

**BEFORE THE ELECTION COMMISSION OF PAKISTAN**

**PRESENT:**

MR. NISAR AHMED DURRANI, MEMBER

MR. SHAH MOHAMMAD JATOI, MEMBER

MR. BABAR HASSAN BHARWANA, MEMBER

MR. JUSTICE (R) IKRAM ULLAH KHAN, MEMBER

**Case No. 4 (2)/2018-MCO**

In Ref: **USE OF INTEMPERATE LANGUAGE AND CONTEMPTUOUS  
REMARKS AGAINST THE HON'BLE CHIEF ELECTION COMMISSIONER**

**ON NOTICE:**

Imran Ahmed Khan Niazi s/o Ikram Ullah Khan Niazi, r/o Khan House,  
Bani Gala, Mohar Noor, Islamabad

... Respondent

For the Respondent : Nemo  
Date of Hearing : 28.02.2023

**ORDER**

**Mr. Nisar Ahmed Durrani, Member.**- Nemo for respondent.

It reveals from preceding order sheet dated 14.02.2023 that matter was adjourned for today on the request of learned counsel. Today, neither respondent nor his counsel is in attendance and that too without any intimation.

2. The synoptically sketch giving rise to instant matter is that vide order dated 12.09.2022 respondent was directed to appear in person however, on said date learned counsel for respondent made a request for time to file the reply. The matter was kept pending till closing hours however, learned counsel turned up at about 6:00 pm and submitted his reply. We gave our anxious thoughts to the reply and after having been found unsatisfactory, Show Cause Notice dated 13.09.2022 was issued to the respondent with direction to appear in person on 27.09.2022 however, respondent again did not appear. It further reveals that vide order dated 11.10.2022 respondent was once again directed to appear in person but he did not bother to appear for the

reasons best known to him. Consequently, matter was fixed for framing of charge vide order dated 26.10.2022 with the following observations:

"4. It reveals from our preceding order sheets dated 12.09.2022, 27.09.2022 and 11.10.2022 that directions were issued for personal appearance of respondent and on his failure Show Cause Notice was issued. It further reveals that respondent, in spite of Show Cause Notice neither appeared before this Commission and nor has responded to the Show Cause Notice for the reasons best know to him. Indeed, in such like matters of Contempt, personal appearance of alleged contemnor/accused is mandatory under the law. However, it is quite surprising that respondent's counsel instead of seeking exemption from personal appearance of respondent, has been making requests for adjournment of instant matter on each and every date of hearing on the ground that matter is pending adjudication before the Hon'ble High Court.

5. So for as the pendency of matter before the Hon'ble High Court is concerned the Hon'ble Lahore High Court, Rawalpindi Bench, Rawalpindi on 30.08.2022 has passed the order in W.P. No. 2285/2022 *inter alia* with the following observations:

*"9.....As Interim relief has already been granted by the High Court of Sindh, Karachi in identical matter, referred to above, therefore, to maintain consistency, the proceedings before the ECP may continue however, final order shall not be passed."*

From plain reading of above order, it reveals that stay has been granted to the extent that final order shall not be passed in the instant matter. However,

proceedings before us have not been stayed as specifically observed “..the proceeding before the ECP may continue...”. Hence we are of the view, that passing of order in the instant matter qua personal appearance of respondent is neither illegal nor it can be termed as any adverse action in any manner.

6. The record available before us obtained from PEMRA speaks volumes about the conduct of the respondent that he is committing contempt of the Election Commission of Pakistan and in light thereof, the Commission decides to proceed further in the matter by framing proper charge against the respondent. Hence instant matter is adjourned to 10.11.2022 for framing of charge against respondent. Office to inform the respondent, accordingly.

Matter was again fixed for framing of charge on 10.11 2022 and 22.11.2022 but learned counsel for the respondent submitted applications for exemption of personal appearance of respondent on said dates which were allowed, accordingly. On 13.12.2022 learned counsel for respondent again submitted an application for exemption of respondent which was allowed and following order was passed:

“Learned counsel for respondent appeared and submitted an application for exemption of answering respondent from personal appearance. He stated that respondent is suffering from flue and high fever due to which he is unable to appear in person. He further stated that matter which was subjudice in august Supreme Court of Pakistan for consolidation of cases has been reserved and most probably it would be announced within few days. He prayed that instant matter may be proceeded in accordance with the

observations of august Supreme Court of Pakistan.

2. Request for exemption of answering respondent for today is allowed. Case to come up on 03.01.2023."

The august Supreme Court of Pakistan has decided the matter vide judgment dated 06.12.2022 with the following observations:

"5. In view of the foregoing legal position, the proceedings before the ECP under section 10 of the Act may continue without restraint. These petitions are disposed of with the above observations."

As evident from above, that there was no restraining order in field as ECP was allowed to continue the proceedings, therefore, due to non appearance of respondent, order of bailable warrants of arrest was passed on 03.01.2023. The said order of ECP was assailed before hon'ble Lahore High Court Rawalpindi Bench, Rawalpindi through WP No. 134 of 2023. The hon'ble High Court vide order dated 16.01.2023 suspended the order of ECP with the following observation:

"4. Learned counsel for the petitioner submits that petitioner is not intentionally avoiding to appear before the Election Commission of Pakistan in said proceedings except in the special circumstances discussed above.

5. In these circumstances, notice is also issued to respondent. Meanwhile, impugned bailable warrants of arrest of petitioner are suspended."

Directions were once again issued to respondent vide orders dated 17. 01.2023 and 24.01.2023 for his personal appearance to proceed further in the matter but orders were not complied with

by the respondent. On 01.02.2023 learned counsel for respondent submitted some objection and matter was adjourned for arguments on 14.02.2023. It further reveals that on said date, matter was again adjourned for arguments on miscellaneous applications for today on the request of learned counsel for respondent but today neither respondent nor his counsel is in attendance and without any intimation.

3. The upshot of above discussion is that respondent namely Imran Khan is deliberately seeking adjournments on one or other pretext and also reluctant to appear before this Commission which amounts to mockery on law. Such conduct of respondent could not be tolerable, as his non appearance before this Commission seems to be intentional.

4. Consequently, in the circumstances of the case, we have left with no alternate except to issue bailable warrant of arrest against respondent in sum of Rs. 50,000/- (fifty thousand) with two sureties in the like amount each. The bailable warrants shall be executed through the Inspector General of Police, Islamabad. Office to take follow up action forthwith and list the matter on 14.03.2023.