
SC seeks details of decisions reserved by military courts

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ISLAMABAD:

The Supreme Court (SC) sought a summary by March 28 on Monday of decisions reserved by the military courts from Attorney General (AG) Mansoor Usman Awan. The apex court said it should be informed regarding the current status of the accused to determine how many can be acquitted.

A six-member bench, led by Justice Aminuddin Khan and including Justice Muhammad Ali

Mazhar, Justice Syed Azhar Hasan Rizvi, Justice Shahid Waheed, Justice Musarrat Hilali, and

Justice Irfan Saadat Khan heard a set of intra-court appeals (ICAs) against its October 23, 2023

unanimous ruling nullifying the military trials of civilians. The court said that the order of

injunction in the case of military courts will be modified according to the summary. During today's

hearing, Justice Aminuddin asked if any of the accused have been accused, or can be. The AGP

replied, “The trials were completed but the verdicts have not yet been announced”. “You said some cases were of acquittal while some accused have completed their sentences,” the judge remarked. The AGP informed that there were some accused whose period of arrest will be considered in the sentence, adding that acquittal decisions could not be made due to the SC’s stay. At this, PTI lawyer Salman Akram Raja stated that there was no stay on acquittals, requesting the court to acquit those who can be. Justice Aminuddin maintained that the accused who can be acquitted should be; the legal battle for the rest can continue. “The real aim is to release those who can be set free,” the judge stated. Later the court issued notices to those willing to be respondents in the case along with other applications filed in it, and adjourned the hearing till March 28.

Additional Advocate General K-P Syed Kausar Ali Shah informed the apex court that the Khyber-Pakhtunkhwa government wished to withdraw the ICA challenging the nullification filed by the caretaker government. Shah presented a resolution passed in the provincial cabinet in this regard. The bench observed that appeals could not be withdrawn on the basis of cabinet resolutions, directing him to initiate the formal process of application withdrawal. On October 23, 2023, a five-judge bench of the SC unanimously declared the trial of civilians in military courts as null and void and ordered that the 103 accused in cases relating to May 9, 2023 violence be tried under ordinary criminal laws. The court through the 4-1 majority also declared certain clauses of the Army Act as

ultra vires the Constitution and of no legal effect. One judge of the bench, reserved his verdict on one para, though siding with the bench on the remaining paras. However, in December 2023, the same court conditionally suspended its prior decision to invalidate military trials for 103 civilians till a final judgment on the matter. The top court stated that the ongoing military trials of the civilians, accused of involvement in attacks on army installations during the unrest following the arrest of former prime minister Imran Khan on May 9, would proceed. The court declared that the final decision of the trial in the military courts would be subject to the final ruling. The majority 5-1 verdict, reached by a six-member bench, stemmed from a series of intra-court appeals, contesting the previous unanimous ruling nullifying the military trials, filed by the caretaker federal government and the provincial governments of Balochistan, Punjab, and Khyber-Pakhtunkhwa.