

SUPREME COURT OF PAKISTAN

(Appellate Jurisdiction)

In Chambers at Islamabad & Karachi

Mr. Justice Syed Mansoor Ali Shah
Mr. Justice Munib Akhtar
Mr. Justice Muhammad Ali Mazhar
Mrs. Justice Ayesha A. Malik
Mr. Justice Athar Minallah
Mr. Justice Syed Hasan Azhar Rizvi
Mr. Justice Shahid Waheed
Mr. Justice Irfan Saadat Khan

CMA No. 10247 of 2024 in Civil Appeals No. 333 and 334 of 2024
(Filed by ECP, seeking clarification)

AND

CMA No. 10088 of 2024 in Civil Appeals No. 333 and 334 of 2024
(Filed by PTI, seeking clarification)

Clarification

In terms of paragraph 10 of this Court's order dated 12 July 2024 ("Short Order") passed in the **Civil Appeals No. 333 and 334 of 2024**, both the Election Commission of Pakistan ("**Commission**"), through CMA 10247/2024, and Pakistan Tehreek-e-Insaf ("**PTI**"), through CMA 10088/2024, seek clarification regarding the effect of the Elections (Second Amendment) Act, 2024 ("**Amendment Act**") on the Short Order.

2. The ECP in its CMA, has submitted that the Short Order was based on the law which has since been altered by the amendments made to Sections 66 and 104 of the Elections Act, 2017 ("**Elections Act**") and a new Section, namely 104-A, has also been inserted with retrospective effect from the date of the commencement of the Elections Act.

3. On the other hand, PTI has submitted in its CMA that the Short Order passed by this Court is based on the interpretation and enforcement of constitutional provisions, therefore the amendments cannot supplant the effect of the Short Order.

4. We had already issued clarification before releasing the detailed reasons and the first clarification issued pursuant to the Short Order was also merged in our detailed reasons. The option given by us to seek clarification in the Short Order was in fact an intermediary window till the detailed reasons were assigned, so in case there arises any misunderstanding as to the spirit or implementation of the Short Order before the release of the detailed judgment, the parties may seek clarification. The detailed reasons have already been

released and all legal and constitutional issues raised and argued by the parties have been dealt with eloquently and answered, therefore, no further clarification is required to be issued. The judgment of this Court has binding effect in terms of Article 189 of the Constitution of the Islamic Republic of Pakistan, 1973, and should have been implemented.

5. Since the Commission and PTI both have asked for a second clarification, we want to simply clarify and reiterate the well-settled exposition of law that the effect of the amendment made in the Elections Act cannot undo our judgment with retrospective effect. The Court granted the relief in the Short Order to enforce the right of the electorate through political parties to have proportional representation in the reserved seats under paragraphs (d) and (e) of clause (6) of Article 51 and paragraph (c) of clause (3) of Article 106 of the Constitution, therefore, the amendments made in the Elections Act after the release of our Short Order will have no bearing and the Commission is bound to implement the judgment passed by the Supreme Court of Pakistan, in its letter and spirit, without seeking any further clarification.

6. Office is directed to send this clarification to the Commission and the representative of PTI who filed the application for clarification and also upload this clarification on the Supreme Court website. Both the Civil Misc. Applications are disposed of accordingly.

JUDGE

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Dated 18th October 2024