



PROVINCIAL ASSEMBLY OF THE PUNJAB

RULING OF THE CHAIR

IN RESPECT OF THE POINT OF ORDER RAISED BY MR. AHMAR BHATTI, MPA, REGARDING NON-CONSTITUTION OF THE PROVINCIAL AND DISTRICT PUBLIC SAFETY AND COMPLAINTS COMMISSIONS UNDER THE POLICE ORDER, 2002

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FACTS OF THE POINT OF ORDER:

1. On 29th October, Honorable Member Ahmar Bhatti raised a point of order concerning the non-constitution of both the Provincial Public Safety and Complaints Commission and the District Public Safety and Complaints Commissions (hereinafter, “**the Commissions**”) as mandated by the Police Order 2002. The Member argued that the absence of these Commissions violates statutory provisions and prevents Assembly Members from performing their rightful oversight duties over police conduct across the Province. The point raised emphasized that the establishment of these Commissions is essential for balancing police autonomy with accountability to the public, as intended by the law.

RULING

2. The point of order raised by Mr. Ahmar Bhatti rests on two primary contentions: (i) that the establishment of the Commissions is mandatory under the Police Order 2002, and (ii) that failure to constitute these Commissions infringes upon the Assembly’s privilege and duty to exercise oversight on behalf of the people of Punjab.

I. JURISDICTION

A. Competency of the Point of Order

3. Under Rule 209, a point of order must relate to the "business of the Assembly," which refers to internal proceedings, such as bills, motions, and debates within the House. The non-constitution of the Commissions, while significant, pertains to a statutory function outside the Assembly's internal business and does not qualify as a point of order.

B. Conversion to Question of Privilege

4. However, as this matter affects Members' oversight rights under the Police Order 2002, I convert it to a question of privilege and proceed to dispose accordingly and the matter is referred to two relevant committee of the Assembly, namely, Privilege Committee and Law Reforms and Delegated Legislation Committee.

II. RULING ON MERITS

A. Mandatory Compliance with the Police Order 2002: A Legal and Constitutional Obligation

5. **The Doctrine of Mandatory Compliance and Its Constitutional Basis:** The **Doctrine of Mandatory Compliance** requires that when a law mandates an act to be performed in a specific manner, it must be carried out precisely as prescribed. This principle is deeply rooted in Pakistan's constitutional framework and reinforced by judicial precedents. It ensures adherence to the rule of law and prevents arbitrary deviations from statutory requirements, maintaining the integrity of legal processes.
6. **Statutory Obligation under the Police Order 2002:** The Police Order 2002 explicitly mandates the establishment of Provincial and District Public Safety and Complaints Commissions as key oversight bodies. Articles 37 and 73 of the Police Order use the term "shall," signifying a binding duty with no discretion. These provisions were enacted to create a balanced framework for police autonomy and accountability, ensuring that police power is exercised transparently and in alignment with democratic principles. Non-compliance undermines this legislative intent and weakens public trust in law enforcement.
7. **Constitutional Duty of Executive Functionaries to Enforce the Law:** Under **Article 5 of the Constitution, "obedience to the Constitution and law"** is an inviolable obligation for all citizens and every person within Pakistan, including executive functionaries. These officials are sworn to uphold the Constitution and ensure compliance with statutory provisions. Their failure to fulfill this obligation violates the fundamental tenets of constitutional governance.
8. **Judicial Affirmation of Mandatory Compliance:** The Supreme Court has consistently reinforced the principle of mandatory compliance with statutory and constitutional provisions. In *Watan Party v. Federation of Pakistan* (PLD 2011 SC 997), the Court held that executive authorities, including the Prime Minister and Chief Minister, are constitutionally bound under Article 5(2) to act in accordance with the law. Similarly, in *Abdul Majeed Zafar v. Governor of Punjab* (2007 SCMR 330) and *Ch. Zahur Ilahi v. Zulfiqar Ali Bhutto* (PLD 1975 SC 383), the Court emphasized that no public official is above the law and must adhere to mandatory statutory provisions.

9. **Implications of Non-Compliance with the Police Order 2002:** In the present case, the Police Order 2002 imposes a clear and mandatory obligation to establish Provincial and District Public Safety and Complaints Commissions. Failure to implement these provisions violates the constitutional duty of executive authorities to enforce the law, undermining the rule of law and eroding citizens' fundamental rights. Compliance with these mandatory provisions is essential to uphold constitutional principles, prevent misuse of power, and maintain public trust in law enforcement.
10. By ensuring full implementation of the Police Order 2002, this Assembly reaffirms its commitment to accountability, the rule of law, and the protection of citizens' rights.

B. Intent of the Police Order 2002: Striking a Balance between Police Autonomy and Public Accountability

11. The Police Order 2002 was introduced to reform and modernize Pakistan's policing system by moving away from the colonial-era Police Act of 1861, which placed the police under tight bureaucratic and political control. The intent behind the Police Order was to grant operational independence to the police, enabling them to act impartially and serve the public effectively. However, this independence was meant to be accompanied by a strong mechanism for accountability to the people's representatives, ensuring that police autonomy would not lead to unchecked power.
12. The law envisioned the Provincial and District Public Safety and Complaints Commissions as essential oversight bodies, designed to balance the police's newfound autonomy with accountability to the public. This structure was intended to prevent a scenario—where the police operate without meaningful oversight, a situation that historically leads to abuse of power. Without these Commissions, police independence risks becoming absolute, echoing the principle that “power corrupts, and absolute power corrupts absolutely.”

