants of S M Ismail and his son Dr Junaid Ismail against Justice A Shakoor Paracha and, after deliberations, decided to further inquire into the matter by issuing notices to parties including Justice Paracha.

The SJC in the same session had also considered the complaint filed by S M Ismail against Justice M Akhtar Shabbir, former judge of LHC / SC, and Justice Syed Qalb-e-Hassan, former judge of then defunct Islamabad High Court. It was decided that though these two judges had ceased to hold offices, there was a need of an appropriate action that would be recommended against them under the law.

What actions were taken or finalized against the said judges, not known till recent. Media investigators also never tried to lodge a probe into those issues. Pakistanis are part of a polarized society at one place or the other. When there are fingers raised against an army officer or a police inspector or a politician, or if there is any order passed by the Chief Justice, the Ansar and Kashif Abbasis write and speak in so high tone that all media activities are subdued and made passive to be seen or heard.

Uniforms are taken as symbols of authority and jealousy prevails every where; one has to be objective any way and ought to be. Many of the engineers, tax & revenue collectors, doctors, administrators, reformers, writers and speakers are corrupt, most of them are intellectually corrupt, so are the *khateeb*s and judges; very little exceptions.

22nd December 2009: The Supreme Court of Pakistan gave a final warning to those who had managed to get their loans written off from financial institutions during the last 38 years and directed the State Bank to furnish a list of loan defaulters right from 1971 to date.

The Supreme Court had taken a *suo moto* notice on news reports appearing in media, about the huge Rs:54 billion loans write-off. The report had revealed that the previous government, in its five-year term, had written off the said amount of bank loans granted to big shots of Pakistan on the basis of a decision taken by the financial team of Gen Musharraf in December 2002. Chief Justice Iftikhar M Chaudhry observed, while hearing the *suo moto* case of written-off loans, that:

'Only one chance will be given to defaulters to return the loans and strict action will be taken against them without any discrimination, adding the court would look into the State Bank Circular 29 regarding writing off loans under Article 25 of the Constitution.'

'The court directed the State Bank to ask the financial institutions in all the four provinces to prepare a list of loan defaulters right from 1971 to date and it should be placed on the record.'

The State Bank submitted the list of the individuals and organisations that had got Rs:193 billion bank loans written off during the period 1997 to 2009. ***The irony of fate was that the case was never heard and never chased.*** No defaulter ever called, no reprimand, no further comments --- the superior court itself swallowed its own words Hail the independent judiciary of Pakistan.

23rd December 2009: Chief justice Iftikhar M Chaudhry was reinstated to his original seat on 20th July 2007 by a full bench of the Supreme Court of Pakistan but the detailed judgment could not be written by the judges because on 3rd November 2007 most of the judges including the CJ were sent home after promulgation of an emergency by Gen Musharraf. On 23rd December 2009, the detailed judgment of the said proceedings was released.

The detailed judgment in the case of the restoration of the Chief Justice of Pakistan on 20th July 2007 revealed that not only Gen Musharraf but the then Director General ISI and the DG Military Intelligence (MI) had also insisted that the Chief Justice should resign during his illegal detention at the Army House Rawalpindi on 9th March 2007. The judgment, written by Justice Khalilur Rehman Ramday, said that:

'The petitioner CJP went on to depose that 'the respondent (the president) insisted that the deponent (the CJP) should resign'. He added that his refusal to oblige, 'ignited the fury of the respondent (the president); he (the president) stood up angrily and left the room along with his MS, COS, and the prime minister of Pakistan, saying that others would show evidence to the deponent' (about the allegations of misconduct against the CJP).

As per the CJP, his meeting with the president lasted for about thirty minutes meaning thereby that the president and the prime minister would have left by about 12.15 / 12.30 pm and the CJP was then left behind in the company of the DG MI and the DG ISI allegedly to be shown the evidence in support of the above accusations.'

The CJP had alleged in his petition that no evidence at all was shown to him and "in fact, no official except DG ISI had some documents with him but he also did not show anything to the deponent" (the CJP). He added that they only accused him of having secured a seat for his son in Bolan Medical College while he was serving as judge of Balochistan High Court.

The CJP had further alleged that the DG MI and the DG ISI kept insisting that he should resign from his office while he continued to assert strongly that the allegations were baseless and were being levelled only for a collateral purpose and that he would not resign at any cost and would rather face the said false charges before all the forums.

The judgment further stated that:

'While the CJP was still at the President's Camp Office in Rawalpindi during the said crucial 'FIVE HOURS' and when according to the CJP he was being detained there against his wishes after 12 noon and when according to the respondents he was sitting there, in the company of the intelligence chiefs examining the reference and the material available in support thereof, a notification dated March 9, 2007, was issued by the Government of Pakistan in the Law, Justice and Human Rights Division mentioning therein that since the President of Pakistan had been pleased to make a reference called a 'DIRECTION' by Article 209(5) of the Constitution to the SJC against the CJP, therefore, the President had restrained Mr Justice Iftikhar M Chaudhry from acting as the Chief Justice of Pakistan or even as a Judge of the Supreme Court of Pakistan.'

The judgment made clear that the case had nothing to do with army as an institution. The issue before the Court 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 judgment was appreciated because actually the involvement of junior military officers was minimal and was limited to the specific orders of Gen Musharraf only when needed. The emergency order was planned and ordered by Gen Musharraf and no other army or intelligence officer could be blamed for it. Therefore, Gen Musharraf alone must be held responsible for the treatment he meted out to the judiciary and the judges.

The senior army officers believed that Gen Musharraf tried to despatch 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. He considered the chief justice as the only hurdle in the achievement of his objectives. Gen Musharraf used his senior colleagues to press the chief justice to quit. The DG MI was the strong man of Gen Musharraf being his relative too. Gen Musharraf acted on the advice of the DG MI, who was in fact responsible for spoiling Gen Musharraf's most matters related to judiciary.

