

**IN THE SUPREME COURT OF PAKISTAN**  
(Original Jurisdiction)

**PRESENT:** Mr. Justice Qazi Faez Isa, CJ  
Mr. Justice Sardar Tariq Masood  
Mr. Justice Ijaz ul Ahsan  
Mr. Justice Syed Mansoor Ali Shah  
Mr. Justice Munib Akhtar  
Mr. Justice Yahya Afridi  
Mr. Justice Amin-ud-Din Khan  
Mr. Justice Sayyed Mazahar Ali Akbar Naqvi  
Mr. Justice Jamal Khan Mandokhail  
Mr. Justice Muhammad Ali Mazhar  
Mrs. Justice Ayesha A. Malik  
Mr. Justice Athar Minallah  
Mr. Justice Syed Hasan Azhar Rizvi  
Mr. Justice Shahid Waheed  
Ms. Justice Musarrat Hilali

**Constitution Petitions No. 6 to 8, 10 to 12, 18 to 20 and 33/2023**  
*[Challenging the vires of the Supreme Court (Practice and Procedure) Act, 2023]*

|                                      |                        |
|--------------------------------------|------------------------|
| Raja Amer Khan and another           | (in Const. P. 6/2023)  |
| Chaudhry Ghulam Hussain and another. | (in Const. P. 7/2023)  |
| Muhammad Shafay Munir                | (in Const. P. 8/2023)  |
| Zaman Khan Vardag                    | (in Const. P. 10/2023) |
| Ghulam Mohiuddin                     | (in Const. P. 11/2023) |
| Muhammad Azhar Siddique              | (in Const. P. 12/2023) |
| Muhammad Shahid Rana                 | (in Const. P. 18/2023) |
| Mudassar Hassan Jura                 | (in Const. P. 19/2023) |
| Niazullah Khan Niazi                 | (in Const. P. 20/2023) |
| Umar Sadiq                           | (in Const. P. 33/2023) |
|                                      | ... Petitioners        |

**Versus**

|                                                                                                                            |                 |
|----------------------------------------------------------------------------------------------------------------------------|-----------------|
| Federation of Pakistan through the Secretary,<br>Law and Justice Division, Ministry of Law and<br>Justice, Islamabad, etc. | (in all cases)  |
|                                                                                                                            | ... Respondents |

|                               |                                                                                               |
|-------------------------------|-----------------------------------------------------------------------------------------------|
| For the Petitioners:          |                                                                                               |
| (in Const. P. 6/2023):        | Mr. Imtiaz Rashid Siddiqui, ASC<br>Mr. Tariq Aziz, AOR                                        |
| (in Const. Ps. 6, 7 & 12/23): | Khwaja Tariq A. Rahim, Sr. ASC<br>Assisted by Mr. Hashim, Mr. Hissam<br>Mr. Sabeel, Advocates |
| (in Const. P. 8/2023):        | Mr. Muhammad Hussain Choutya, ASC<br>Mrs. Kausar Iqbal Bhatti, AOR.                           |