C. Functions of the Provincial and District Public Safety and Complaints Commissions

13. The Police Order assigns several critical responsibilities to the Provincial and District Public Safety and Complaints Commissions, ensuring police accountability and upholding public rights. These functions include:

i. Performance Oversight of Police Functions

14. Articles 44 and 80 the Police Order mandates that the District and Provincial Commissions, respectively, oversee police performance to ensure adherence to the rule of law and public service standards. This critical function prevents abuses of power and ensures that police actions are in line with their primary duty of public protection. By providing an **external check**, the Commissions promote transparency, fairness, and impartiality in police operations.

ii. Grievance Redressal and Addressing Police High-Handedness

15. Police Order empower the Commissions to act as impartial grievance redressal bodies, allowing citizens to report instances of police misconduct, inefficiency, or abuse. This function is critical in checking police high-handedness, as internal accountability mechanisms are often inadequate and lack transparency. The public needs accessible, independent platforms to hold the police accountable, and these Commissions fulfill this essential role.

iii. Recommendation of Criminal Justice Reforms

16. In its capacity as an oversight body, the Provincial Commission is also tasked with recommending necessary reforms within the criminal justice system. Drawing from insights gained through public grievances and police performance assessments, the Commission can propose systemic changes to enhance transparency, efficiency, and public trust in law enforcement.

D. Link Between Police Accountability and Protection of Fundamental Rights

17. The non-establishment of the Provincial and District Public Safety and Complaints Commissions under the Police Order 2002 directly and indirectly violates several fundamental rights of the citizens of Punjab. These include the **right to life (Article 9)**, the **right to dignity (Article 14)**, the **right to a fair trial (Article 10A)**, and protection from torture (Article 14(2)). A professional, independent, and accountable police force is critical for the enforcement of these rights. As highlighted in *Haider Ali vs. DPO Chakwal* (2015 SCMR 1724), the failure of a functioning criminal justice system, stemming from a lack of accountability and efficiency in policing, undermines the enforcement of fundamental rights. Without these Commissions, designed to ensure police professionalism and accountability, citizens remain vulnerable to police abuses, inefficiencies, and misconduct. The implementation of the Police Order 2002 in letter and spirit would significantly reduce these violations, fostering a culture of accountability and ensuring that law enforcement protects, rather than infringes upon, constitutional rights.

E. Constitutional and Judicial Support for Oversight

18. The necessity for establishing both the Provincial and District Commissions is reinforced by constitutional principles and judicial interpretations. The Lahore High Court through its decision dated 16-11-2023 in *Muhammad Razzaq vs. Federation of Pakistan* (WP 5973 of 2017) has explicitly directed the Government to establish these Commissions, underscoring this as a binding legal obligation. The Court's ruling aligns with key Supreme Court and high courts' decisions. For example, in *Karamat Ali v. Federation of Pakistan (A D Khawaja Case)*,¹ the Sindh High Court underscored that police autonomy must be protected from political pressures to uphold public trust and ensure the effective functioning of the police as guardians of public order. The Supreme Court affirmed this decision in appeal. These rulings collectively reinforce that police oversight is a non-negotiable mandate, vital for upholding the rule of law and protecting citizens' rights.

III. CONCLUSION AND DIRECTIONS

In conclusion, I hereby declare and hold that the establishment of the Provincial and District Public Safety and Complaints Commissions under the Police Order 2002 is a clear legal and constitutional obligation. These Commissions are critical to ensuring police accountability, professionalism, and transparency, which directly safeguard the fundamental rights of citizens, including the **right to life, dignity, fair trial**, and protection from torture. The absence of these mechanisms undermines the rule of law, exacerbates violations of constitutional rights, and erodes public trust in law enforcement.

This inaction persists despite a **clear and specific order from the Lahore High Court** in *Muhammad Razzaq v. Federation of Pakistan* (WP 5973 of 2017), which directed the Government to establish these Commissions as mandated by the Police Order 2002. The

¹ (PLD 2018 Sindh 8)

failure to comply with this judicial directive constitutes a serious breach of the legal and constitutional obligations of the executive authorities apart from being a potential violation of breach of privilege of this House.

To address this urgent matter, I direct the following:

1. **Referral to the Committee on Privileges:** The issue is referred to the Committee on Privileges to examine whether the non-establishment of these Commissions constitutes a breach of privilege of the Assembly Members, who are integral to these bodies under the Police Order 2002.
2. **Referral to the Law Reforms and Delegated Legislation Committee:** The issue is also referred to the Law Reforms and Delegated Legislation Committee to review the legal and administrative frameworks required for implementing the Police Order 2002 in its entirety. The Committee shall propose measures to ensure compliance with the law, address inconsistencies, and recommend reforms to strengthen police accountability mechanisms.

Both Committees are directed to undertake comprehensive reviews of the matter and submit their findings and recommendations to the Assembly at the earliest. This Assembly reaffirms its commitment to upholding the rule of law, protecting the fundamental rights of the people of Punjab, and ensuring that law enforcement operates within the bounds of accountability and public service.

(Malik Muhammad Ahmad Khan)
Speaker

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