Under Gen Musharraf's pressure the DG MI, DG IB and the then Secretary Interior and some others had submitted affidavits in the Supreme Court against the chief justice. He reminded that the DG ISI, Gen Ashfaq Kayani, did not submit an affidavit and despite Gen Musharraf's intensive efforts, the then DG ISI kept a reasonable distance from this issue in grace. The chief justice and all the members of the full court had praised Gen Kayani for showing such rare courage.

Signed by ten judges of the apex court, the 196-page detailed judgment in the Constitution Petition no: 21 / 2007 of the Chief Justice of Pakistan Iftikhar M Chaudhry against his illegal removal was issued after about thirty months because 13 out of 17 judges were sent home on 3rd November 2007 and returned back in the third week of March 2009. About the president's inherent powers, the judgment held that this Court had declared in *Nawaz Sharif Case (PLD 1993 SC 473)* that:

"Unfortunately, this belief that he enjoys some inherent or implied powers besides those specifically conferred in him is a mistaken one. In view of the express provisions of our written Constitution dealing with fullness, the powers and duties, there is no room of any residual or enabling powers inherent in any authority."

Justice Ramday had also observed that:

"it is, therefore, not possible for me to accept that in the constitutional, the legal and the legislative framework of our country, as noticed above, which did not recognise any inherent, ancillary or incidental powers with the competent authority to suspend or to restrain from working even a civil servant of the lowest grade who had no constitutional security, the Chief Justice of the country whose tenure in office stood guaranteed by the Constitution, could be suspended from office or could be restrained from exercising the judicial powers appertaining to his office."

The full court also declared the Acting Chief Justices' appointment of 9th & 22nd March 2007, without lawful authority. The verdict was announced with 10 judges in favour and three against. The three judges who opposed the verdict were not against the restoration of the chief justice; they differed on the constitutional point that the president was empowered to file a reference against the chief justice.

The three judges who dissented were Justice Faqir Muhammad Khokhar, Justice M Javed Buttar and Justice Saeed Ashhad. The ten judges who handed down the historic judgment were Justice Khalil-ur-Rahman Ramday, Justice M Nawaz Abbasi, Justice Mian Shakirullah Jan, Justice Tassadduq Hussain Jilani, Justice Nasirul Mulk, Justice Raja Fayyaz Ahmed, Justice Ch Ijaz Ahmed, Justice Syed Jamshed Ali, Justice Hamid Ali Mirza and Justice Ghulam Rabbani.

JUSTICE RAMDAY RE-EMPLOYED:

Justice Khalil ur Rehman Ramday of the Supreme Court of Pakistan was going to retire **on 12th January 2010**, the Chief Justice Iftikhar M Chaudhry had sent recommendations to the President that:

- Justice Saqib Nisar of the Lahore High Court, who was at no:2 in the seniority list, be elevated and be sent to the Supreme Court against a permanent vacancy caused by Justice Ramday's retirement.
- Justice Kh Sharif be left over in Punjab to continue as the Chief Justice of LHC.
- Services of Justice Ramday be hired again to continue as the judge of the Supreme Court for one year at least.

A threat of an imminent clash of the executive and judiciary surfaced because the President Asif Ali Zardari and the Governor of Punjab, late Salmaan Taseer, were resisting the appointment of judges recommended by the Chief Justice.

The president had refused CJ's recommendation for the elevation of Justice Saqib Nisar, the second senior-most judge of the LHC, arguing that instead the chief justice of the LHC, Justice Kh Sharif should be elevated to the Supreme Court. Governor Taseer was also determined to freeze the appointment of judges against approximately 30 vacancies in the LHC on recommendations of Kh Sharif, Chief Justice of the LHC. The SC's judgment in the Al-jihad Trust Case was being played from both sides.

[In 1994, the then President Farooq Leghari, acting on the advice of Prime Minister Benazir Bhutto, had appointed 20 judges to the LHC as well as acting chief justices to the LHC and the High Court of Sindh.

Those appointments of pro-government judges were resented by all relevant stakeholders, including the Bar Councils of the country. The petitions were filed and finally the issue was resolved through a verdict of the Judges' Case (PLD 1996 SC 34).]

13th February 2010: Justice Khalil ur Rehman Ramday could have been ceased to function after completion of his service but the CJP Iftikhar M Chaudhry kept him working as he had sent his name to the Presidency to be an ad hoc judge. President Zardari had withheld Ramday's name because, as per Ministry of Law's advice, the appointment of a retired SC judge as an ad hoc judge was in violation of Article 182 of the Constitution as well as the principle laid down in the Judge's Case of 1996.

Here the Judges Case was interpreted that such appointments could be done only in extraordinary situations and the number of judges could be increased after the sanctioned strength of the SC is filled with permanently appointed judges. Lack of transparency was also visible in Lahore High Court's scenario encompassing CJ Khwaja Sharif & Justice Saqib Nisar's appointments divulging a popular impression that:

'The slogan of independence of the judiciary is orchestrated only when the government is called in docks'.

The history will remember those hilarious moments when the SC's judgment of 16th December 2009 in NRO case was announced in which all the 17 SC judges reached the same decision in a matter that should have led to several differing opinions even if they agreed in essence to declare the NRO unconstitutional.

The same spirit was seen in early 2010 when an unprecedented unanimous resolution was passed by all the judges of the SC that Justice Ramday and Justice Rehmat H Jaffery be retained as ad hoc judges. Perhaps this was the reason that the sitting government immediately formulated a different way for appointment of judges and floated it on Parliament's floor which was passed as 18th Amendment just two months after that adventure of ad-hocism.