|                                                |                                                                                                                                                                                                                    |
|------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| (in Const. P. 10 / 2023):                      | In-person                                                                                                                                                                                                          |
| (in Const. P. 11 / 2023):                      | In-person                                                                                                                                                                                                          |
| (in Const. P. 18 / 2023):                      | In-person                                                                                                                                                                                                          |
| (in Const. P. 19 / 2023):                      | Mr. Hassan Irfan Khan, ASC<br>assisted by Mr. Saqib Asghar, Advocate                                                                                                                                               |
| (in Const. P. 20 / 2023):                      | Mr. Muhammad Ikram Ch., Sr. ASC<br>assisted by Messrs Sohail Akhtar, Najmul<br>Hassan and Malik Haroon, Advocates                                                                                                  |
| (in Const. P. 33 / 2023):                      | Dr. Adnan Khan, ASC                                                                                                                                                                                                |
| <u>On Court Notice:</u><br>For the Federation: | Mr. Mansoor Usman Awan,<br>Attorney-General for Pakistan<br>Ch. Aamir Rehman, Addl. AGP<br>Assisted by Ms. Maryam A. Abbasi, Consultant.<br>Maryam Rashid, Adv.<br>Ahmed-ur-Rehman, Adv.<br>Saad Javid Satti, Adv. |
| For PML (N):                                   | Mr. Salahuddin Ahmed, ASC                                                                                                                                                                                          |
| For PPPP:                                      | Nemo                                                                                                                                                                                                               |
| For PTI:                                       | Mr. Uzair Karamat Bhandari, ASC<br>Assisted by Mr. Ali Uzair Bhandari, Adv.<br>Mr. Awais Asif Ali, Adv.                                                                                                            |
| For PML(Q):                                    | Mr. Zahid F. Ibrahim, ASC                                                                                                                                                                                          |
| For JUI(P):                                    | Mr. Kamran Murtaza, Sr. ASC                                                                                                                                                                                        |
| For Jumat-e-Islami:                            | Mr. Ghulam Mohyuddin Malik, ASC<br>a/w Mr. Saifullah Gondal, Member<br>Central Legal Committee, Jumat-e-Islami.                                                                                                    |
| For MQM:                                       | Mr. Faisal Siddiqui, ASC<br>Mr. M. Usman Mumtaz, Adv.<br>Ms. Sheza Ahmed, Adv.                                                                                                                                     |
| For SCBAP:                                     | Mr. Abid S. Zuberi, ASC<br>Mr. Muqtadir Akhtar Shabbir, ASC.<br>Malik Shakeel-ur-Rehman, ASC<br>Ms. Bushra Qamar, ASC.<br>assisted by Ms. Amna Khalili, Adv.                                                       |
| For PBC:                                       | Mr. Haroon-ur-Rasheed, ASC.<br>Mr. Hassan Raza Pasha, ASC.<br>Syed Rifaqat Hussain Shah, AOR.                                                                                                                      |
| Date of Hearing:                               | 11.10.2023                                                                                                                                                                                                         |

## ORDER

The Attorney-General for Pakistan has concluded his submissions in support of the constitutionality of the Supreme Court (Practice and Procedure) Act, 2023 (**'the Act'**). Learned Mr. Hassan Irfan Khan for the petitioner in Constitution Petition No. 19/2023, learned Mr. Muhammad Ikram Ch. for the petitioner in Constitution Petition No. 20/2023 and learned Mr. Abid S. Zuberi, President of the Supreme Court Bar Association (**'SCBA'**) exercised their right of reply and were heard.

2. These petitions were heard by the Full Court on 18 September, 3, 9, 10 October 2023 and are today disposed of in terms of the Order of the Court.

Chief Justice

Judge

Judge

Judge

Judge

Judge

Judge

Judge

Judge

Judge

Judge

Judge

Judge

Judge

Judge

Islamabad:  
11 October 2023.  
(M. Tauseef)

ORDER OF THE COURT

For reasons to be recorded later these petitions are decided as under:

1. Subject to paras 2 and 3 below, by a majority of 10 to 5 (Justice Ijaz ul Ahsan, Justice Munib Akhtar, Justice Sayyed Mazahar Ali Akbar Naqvi, Justice Ayesha A. Malik and Justice Shahid Waheed dissenting) the Supreme Court (Practice and Procedure) Act, 2023 (**‘the Act’**) is sustained as being in accordance with the Constitution of the Islamic Republic of Pakistan (**‘the Constitution’**) and to this extent the petitions are dismissed.
2. By a majority of 9 to 6 (Justice Ijaz ul Ahsan, Justice Munib Akhtar, Justice Yahya Afridi, Justice Sayyed Mazahar Ali Akbar Naqvi, Justice Ayesha A. Malik and Justice Shahid Waheed dissenting) sub-section (1) of section 5 of the Act (granting a right of appeal prospectively) is declared to be in accordance with the Constitution and to this extent the petitions are dismissed.
3. By a majority of 8 to 7 (Chief Justice Qazi Faez Isa, Justice Sardar Tariq Masood, Justice Syed Mansoor Ali Shah, Justice Amin-ud-Din Khan, Justice Jamal Khan Mandokhail, Justice Athar Minallah and Justice Musarrat Hilali dissenting) sub-section (2) of section 5 of the Act (granting a right of appeal retrospectively) is declared to be *ultra vires* the Constitution and to this extent the petitions are allowed.

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|       | Chief Justice |
| Judge |               |
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