

BEFORE THE HONORABLE SUPREME COURT OF PAKISTAN

C.P No. _____/2023

Imran Ahmad Khan Niazi *s/o Ikram Ullah Niazi*
2.Zaman Park, Canal Bank,
Lahore

-----Petitioner

Versus

Federation of Pakistan
Through Secretary Ministry of Law,
Islamabad

-----Respondent

PETITION under ARTICLES 186-A and 187 of the Constitution of the Islamic Republic of Pakistan for the transfer of all cases in which the petitioner is a party or is involved in or before the hon'ble Islamabad High Court to either the Lahore High Court or the Peshawar High Court it being expedient to do so in the interest of justice

Respectfully Sheweth:

1. The Petitioner is a former Prime Minister of Pakistan and is presently held in the District Jail Attock in the province of Punjab as a Prisoner convicted on a cooked up and fabricated charge after a 'trial' in gross abuse of 'due process' guaranteed inter alia under Articles 4, 9, 10-A and 25 of the Constitution.
2. More than sufficient incontrovertible evidence is available to establish the deep and settled bias of the Hon'ble Chief Justice, Islamabad High Court (CJIHC) towards the Petitioner. It is evident that the CJIHC is endeavoring to do everything to keep the Petitioner behind bars with intent that he be unable to contest the forth coming general elections and thus be ousted from the politics of Pakistan. He has, inter alia, as shown herein below done his best to achieve the above objective by time and again denying rightful and well-deserved rights and privileges to the grave detriment and prejudice to the Petitioner. Being the Apex judge in the Islamabad High Court (IHC) he has been able to determine fixtures of the cases that have come before the IHC to ensure thereby denial of the slightest relief to the Petitioner.

3. In seeking the conviction of the Petitioner, the CJHC found a ready and willing instrument in Mr. Humayun Dilawar, learned Additional Sessions Judge, Islamabad. Mr. Dilawar also despises the Petitioner, as will be shown below and readily complied with instruction from the CJHC to advance their common objective. In fact, the Hon'ble CJHC handsomely rewarded the learned ASJ after their common project had been achieved through the Petitioner's aforesaid illegal conviction. Thus, for instance:
- a. One of the more than 180 trials, inquiries, cases, investigations or proceedings in which the Petitioner has been falsely involved is the so-called 'Tosha Khana case'. In view of the fact that trial judge, Humayun Dilawar (Additional Session Judge), was widely known as a person allied to the Jamiat-ul-Islam and had shared vile posts demeaning of the Petitioner on his Facebook account. He retained them for general access for several years. Obviously, he did not mean to conceal his despise for the Petitioner. When, during the proceedings before him he was confronted with the posts and requested to recuse himself, the learned judge admitted that the Facebook account was indeed his own but disassociated himself from the post! In this incredible situation it is evident that the onus of demonstrating (a'la the money trail in any assets case) was now upon the learned judge himself to explain who, if not him, had uploaded the posts which he had continued to flaunt on his account for several years. The learned judge then refused to recuse himself.
 - b. In a revision petition filed against the above order, the learned CJHC while setting aside that order curiously remanded the case back to the same trial judge, Mr. Humayun Dilawar against whom the Petitioner had already moved an application in the Hon'ble IHC seeking transfer of his cases from his Court.
 - c. Upon remand the learned Trial Court, now over brimming with venom for the Petitioner, recorded the evidence for the Prosecution and denied, altogether, the Petitioner time to produce the four defence witnesses he had sought to examine. Another request, based on the Petitioner's statement under section 342 Cr.P.C, to summon, as a court witness, Brig. Cheema, formerly the Military Secretary to the Petitioner when he was Prime Minister of Pakistan, was entirely ignored.
 - d. Revision Petition by the Petitioner was taken up by the learned CJHC himself despite the Petitioner's earnest request that the Hon'ble CJ recuse himself from the case on grounds of bias. Turning down the request the Hon'ble CJHC once

again set aside the impugned order and curiously remanded the case back to the same trial judge for a second time, paying no heed to the Petitioner's request to do otherwise on the basis of irrefutable evidence establishing the intense hatred of the trial judge for the Petitioner. In fact, circumstance will show how they would eventually co-ordinate to premature arrest of the Petitioner in very peculiar circumstances.

- e. Despite the fact that there was an option to remand the case to any of the seventeen other Additional Sessions judges the learned CJHC chose to invest the authority to the one judge who was biting at the bit to hold the Petitioner guilty as charged. The Petitioner's objection to the contrary were not heeded and the case was directed to be taken up by My. Humayun Dilawar ASJ the very next day. Naturally the Petitioner was not in a position to produce the witnesses at such short notice and the Trial Court took great umbrage at this 'lapse' denying the learned counsel for the Petitioner to address their arguments even though they were present in Court at that time.