[Both J Jaffery and J Ramday, especially the later, were seen as close associates of the CJP Iftikhar M Chaudhry and were often seen on the same bench as he presided, along with another ad hoc judge J Ghulam Rabbani.

J Ramday was given preference for appointment as ad hoc judge over other recently retired judge Sardar Raza Khan because, perhaps, he had presided the 13 member bench of the SC in July 2007 which restored the CJP when the later was made dysfunctional by Gen Musharraf.

Justice Sardar M Raza Khan was not recommended for further appointment like Justice Ramday though he was also going on retirement on 9th February 2010.]

Coming back; the issues of seniority, suitability, and knowledge of law were to be judged by the chief justice whereas the Presidents and Prime Ministers could imagine the political suitability of a perspective judge. Amidst all the discussions till then, judicial appointments in Pakistan were not considered to be made upon the recommendation of an independent commission, as done in the UK, or after vetting by Parliament if the US model is followed.

[However, a process now stands evolved after April 2010's 18th & 19th Amendments in the Constitution]

The President and the Governor Punjab were under the impression that they could obstruct the appointments of judges to the LHC indefinitely. Since the refusal to appoint judges to the LHC was seriously undermining the capacity of that court and it was a matter of public im-

portance, as envisaged in Article 199 of the Constitution, either the LHC or the Supreme Court could direct the president to comply with the Supreme Court's direction.

The government opted to proceed by the advices of their cronies. Here again, contrary to CJP Mr Iftikhar M Chaudhary's recommendation, President Asif Ali Zardari issued a notification on 13th February 2010 purporting to elevate Justice Khwaja Sharif (Chief Justice of the Lahore High Court) as a judge of the Supreme Court and appointing Justice Saqib Nisar as Acting Chief Justice of Lahore High Court.

However, both of the judges refused to accept the notification as valid. The then Federal Law Minister Babar Awan had met CJ Kh Sharif one Thursday evening at CJ's residence but Kh Sharif had refused to proceed for the Supreme Court.

CJP Iftikhar M Chaudhary, immediately took *suo moto* notice of the said step of the President and, in a rare nightly emergency session, constituted a 3-member bench that suspended the aforesaid notifications and declared the notifications issued by the Law and Justice Division as against the constitutional provisions.

The government initially defended its actions but relented in the face of rising public pressure and criticism from the bar, opposition political parties, and the media. The government withdrew the notifications on 17th February 2010 and the PM had to agree to make all judicial appointments in the Supreme Court and the High Courts according to the recommendations of the Chief Justice.

Amidst these developments, some constitutional experts, senior lawyers and former judges openly reflected their views, while quoting the judgment in the Judge's Case of 1996 (Al-Jehad Trust case) and criticizing the Chief Justice's recommendations that elevation of Justice Saqib Nisar of the Punjab High Court as a SC judge and appointment of recently retired Justice Khalilur Rehman Ramday on ad hoc basis was not valid.

Whereas some of the top lawyers also held that there was no mention in the 125-page Al-Jihad Trust case ruling that the chief justice of a high court must be elevated as a Supreme Court judge when needed and that a judge junior to the provincial chief justice could not be promoted. Similarly, the Judges Case did not bar the appointment of ad hoc judges.

Regarding appointments of the Chief Justices of the High Courts and the Supreme Court, it was held that the senior-most judge of that court would have a legitimate expectation to be appointed to that position once it becomes vacant. This issue was different from that taken up by the Supreme Court in the Judges' Case. Here the president's spokesmen were arguing that the senior-most judge of the High Court ought to be elevated to the Supreme Court.

It was generally opined that the Judges' Case laid down the principle of seniority for appointment of existing judges to the post of the chief justice, but it did not deal with the appointment of new judges to the Supreme Court, and it did not necessarily require the chief justices of the High Courts to be elevated when a vacancy occurs in the Supreme Court.

The top legal experts, including former CJP Justice (retd) Saeeduzzaman Siddiqui, Justice (retd) Wajihuddin Ahmad, Akram Sheikh and even the petitioner of the Al Jihad Trust case Wahabul Khairi advocate, in their views had said that:

'It is the CJP's discretion to promote any judge of the high court. It is not necessary to appoint the senior-most judge of a high court as a Supreme Court judge.'

They agreed that the CJP's recommendations were in line with the Constitution as well as Al Jihad Trust case.

ELEVATING CJs IN HIGH COURTS:

Moeen Cheema, a lecturer of Law in an Australian University, interestingly observed that:

"There was neither constitutional convention nor past practice to elevate the senior-most judges of a High Court to the Supreme Court. A comparison of Articles 177 & 180 of the Constitution of Pakistan made by the supreme Court held that the absence of the words 'most senior' in Article 177 for appointment of Judges of the Supreme Court would show that the seniority of a Judge in the High Court is not a sine qua non for his appointment as a Judge of the Supreme Court."

Moreover, this specific issue was also discussed in the case of Supreme Court Bar Association through its ***Hamid Khan vs. the Federation of Pakistan (2002)*** case where, once again, a 5-member bench examined the appointment of judges in the Supreme Court and the issue of seniority in the High Courts for such appointments. Explaining the spirit of the Judges' Case and subsequent precedents, the Supreme Court had held that:

'The contention that the chief justice of a High Court is entitled to be elevated to the Supreme Court due to seniority is misconceived and travels beyond the parameters indicated in the Judges' Case. In our considered view, the scope of seniority and legitimate expectancy enunciated in those cases is restricted to the appointments of the Chief Justice of a High Court and the Chief Justice of Pakistan, and these issues neither apply nor can be extended to the appointment of Judges of the Supreme Court.'

[Mr Justice Khwaja M Sharif was born on 9th December 1948 in Lahore. His father Kh Sadiq was one of the cloth merchants of Anarkali Bazar, Lahore. He was a close friend of Mi-an Muhammad Sharif (father of Nawaz Sharif and Shahbaz Sharif). Both of these families had joint interests in trading.

