

Supreme Court halts Islamabad High Court proceedings in audio leaks case

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ISLAMABAD:

The Supreme Court (SC) has issued an order halting further proceedings in the audio leak case at the Islamabad High Court (IHC). The ruling came during the hearing of an appeal filed by the federal government against the IHC's decision in the Bushra Bibi and Najam-ul-Saqib audio leak case. Additional Attorney General (AAG) Amir Rehman appeared before the court and argued that the IHC's May 29 order, which prohibited authorities from phone tapping, has severely impacted the operations of intelligence agencies. The IHC in its May 29 order said that prima facie no state official was authorised to surveil citizens and anyone doing so or aiding such an endeavour would be "liable for offences". "Any such unauthorised surveillance would also be in breach of fundamental rights of citizens guaranteed by Articles 9, 10A, 14 and 19 of the Constitution read

with Article 4 and would cause irreparable harm to the liberty, dignity and privacy of the citizens being surveilled”, the order stated. In today’s hearing, while arguing the order, AAG maintained that “agencies like ISI and IB are unable to conduct counter-intelligence and apprehend terrorists”. Justice Aminuddin Khan inquired whether the high court had determined who was recording the audio. The AAG responded that the investigation is ongoing and “no conclusions have been reached yet”. Justice Naeem Akhtar Afghan expressed concern over the situation, he remarked, “Unfortunately, in this country, no one wants to uncover the truth. An inquiry commission was established to find the truth, but the Supreme Court stayed it”. “The audio leaks case has not been scheduled again, and when Parliament attempted to seek the truth, it was also stopped”. The court questioned how the truth could ever come to light if neither Parliament nor the courts are allowed to function. Justice Aminuddin Khan suggested that the audio leak might have been made by the person being spoken to. He questioned whether this angle had been investigated. The judge noted that most mobile phones today are equipped with recording systems, which should be considered in the inquiry. On June 25, the IHC in the audio leaks case ruled that any action of phone tapping without a legal mechanism was ‘illegal’. The court had also denied the additional attorney general’s request for an in-chamber hearing in the case involving audio leaks. The SC, after accepting the federal government’s appeal for a hearing, issued notices

to the respondents and suspended the IHC's June 25 order. The apex court today further restrained the high court from proceeding with the case until further notice. The SC noted that the AAG had argued that the IHC exceeded its jurisdiction under Article 199 of the Constitution, as established by two previous top court rulings. It was also pointed out that the five questions decided during the May 31 high court hearing were not part of the petitioners' case, and that the court does not have the authority to conduct investigations. The apex court reviewed the May 29 order of the IHC and determined that it was not necessary to suspend the order in the next judicial proceedings.