- f. The reason for not allowing the defence counsel to argue their case soon became apparent. A guilty verdict was in the pipeline to be delivered in ISLAMABAD but the Punjab Police had been already deployed to arrest the Petitioner without an instant's delay in LAHORE, no matter that the force committing the illegal arrest did not have a warrant or a true certified copy of the judgment. And that was precisely what happened. The verdict was announced in ISLAMABAD at 1 p.m. and the Petitioner was picked up by the Punjab Police at 1.10 p.m. in LAHORE. The learned ASJ, always the choice of the CJHC had delivered again.

- g. The Petitioner was sentenced by Mr. Humayun Dilawar to 3 years RI, disqualification for 5 years and a fine of Rs. 100000. The learned trial judge came to this conclusion and awarded the punishment despite: -
 - i. The clear and unambiguous prohibition in section 193 Cr.P.C on a Session Court assuming any jurisdiction except upon a referral by a Magistrate.

- ii. Refusing to enable the Petitioner to produce his defence witnesses in an adequate and reasonable time.
 - iii. Failing to summon the court witness who would've been perhaps have been the most important witness in this case.
 - iv. The Trial Judge not recusing himself despite being confronted with and admitting his Facebook account which contained hate-based posts concerning the Petitioner.
 - v. Rather than being censured and disciplined, the learned Trial Judge was rewarded for an assignment well done. Immediately after the verdict Mr. Humayun Dilawar was sent for a course at Hull University, UK. The original nominee for the course was Mr. Faizaan Gillani, but his name was withdrawn instantaneously and Dilawar sent on the junket on orders of the CJIHC. This was the second time that the Hon'ble CJIHC had facilitated the dramatic arrest of the Petitioner.
4. The learned CJIHC has demonstrated his bias and prejudice against the Petitioner in several other ways as well:
- a. In case the learned CJIHC presided over a full bench of three learned judges. In conclusion the majority judgment was against the view and preference of the CJIHC in an action by a non-party for alleged infidelity by the Petitioner but the latter not only refused to announce the judgement but even directed the majority judgement in the case favoring the Petitioner be removed from the Hon'ble High Court website. This is a unique case of defiance of the majority opinion based on the simple hatred towards one party to the proceedings. The Hon'ble CJIHC purported to convert his minority status into a majority and thereby abused his position as the CJ of the IHC.
 - b. On 09.05.2023, the Petitioner had come into the premises of the High Court and was waiting to undergo the biometric process to file a petition to seek, inter alia, protection from arrest. At this point of time upon orders from the Federal Interior Ministry, a large posse of Pakistan Rangers, clad in full riot gear, invaded the premises of the Hon'ble IHC, charged into the small ante room, breaking wood and shattering glass windows of the Hon'ble IHC itself, crashed

upon the Petitioner, lifting him out of his chair, thrusting him upon his feet, pushing and dragging him towards a prison van while choking his breath and hitting the Petitioner all over his body, proceeded to throw him into the van and rushed him away so if they captured a hardened terrorist.

- c. When almost a hundred fully armoured Rangers, helmets et all, charge upon one man, pushed and pulled him like a rag doll beating him all along, there was bound to be a popular reaction to the images being telecast across the country. At some points the reaction was designed and inspired by the Federal Government and its agencies to multiply the regrettable over reaction but it is the Petitioner's considered position that none of his partymen are given to arson or torching properties. Obviously, the police gave free passage to small and controllable crowds while the Government's planted agents provocateur broke the gates and burnt the properties entered upon. Since the CJIHC deliberately refrained from restraining the bludgeoning of the Petitioner, he (CJIHC) enabled the disturbing images to be seen across the country. Later he held that the Petitioner's arrest was lawful and in a lawful manner. The Hon'ble Supreme Court found otherwise. But there are too many people including the Petitioner with the settled belief that the entire episode was acted as per the script of which the learned CJIHC was a major protagonist. How can the Petitioner expect any justice from him?

5. Since the learned CJP presides over and determines the fixture of cases in the Hon'ble Islamabad High Court, his bias and prejudice, even if it be alone to him, smears and chokes the stream of justice. The Petitioner alas has been the foremost victim of this odious conspiracy. Thus, many more instances of injustice to the Petitioner have routinely occurred in the Hon'ble IHC under the CJIHC's watch: -
 - a. In the so-called Foreign Funding Case by denying a restraint order the Court enabled the FIA to file numerous FIRs and inquires, thus confronting the Petitioner with an untenable number of cases beyond any man's capacity to defend. Although the Election Commission of Pakistan (ECP) had been directed by the Supreme Court of Pakistan to examine the foreign funds of three Parties, the PML-N, the PPP, and the PTI together and simultaneously but ECP was allowed to target only the PTI even though it has brought all the receipts and accounts on the record. Neither the PNL-N or the PPP have any such detailed

and specific record but they have not been investigated in violation of the Supreme Court's express order.