Khawaja Sharif was elected twice as President of Lahore Bar Association in the year 1989 and 1991. On both occasions, he is known to have used very strong [*and objectionable*] language against the Bhutto family. In view of his loyalty to the Nawaz Sharif's family, Khawaja Sharif was appointed as Advocate General of Punjab by Shahbaz Sharif on 31st May 1997. On the recommendation of Shahbaz Sharif, he was appointed as judge in the Lahore High Court on 21st May 1998.

After the martial law of 1999, Justice Kh Sharif was one of those ***'brave judges of Lahore High Court'*** who took oath on PCO 1999, thus providing legitimacy to the military regime of Gen Musharraf but in emergency of 3rd Nov 2007, he remained deposed from the bench till 17th March 2009 when he was restored along with others. During deposition, Justice Kh Sharif used some of the worst kind of language against President Zardari and the PPP; the media record is there as witness. He was appointed Chief Justice of Lahore High Court on 12th April 2009.

In 2009, Justice Kh Sharif's LHC decided to adjourn elections in Rawalpindi and Lahore as per the wishes of his masters M/S Sharif brothers. Later the decision was quashed by the Supreme Court of Pakistan.

In December 2009, Chief Justice Iftikhar M Chaudhry's escort car met with an accident. Nothing happened to the car in which Justice Iftikhar was travelling but the then CJ LHC Kh Sharif said that the accident was in fact a conspiracy against the CJP Justice Chaudhry by the people who wanted him to give certain decision in their favour. *'Perhaps it was a warning because the CJP is tightening the noose around powerful mafias,'* he said, indirectly pointing towards President Zardari and the PPP's sitting government then.]

18th February 2010: Justice Ramday was appointed as ad hoc judge of SC, Justice Saqib Nisar and Justice Asif Saeed Khosa were elevated to the apex court while thirty-four new judges were appointed in the LHC and SHC. The outcome of the tussle between the Presidency and the Supreme Court came to an end when earlier on 16th February PM Mr Gilani reached the Supreme Court to attend a reception and invited the Chief Justice to the Prime

Minister House. The next day the Chief Justice had a one-to-one meeting with the PM and the dust got settled.

However, the fact remains that the CJP Iftikhar M Chaudhry wanted to keep his team members at places where he wanted. Justice Ramday was the head of bench in 2007 which had brought the then defunct CJP Mr Chaudhry back to his seat. He was the judge heading the bench who made possible CJP Mr Chaudhry to sit on his seat again on 20th July 2007.

When Iftikhar M Chaudhry occupied the chair of CJP, Justice Ramday, being the senior most judge in the Supreme Court became his right-hand man. Among the bar it gave rise to an impression that because the CJP depends on him so ***'he has [mostly] stepped out of his shoes'***.

Though the CJP Justice Chaudhry got his words and opinion approved in the appointments of three judges i.e. Justice Khawaja Sharif, Justice Saqib Nisar and Justice Ramday but the President House had taken it seriously; another cold war erupted between the two major institutions.

Media also played its role as usual. Ansar Abbasi of Islamabad Jang daily wrote many columns defending his Chief Justice; Nazir Naji of Lahore circle started series of threatening stories in Jang portraying Justice Kh Sharif because of his intimate relationships with Sharif Brothers of PML(N). Arif Nizami and Dr Shahid Masood also joined the orchestra against Mr Zardari.

On the other side the PPP had also done similar arrangements by winning people on ARY News through anchor Kashif Abbasi, Javed Malik and Dr Danish. In that whole scenario, there were fingers pointed out towards Judiciary's impartial behaviour while trying to settle the old scores. It was an obvious outcome.

SC GOT DENTED IT'S IMPARTIALITY:

The implications of this cold war surfaced when during March and April 2010, NAB and the Federal Ministry of Law did not bother to write a letter for re-opening of old Swiss cases against President Zardari and avoided on one pretext or the other. The Supreme Court had called all the concerned officers of NAB, Ministry of Law and Attorney General's Office in Court to explain that why the verdict of Supreme Court was not being implemented but all efforts went in vain.

Two Attorney Generals including Anwar Mansoor and one Federal Law Secretary, Justice @ Aaqil Mirza had also resigned but the issue of sending letter to Swiss authorities could not be solved. Ultimately the Court had to issue call notices for the Federal law Minister Babar Awan for appearance on 25th May 2010 which phenomenon was unparalleled, exceptional and extraordinary in Pakistan's contemporary history.

In this exercise too, the Supreme Court suffered on account of judicial wisdom and impartiality. The graph of judiciary's credibility was pulled down by the media live debates where more of the questions were related to the following points:

- Under the Constitutional provisions, Mr Zardari was enjoying immunity while he was holding the President's office, so should not be pressed.
- In 16th December 2009's judgment against NRO, there was a list of 8041 beneficiaries of NRO, then why Mr Zardari was singled out to be named out in derogatory sense.
- During hearing of NRO case, on 12th December 2009, the Chief Justice had mentioned to bring the list of people whose bank debts were condoned in billions. Next day the State Bank of Pakistan had placed an exhaustive list of defaulters since 1971, but the Supreme Court neither passed any order in that respect, nor the case was taken up further.

- The judiciary was blamed that because the list contained names of stalwarts from PML(N) and their family members as miss-users of loans, so the Chief Justice had purposefully ignored it.
- In the said NRO's judgment, the second named person was Justice ® Malik Qayyum. The Court had never bothered to chase him like President Zardari because the former was their old colleague.

The battle between the two big heads [of the Judiciary & Executive] entered a new phase when, in the third week of May 2010, a bench of Lahore High Court headed by Justice Kh Sharif in person, announced three years imprisonment for the Federal Interior Minister Rehman Malik under sec 31(A) of the NAB Ordinance on the charge of **'being absent from the Court'**.

