
SC takes suo motu notice on judges' letter, forms larger bench

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The Supreme Court (SC) took suo motu notice on Monday of the letter written by six IHC judges regarding the interference of intelligence agencies in judicial functions. All judges available in the Islamabad principal registry will hear the petition on Wednesday at 11:30 AM. A seven-judge larger bench led by Chief Justice of Pakistan (CJP) Qazi Faez Isa, comprising Justice Syed Mansoor Ali Shah, Justice Yahya Afridi, Justice Jamal Khan Mandokhel, Justice Athar Minallah, Justice Musarrat Hilali and Justice Naeem Akhtar Afghan will hear the case. It is learnt that being the chairman of the committee, CJP Isa suggested taking the suo motu notice, whereas committee members Justice Syed Mansoor Ali Shah and Justice Munib Akhtar endorsed his suggestion. The move comes days after the federal government appointed former chief justice of Pakistan Tassaduq Hussain Jilani as the head of an inquiry commission tasked with investigating

allegations of intelligence agencies meddling in the affairs of the IHC. The decision to approve the formation of an investigation body and to nominate Jillani as its head was made during a meeting of the federal cabinet chaired by Prime Minister Shehbaz Sharif. On March 27, six judges of the IHC – Justices Mohsin Akhtar Kayani, Tariq Mehmood Jahangiri, Babar Sattar, Sardar Ejaz Ishaq Khan, Arbab Muhammad Tahir and Saman Rafat Imtiaz – penned a letter to the Supreme Judicial Council (SJC), expressing their concerns about the “interference” of the intelligence agencies in the affairs of the court.

Against the backdrop of escalating clamour for inquiry, CJP Isa convened a full court meeting of the top court judges the next day. During a meeting between PM Shehbaz and CJP Isa, on March 28, it was decided to form a commission following the cabinet’s approval to probe into the concerns raised by the IHC judges. The federal cabinet meeting on March 30 discussed the IHC judges’ allegations and finalized the Terms of Reference (TORs) for the inquiry commission. According to the TORs, the commission will thoroughly investigate the allegations levelled in the letter written by the IHC judges and determine whether they are true. It will also probe whether any official was directly involved in the alleged judicial interference. However, CJP Isa unequivocally conveyed to Prime Minister Shehbaz Sharif that any interference by the executive in the affairs and judicial workings of judges would not be tolerated. He emphasized that under no circumstances would

there be any compromise on the independence of the judiciary. The chief justice and the senior puisne judge, Justice Syed Mansoor Ali Shah, told PM Shehbaz that the independence of the judiciary was the foundational pillar that “upholds the rule of law and a strong democracy”.

Shehbaz, accompanied by Law Minister Azam Nazeer Tarar and Attorney General for Pakistan (AGP) Mansoor Awan, visited the Supreme Court on the desire of Chief Justice Isa to address the issue raised by the letter from the IHC judges. The meeting lasted for approximately one and a half hours. During the discussion, it was proposed to establish an inquiry commission under the Pakistan Commissions of Inquiry Act, 2017, to be led by a retired judge of impeccable integrity to investigate the matter. Shehbaz pledged that a federal cabinet meeting would be convened to seek approval for the formation of the inquiry commission. six IHC judges reached out to the Supreme Judicial Council (SJC) seeking clarity on the alleged intrusion of executive members, including intelligence operatives, in judicial matters. “We, therefore, request that a judicial convention be called to consider the matter of interference of intelligence operatives with judicial functions and/or intimidation of judges in a manner that undermines the independence of the judiciary.”

The open letter, a copy which has been sent to all SC judges, notes that such a convention might provide further information as to whether judges of other high courts have had experiences similar. “Such institutional consultation might then assist the Supreme Court to consider how best

to protect independence of the judiciary, put in place a mechanism to affix liability for those who undermine such independence and clarify for the benefit of individual judges the course of action they must take when they find themselves at the receiving end of interference and/or intimidation by members of the executive.”

The move comes just days after the recent ruling by the apex court, which deemed the removal of former IHC Justice Shaukat Aziz Siddiqui as illegal, decreeing his status as that of a retired judge.

The verdict highlighted the SJC’s approach towards Justice Siddiqui’s case, indicating that the council had proceeded under the assumption that the veracity of the allegations raised by the former judge was irrelevant. Furthermore, it pointed out that Justice Siddiqui had purportedly failed to substantiate or independently corroborate the allegations. In their letter to the SJC, the IHC judges underscored the absence of clear guidelines within the council’s prescribed code of conduct for judges regarding the appropriate response to incidents that encroach upon judicial independence.