- b. By refusing to issue a 'status quo' order to avoid filing of a complaint by the ECP and lengthy proceedings therein, the CJHC directed only that 'no election to take place in NA-95 Mianwali 1'.
- c. In the 'Tosha Khana Case' the Hon'ble Lahore High Court (LHC) had constituted a three-member bench to examine the validity of the Petitioner's contentions. The Petitioner thus chose to withdraw a Writ Petition pending in the Hon'ble IHC but the learned CJHC refused permission to withdraw the Writ. It has remained pending for the last five months which have enabled a biased Trial Judge to convict the Petitioner.
- d. Although the Petitioner is now facing almost 200 prosecution /proceedings /investigation/inquires often requiring his presence in several venues at the same time, the learned CJHC has refused to facilitate the Petitioner to join the multiple proceedings even through such aids as video link which facility was sought in an application dated 09.03.2023 which remains pending/unattended.
- e. The Petitioner does not seek to be treated above others but he has serious life threatening. Despite intense security threats to his person, the Petitioner's vehicle is not allowed inside the Court premises as many other vehicles enter and leave. When this permission was formally sought the CJHC cynically directed that the Petitioner '*appear before a Board of PIMS that you cannot walk then it may be permissible*'. Consistently hearing of urgent applications is delayed for no reason except when the learned CJHC is not feeling well. Coincidentally sometimes this has happened on hearings crucial for the Petitioner's defence.
- f. In the same case an odd anomaly has arisen all due to the CJHC's passion not to let go of the Petitioner's life: indeed, to see him convicted. The Hon'ble CJHC passed the impugned order the second remand to the same and controversial ASJ, he kept the issue of the defence witness for him to decide in the first instance. When the Trial Judge 'convicted' the Petitioner, he had no authority to decide about the defence witnesses' deposition, if any. Now, this is no joke, but joke it is. The remanding order directs that the Trial Court to finally

decide the case. But it retains to itself the decision to retain the right to determine whether the accused had a right to lead DWs. And if after a verdict of 'guilty' the senior courts find that the appellant had been wrongly deprived of the right to produce their defence, the conviction would get knocked out. In his keenness to convict, the learned CJHC has made sure that the prosecution would be seen by hindsight as grossly oppressive.

- g. Upon the aforementioned conviction and a three-year prison sentence the Petitioner filed Appeal before the Hon'ble IHC. With the Appeal, a Petition also filed for suspension of sentence. Even a five-year sentence has been described by the Hon'ble Supreme Court as a 'short sentence' which ought to be suspended in routine upon an appeal being preferred. The Petitioner's Appeal was filed and the application for Suspension of Sentence has not been heard, it is now fixed for 22.08.2023. It has had to be adjourned on account of the failure of the Hon'ble CJHC of attending Court on account of illness. It seems obvious that the learned CJHC desires to keep the Petitioner behind bars as long feasibly possible.
6. The above facts would show the intense and personal prejudice and hostility of the CJHC towards the Petitioner. The reasons can be many but it seems that the Hon'ble CJHC does not like the noble objects that the Petitioner seeks to pursue. Being in a position capable of determining the fixture of cases and constitution of benches, he is thus in a position to arbitrarily determine the fate of the Petitioner. Most of the cases pertaining to the Petitioner have been retained by the learned CJHC to himself. The one case entrusted by him to a full bench presided over by himself led him into a minority situation to which he has reacted by refusing to bring the same bench together to announce in open Court the majority verdict as the judgment of the Court. Such venom for a party has not been witnessed to the knowledge of the Petitioner. If the majority will not abide by his own prejudiced conclusion, then he will not let the majority have its say. This is the greatest travesty of justice and in this view of the matter there no prospect of the Petitioner getting any justice or fair treatment from the Islamabad High Court. The Hon'ble Supreme Court thus needs to save the Petitioner and the system of justice from the influence of the Hon'ble CJHC and hence to transfer all cases pending in the Hon'ble Islamabad High Court concerning the Petitioner to the Hon'ble Lahore High Court or the Hon'ble Peshawar High Court as the Hon'ble Court may decide keeping in view the multiple cases conjured up against the Petitioner and the more convenient distance of the aforementioned High Courts as compared to the remaining two i.e the Quetta High Court and the Sindh High Court.

7. The Petition being under Article 186-A and 187 of the Constitution of the Islamic Republic of Pakistan no other court is competent to entertain it.

It is therefore respectfully prayed that this Hon'ble Court may be pleased to:

- (i) Transfer all cases, investigation, inquires, trials, in which the Petitioner is a party/respondent/accused from the Islamabad High Court to the Lahore High Court or Peshawar High Court;
- (ii) In the meantime: restrain the Hon'ble Islamabad High Court to continue with the aforesaid trails/proceedings;
- (iii) To grant such a relief or reliefs as may be justified under the circumstances.

Drawn by:

Filed by

Sardar Latif Khan Khosa, Senior ASC

Anis Muhammad Shahzad, AOR

Dated: August 21, 2023