Just after few moments, the President Zardari, while using his powers of Article 45 of the Constitution, condoned his Interior Minister's sentence; again causing another debate in the media. What the Lahore High Court & CJ Kh Sharif got out of balancing the personal scores to please their bosses in PML(N). What benefit for the higher judiciary as a whole.

A side effect: Justice Khalil ur Rehman Ramday, especially after his re-appointment in February 2010, had become so arrogant that many sober senior advocates of the bar started avoiding appearing before him in the Court. He had developed habit of bullying the bar members, particularly appearing on behalf of the ruling PPP, without reasons or cogent causes. **One episode of 12th May 2010** may be taken as an example:

'The CJP and Justice Ramday were hearing petition (not regular but of a mercy type) of a lady teacher who was occupying a government house above her category in Islamabad and was asked by the Ministry of Housing to vacate it.

*During the hearing, Justice Ramday became furious when he was told about his own judgment which he had passed in a similar case just six months earlier, conveying a message that **'Government accommodations are not jagirs of civil servants so should not be kept held against the rules.'***

The bench was told that till that day the High Courts had also decided eighteen (18) similar cases on the basis of Justice Ramday's above referred judgment.

The judge threatened a young & new or under training lawyer (who had simply accompanied the fresh allottee officer and had handed over details of J Ramday's earlier judgments referred above) that he would be sent to jail straightaway for contempt of the Court.

Ironically, that junior lawyer had immediately raised his hands for handcuffs saying:

'If the contempt comes on speaking truth before the apex court and especially while quoting the sitting judge's own judgment, then please go ahead'.

The CJP Iftikhar M Chaudhry immediately intervened and handled the sentimental situation in a nice way but the panel went against their own earlier judgment. Justice Hurray!

What a character of Pakistani judges occupying seats in higher judiciary.'

The media played at high pitch in this respect saying that the CJP and the PML(N) wanted to keep Khwaja Sharif in Punjab for greater political agendas of the ruling elite and other judicial favours in the High Court. President Zardari wanted all judicial appointments by following the principles of seniority.

On 22nd March 2010; In Faisalabad, Pakistani judiciary, engaged in a do-or-die battle for gaining independence from the executive, as both judges and lawyers took positions against each other to boycott the courts and staged protests after a lawyer slapped and manhandled

a judge while he was holding the court. The menace spread all over the Punjab province next day.

Reacting to the aggressive attack, the judges belonging to subordinate judiciary stopped working demanding immediate and stern action against the lawyer Liaqat Javed who slapped the Civil Judge Tariq Mahmood, terming it extremely outrageous and devastating for the prestige of judiciary. All the judges wore black armbands as mark of protest till the cancellation of that lawyer's license.

With another day passed, about one hundred judges tendered their resignations in different cities of Punjab. This forced the Lahore High Court to take *suo moto* notice of the situation by ordering contempt of court case against the lawyer. However, the lawyer could not be arrested as he fled from home.

Then it was the turn of lawyers, who boycotted the courts and staged protests demanding the withdrawal of contempt of court case against the accused lawyer. The lawyers' defiant posture against the judges brought the institution of judiciary at crossroads again where it was faced with an enemy from within, the lawyer's community.

There had been reports of repeated attacks from lawyers on the media men, police officials, and their repeated attempts to pressure a court to release on bail a lawyer leader accused of torturing to death a minor-aged housemaid. Former vice chairman of Punjab Bar Council, Hamid Khan disturbingly opined:

"Such incidents not only brought bad name to legal fraternity but also posed a serious question mark on the future of judiciary's independence since these lawyers rise to become judges."

The incident of slapping the judge was **"totally outrageous and uncalled for"** since the judge, hearing a loan default case, had refused to release the accused on bail as requested by the lawyer who insisted that the amount had already been deposited.

The judge ruled against the request observing that the case record had no mention of such payment. This flared the lawyer up and he started abusing the judge, and suddenly rushed to the rostrum and reportedly slapped the judge repeatedly. The judge was rescued by court officials and lawyers.

On 29th June 2010, addressing the Hafizabad Bar Association, LHC CJ Khwaja M Sharif asked **'the PPP to quit the Punjab coalition if it had objections to provincial Secretary Prosecution Rana Maqbool'**. Mr Maqbool, being IGP Sindh, was alleged of physically torturing President Zardari when he was in police custody during 1997-98 in the 2nd stint of Nawaz Sharif as prime minister.

Punjab PPP's leader Raja Riaz had even called the LHC CJ a **"PML-N spokesman"** and asked him to resign from his office to contest election on the PML(N) ticket if he was interested in politics. **"We will foil such designs of 'Kh Sharif Wish' against democracy,"** was the PPP's stance. The Punjab PPP roared with the words:

"We are going to file a reference in the Supreme Judicial Council against Khwaja Sharif for acting as a PML-N spokesman. Is a chief justice authorized to represent a proclaimed offender and can he advise a major political party to quit the government."

Whether the statement of Khwaja Sharif was worthy of a high court chief justice?

This is a conspiracy against the PPP government. CJ Kh Sharif is trying to corner the largest political party of the federation but we will not allow him to succeed. The PPP had defeated military dictatorships in the past and now it was capable of fighting against judicial dictatorship."

PPP's Information Secretary MNA [late] Fauzia Wahab told the media that Khwaja Sharif's statement had "unveiled the mystery" as to why there had been "furors" over his elevation to the Supreme Court.

"He (Khwaja Sharif) is PML(N)'s trusted fellow and even he has admitted this in his last speech; that was why the Leaguers wanted to retain him in Lahore."

Former SCBA president Aitzaz Ahsan had also criticized CJ Khwaja Sharif for 'giving a political statement'. *"A judge should resign from his / her office if he or she wants to do politics. Such statements bring a bad name to the judiciary and judges should refrain from doing so as they are supposed to speak only through their judgments,"* Mr Ahsan said.

Ahsan was on forefront in '**free judiciary movement**', every one knew. He then added that:

"The people are raising fingers at the Supreme Court for laying so much emphasis on NRO cases as they think it was only because President Zardari was one of the beneficiaries."

Such a comment must not come from any member of the independent judiciary. These kinds of statements are bringing a bad name to the judiciary."

The rift between the PPP and the PML(N) developed posing serious questions on the superior judiciary. The whole conflict revolved around a single judge - Justice Khwaja Sharif - who had close ties with the PML(N). The media was of the view that the reaction displayed by the PML(N) to the political stand-off between the President and the CJP was of no surprise. Similar to calling Benazir Bhutto a 'threat to security', to undermine her governments in the 90s, PML had termed President Zardari as 'a threat to democracy' in 2010.

The intelligentsia pondered that what was so great about Chief Justice of the LHC, Khwaja Sharif, that he must at all costs stay in Punjab to oversee the judiciary there? Similar concerns were raised by many renowned names in the judicial community, including Ali Ahmad Kurd, once a very stringent supporter of CJ Iftikhar M Chaudhry, who expressed disappointment over the events and deplored that it appeared as Justice Khwaja had become the most important individual in the country.

[The history would be written as it was purely a political conflict with its core power politics in Punjab and the superior judiciary became a part of it. It was on record that Justice Khawaja Sharif had made 28 of his own politically motivated recommendations for the judges to be posted in Lahore High Court, only to be scrutinized by the Governor of Punjab.

The Governor, (late) Mr Taseer, once informed the President in his written summary that out of 28 persons recommended by CJ LHC, five persons Shahid Karim, Mamoon Rashid Sheikh, Waqar Hassan Mir, Ms Gulzar Butt; and Mian Mahmood advocate were directly or indirectly affiliated with the CJ [Kh Sharif]'s own Law Chamber.]

The rift between the Governor and the PML(N) widened when late Salman Taseer became a hurdle in the way of PML(N)'s politically motivated judicial appointments. The Punjab government used all its influence over the judiciary to get Justice Khwaja's recommended judges appointed at all cost. The Governor, however, ignoring all pressures, decided to accept 19 out of the 28 appointments. The Governor objected that the CJ LHC had evidently ignored certain judicious principles of seniority and legitimate expectancy. Pakistan was repeating the history as a senior lawyer Dr Khalid Ranjha said that:

'A vacuum is being deliberately created to pave the way for third party interference; an interference that Pakistan can't allow nor afford at this time'.

In the contemporary judicial history of Pakistan, some judges of higher judiciary could not prove themselves above board. Some were directly involved in financial corruption whereas one Chief Justice of a high court had openly sided with the ruling political party of the province, as detailed in above paragraphs.

Pakistan's judiciary under CJP Iftikhar M Chaudhry then had to prove it 'independent' as was anticipated.

[That was why a poll conducted by Gallop Pakistan, referring to '**ARY News' dated 23rd June 2011**, told that '**Pakistan's apex judiciary is assented by 51% people only**'. Much alarming! It should have been rated 80%+ in the backdrop of lawyer's movement of 2007-09.]

SENIOR OFFICERS SENTENCED:

30th March 2010: Former Additional Director General of FIA Ahmed Riaz Sheikh, an NRO beneficiary, who was allegedly promoted despite being convicted in corruption cases, was arrested from courtroom on the orders of the Supreme Court and NAB was ordered to confiscate his property and submit a report to the court within three days.

Mr Shiekh was basically punished being a close aide of President Zardari and was sentenced to 14 years of imprisonment in 2001 on charges of corruption but got benefit from the NRO. While he was sent to jail by SC, not only important PPP personalities met him there but the president granted general pardon to Riaz Sheikh.

On the same day, NAB was given twenty-four hours to write a letter to the Swiss authorities regarding re-opening of corruption cases withdrawn under NRO, upon failure Chairman NAB was asked to face the winds of jail. NAB Chairman told the court that opinion of the Law Ministry was awaited regarding writing a letter to re-open cases against the president.

31st March 2010: Attorney General for Pakistan Anwar Mansoor informed the SC that the Federal Law Ministry was creating hurdles in reopening the Swiss cases. The court directed the Attorney General to assist Law Ministry in completing paper work on that issue. The court directed the government to send the letter to Swiss authorities by 1 pm that day after getting approval by the Prime Minister.

The PM Gilani was never so courageous thus the SC's all threats were simply ignored. The said letter was not written despite tall instructions of 24 hours or till 1 pm etc and the Supreme Court could never get the orders implemented though NAB had told the court earlier that a letter to the Swiss government against President Zardari was on the way. A blatant lie it was.

Next day, the Attorney General for Pakistan Anwar Mansoor Khan resigned from his post.

As per media versions, the Supreme Court was openly helping out the Punjab Government by getting them back their buddy CJ Khawaja Sharif but was adamantly going against the PPP in getting Mr Zardari hanged.

20th April 2010: 18th Constitutional Amendment was passed. The details are available in next pages.

On 29th April 2010; President Zardari, through a clandestine move, regularised the services of all federal law officers appointed during the period from October 1995 to October 2009 with hefty salary package besides other perks and privileges by promulgating an ordinance. The three-page ordinance was made part of gazette notification without making it public. The ordinance was named the **Central Law Officers (Amendment) Ordinance 2010** and it

came into force with immediate effect. The said ordinance was promulgated with retrospective effect from 1st October 1995.

In clause 7 of this ordinance, it has been laid down in the sub clause A that '*all the appointments of federal counsels made by the federal government from 1st October 1995 to 30th October 2009 are regularized and the fees paid to them and other perks and privileges provided to them be deemed regularized*'.

In the sub section B it was said that '*any payment due to them if not made during this period be considered to be payable and this would be paid*'. The legal experts were of the view that the ordinance was aimed at not only benefiting all the federal counsels appointed during Benazir Bhutto and Nawaz Sharif regimes of 1990s but also those who were enrolled during Gen Musharraf's rule for nine years.

These counsels appeared before the courts against Chief Justice of Pakistan (CJP) Iftikhar M Chaudhry during the hearing of reference filed against him. The beneficiaries of this ordinance were Sharif ud Din Pirzada, Waseem Sajjad, Khalid Ranjha, Ahmad Raza Kasuri, Hafeez Pirzada, Farooq Naik, Khalid Anwar and others.

The sub clause 3-A of clause 4 of the ordinance was amended that the Additional Attorney General, Deputy Attorney General, standing counsel and federal counsel would send their resignation to the president for acceptance.

7th May 2010: Federal Secretary Law Justice (R) Aqil Mirza resigned (though citing his poor health as reason but) because he was summoned by a five-member bench of the SC hearing the implementation of NRO verdict case.

J Aqil Mirza was the fourth senior official who had resigned since the SC started hearing the case regarding non-implementation of its judgment against the NRO. Others were NAB Chairman Nawid Ahsan, Attorney General Anwar Mansoor and Senior Joint Secretary Akbar Khan Achakzai. All these senior figures left their seats hailing Pakistan's independent judiciary who was ignoring its own words of 22nd December to get back the written off loans but was swiftly counting on scores against Mr Zardari; the only one of 8041 NRO beneficiaries.

17th May 2010: The Lahore High Court, under the able supervision of CJ Khawaja Sharif, restored the conviction of Federal Interior Minister Rehman Malik in two NAB references. President Zardari immediately granted pardon to Mr Malik to save his friendship and Mr Malik from more humiliation. Another NRO beneficiary, Sajjad Haider, Staff Officer of the Interior Minister Rehman Malik, probably a co-accused in Yellow Cab scam with the Interior Minister, was also granted pardon by the president.

Though it was termed as an unprecedented favour for those involved in corruption cases but the fact remained that the LHC had restored their convictions just to please their masters then holding reins of the Punjab government. The said cases were allegedly established by PML government in 1997 through a criminal minded pseudo-politician Mian Saif ur Rehman of *Ehtesab* Bureau when allocated special tasks of pushing all senior officers to jail who were on key posts in Benazir Bhutto's last tenure of 1994-96.

FACEBOOK BANNED:

On 21st May 2010: First time in the history of Pakistan, some superior court had taken notice of public protests and directed the federal government to lodge an official protest with the American authorities over the competition of drawing the blasphemous sketches of the Holy Prophet (PBUH) at a famous website [Facebook]. Justice Ijaz Ahmed Chaudhry had directed the Ministry of Foreign Affairs (MoFA) to submit the copy of official protest in the court.

The Court itself formulated the main body of the text as under:

"As per laws of commerce and business, Facebook is governed by legal jurisdiction of the United States of America and this global social networking has deliberately or recklessly been responsible for hurting feelings and causing discomfort to the majority of Muslim population of Pakistan.

Facebook has deliberately or recklessly not taken effective measures for preventing, stopping or blocking blasphemous content to which it has complete and autonomous authority and a built-in mechanism to block such profane misbehaviour or misconduct. These mechanisms have either been deliberately or recklessly not administered for preventing, stopping or blocking this blasphemous content taking place on Facebook.

The announcement of this very blasphemous content has caused an immense furore and enraged millions of majority Muslims of Pakistan and around the globe, who attach an immense sanctity to the holy status granted to prophet of Islam, Prophet Muhammad (Peace Be Upon Him)."

Various countries including China, United Arab Emirates, Iran and Saudi Arabia had already imposed ban on it which had made easier for MoFA to raise the issue at international level.

It is a common understanding in law that a speech, an article written or read, any caricature or image designed to spread panic, incite violence and perpetuate hate is not protected by the principle of freedom of expression. Many statutes around the world forbid speech and written words which are intended to express hatred towards someone on account of that person's colour, race, nationality, ethnicity or religion.

The issue was that on 20th May 2010 a 'Draw Mohammad Day' was celebrated on the popular social networking site Facebook to 'avenge' the censorship of insulting remarks and images from a South Park episode by Comedy Central for fear of retribution from a 'radical' Muslim group. Facebook, rather than removing the page for reasons of hate speech and violation of its own Terms of Use, expressed disappointment at being banned in Pakistan and termed its website as:

'..... a place where people can openly discuss issues and express their views, while respecting the rights and feelings of others.'

It was the second time hit on the Muslim sentiments. Previously, in 2005, Jyllands-Posten, a Danish newspaper had published cartoons depicting the Prophet SAW (peace be upon him). Despite domestic and international outpour of rage from Muslims, no legal action was taken by the Danish authorities against the newspaper. In fact, the Danish public prosecutor had dropped the case declaring that he found 'no evidence' of insult or degradation in the publication.

Syed Umair Javed, in his article appeared on **22nd May 2010 in 'The News'** rightly pointed out that:

'The right to free speech has become a funny concept, at least for Muslims. While the Holocaust must not be denied – if you do so in Europe they will arrest and prosecute you – it is perfectly fine to ridicule Islam, the Prophet Mohammad (SAW) and Muslims – but not the holocaust.'

Such writings and caricatures are always deliberate and well-thought to incite religious and social tension in very peculiar circumstances. Thus for those, who think it is their right to taunt and insult a religion, it is to consume that basically they push some ones towards fundamentalism. There is no right without responsibility; and the principle should have been observed by the 'artists & actors' sponsoring that episode.

LATIF KHOSA SENT HOME AGAIN:

21st July 2010: Prime Minister's Adviser Sardar Latif Khosa, who had to quit office in disgrace for the second time during PPP's government, was trying to rewrite government rules and had he succeeded, present and future advisers to the premier would have become more powerful than their respective ministers. However, the PM Gilani stopped Mr Khosa before he could do any real damage. The fact remained that:

"When Khosa phoned Gilani the other day, he was told that he was there just to advise the prime minister and was not to take decisions relating to the Information Technology Ministry independently."

The PM told Mr Khosa in unambiguous terms that since he himself presided over the IT Ministry and was competent to take decisions pertaining to it, it was his prerogative to allocate or not to allocate any powers to the adviser. Furthermore, that the IT Ministry would not directly send any file to the adviser for decisions but would continue to dispatch every summary to the Prime Minister's Office.

Mr Khosa insisted that being adviser with the status of a federal minister, it was his legal right to have all the powers concerning the IT Ministry and take decisions alone about its affairs. As a result, the PM Secretariat issued an order explaining the powers of the adviser and the authority of the minister in-charge [the PM himself in this case] of the IT Ministry.

This tangle led Khosa to his resignation, which he handed over but only after meeting President Zardari.

The source said the outgoing adviser was having a long running turf war with IT Secretary Najeeb-ul-Malik on the issue that who would run the IT Ministry. The Secretary did not send any file to the adviser pleading that this was not permitted under the Rules of Business, and instead used to submit all cases to the minister in-charge; whereas Mr Khosa repeatedly urged the Secretary to show him all the files and summaries. The Secretary stood ground and refused to oblige.

For quite some time ago, Mr Khosa had landed in a serious controversy over appointments and dismissals of directors in some organizations under the IT Ministry apart from his row with some segments of the telecom sector. However, he was a luckless diehard PPP leader, who earlier had to quit as Attorney General after he was accused of having taken Rs:3 million from a litigant but the major reason was something else behind his exit.

It was the attacking role of the People's Lawyers Forum (PLF) headed by Mr Khosa against the appointment of Masood Chishti, a junior legal mate of the Federal Law Minister Babar Awan, as the Federal Law Secretary. The Punjab chapter of the PLF, run by Khosa's son Khurram Khosa, had revolted to protest against Chishti's nomination.

At that time, the PM got his resignation but made him adviser due to the backing of Zardari.

JUDGE'S EXTENSION ISSUE & MISC:

On 4th December 2010, the Judicial Commission of Pakistan (JCP) proposed Justice Iqbal Hameed-ur-Rehman, judge of Lahore High Court, for his appointment as the Chief Justice of Islamabad High Court and Anwar Kansi and Riaz Khan as judges of the IHC, and also agreed to extend the tenure of four additional judges of the Balochistan High Court and six judges of Sindh High Court.

However, cases of Justice Bhajandas Dejawani and Justice Rukhsana Ahmed were deferred till the next meeting. The legal experts said that this was the beginning of tussle between judiciary and legal community.

The Supreme Court Bar Association termed those extensions to additional judges of the high courts as detrimental to the independence of judiciary. Moreover, that the extensions dropped by the JCP sent a poor message - a woman and member of the minority were made exceptions.

On the same day, the SCBA president in a written statement, given to media persons at the Supreme Court premises, had also expressed concern over the large number of enforced disappearances. It was noted that the disappearance of persons by the security forces had re-emerged after a short spell of reducing this practice dramatically.

The commission of missing persons had gone ineffective. Perhaps it had not comprehended the serious role that they were playing in recording evidence of those who were tortured during their period in arbitrary detention. The commission could not inspire the confidence of victims and was reduced to redundancy.

The SCBA also agitated that the Government had not fulfilled its promise on legal reforms. The jurisdiction of ordinary courts had neither been extended to FATA area nor the fundamental rights available to the people living there, who continued to suffer the rigors of the draconian Frontier Crimes Regulation.

The courts were not able to claim true independent character because they were not able to deliver justice to the victims and could not ensure that perpetrators were not granted impunity owing to gaps within the judicial system. The trial courts were overloaded with more than 1.3 million cases pending with them. Grant of bail was tough for an ordinary prisoner who did not have clout or nuisance value. There were about 2,800 people in illegal confinement in Swat alone who were not produced before the respective courts since more than a year; really alarming the situation was in Pakistan.

On 8th December 2010, the Supreme Court started hearing the infamous JAJJ CORRUPTION CASE; its details are given in separate Chapter.

On 11th December 2010; the Supreme Court issued notice to Member PAC and Chairman Earthquake Reconstruction & Rehabilitation Authority (ERRA) Hamid Yar Hiraj over allotment of a plot in the Diplomatic Enclave on cheap rates.

Chairman Capital Development Authority [CDA] was called for next day along with relevant record of the plot and to explain as to why a costly plot was allotted to Mr Hiraj in December 2007 on a meagre amount and against the rules and policy when he was holding the portfolio of minister of state in the regime of Shaukat Aziz.

Chief Justice of Pakistan Iftikhar M Chaudhry issued directive after taking notice on a telecast at a private TV channel on 9th December instant. The TV report had stated that CDA had allotted 19 kanals of plot to Mr Hiraj which was reserved for a school in the Diplomatic Enclave, in violation of rules / procedure. The Master Plan of Islamabad was altered without approval of the Cabinet due to which 37 kanals plot had been changed into 19 kanals plot.

The land worth billions of rupees had been allotted to Hamid Yar Hiraj at a cost of just Rs 7,16,03,200 whereas 18 kanals of land was left for the school though lying in the green belt.

The report alleged that Hiraj obtained the plot in the name of his relative who was running a private school at Multan. It was also claimed that initially a list of allotment was completed but he, using his influence, got the said plot allotted in the name of his relative in violation of rules.

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