

## Scenario 75

### **HAJJ CORRUPTION CASE 2010-11:**

In mid 2010, a **letter from HE Prince Bander Bin Khalid Bin Abdul Aziz al-Saud** was received by the Supreme Court of Pakistan Court alleging corruption and embezzlement in Hajj arrangements on the part of the officials responsible in hiring accommodation for the *Hujjaj* in regard to the buildings which were situated distantly from the *Haram* (Khana Ka'aba) on exorbitant rates in place of buildings available on much less rent which were nearer & closer to the *Haram*. Giving importance to this letter, the **SC on 29<sup>th</sup> October 2010 ordered** the Secretaries of Religious Affairs and Foreign Affairs to submit their comments.

Earlier, a Committee of the Parliamentarians comprising of Maulana Muhammad Qasim MNA, Chairman Standing Committee for Religious Affairs (National Assembly), Syed Muhammad Saleh Shah Senator, Chairman Standing Committee for Religious Affairs (Senate), Pirzada Syed Imran Ahmad Shah MNA, Mr Bilal Yaasin MNA and Dr Khalid Soomro was sent by the Prime Minister to Saudi Arabia so as to observe the Hajj arrangements.

**On 1<sup>st</sup> September 2010**, the said Committee reported to the Prime Minister Yousaf Raza Gilani that corruption and malpractices were committed by the officials of the Ministry of Religious Affairs in the Hajj arrangements in the hiring of buildings for the *Hujjaj*. A copy of that Committee Report was also sent to the Chief Justice of Pakistan.

The Parliamentarian Committee Report had further stated that the allegations of corruption were correct, because excessive rent was charged from the pilgrims for providing them cheap accommodation located at a distance of more than 3 KM from the *Haram* ostensibly at the high rate of SR:3600. This issue then became the hot cake for top print and electronic media, not only in Pakistan but abroad also.

A leading English daily '**Dawn**' dated **7<sup>th</sup> November 2010** published the facts through an article titled '**Hajj Accommodation Scam**' wherein a Senator demanded a 'House Committee' to probe into the allegations contained in the letter of the Saudi Prince, addressed to the Chief Justice.

The daily '**Nawa e Waqt**' dated **10<sup>th</sup> November 2010** published a report on '**Hajj Corruption**' alleging that the former DG Hajj Rao Shakeel Ahmed was appointed to the office in violation of the rules. The said DG had a tainted past with corruption cases pending against him in the Accountability Court Lahore.

During the Hajj, some of the *Hujjaj* had also submitted complaints to **Justice Khalil ur Rehman Ramday** who later forwarded the same to the CJP with the following remarks:

*"A large number of persons came to me in Makkah Mukarramah and even in Mina complaining of grave mismanagement in the Hajj arrangements regarding the buildings hired in Makkah and Madina and the accommodation in Mina. The stories narrated were pathetic. Complaints were made even in writing.*

*I appear to have misplaced those written complaints, but two of them are available with me, which I am placing before you for such action as may be deemed appropriate to eliminate the sufferings of thousands of Hajjis who collect pennies all their lives*

*to perform Hajj and this is how the money earned by them through their blood and sweat is wasted."*

**On 22<sup>nd</sup> November 2010**, the BBC termed it the '**country's biggest Hajj pilgrimage fraud**'. BBC further commented that:

*'The housing provided to pilgrims was said to lack basic facilities, such as running water, proper sanitation and electricity; in some cases the buildings were still under construction.*

*Each pilgrim was charged about Rs:230,000 (£1,700) by the government for transport and accommodation in Saudi Arabia during the Hajj. It takes a long time for most ordinary Pakistani Muslims to save up that much money.'*

Federal Minister Incharge, Hamid Saeed Kazmi, was banned to speak to the media, the BBC held. About 25,000 Pakistanis used the government service this year, bringing in around Rs:5.8bn in revenue.

### **SC STARTS JUDICIAL PROCEEDINGS:**

**On 2<sup>nd</sup> December 2010** the CJP Iftikhar Chaudhry ordered to hear the matter on the judicial side.

**On 8<sup>th</sup> December 2010**, the Supreme Court started hearing petitions of the Hajj corruption case. On the first day Federal Minister of Science and Technology, Azam Khan Swati delivered a statement against the PPP government and told the court that he had earlier warned the prime minister about the ongoing Hajj corruption in a cabinet meeting and that the Federal Minister of Religious Affairs, Hamid Saeed Kazmi was the king-pin.

Sitting on the bench, Justice Javed Iqbal was much disturbed over '**corruption in Hajj affairs**' saying that he hadn't seen corruption like this in his 28 years of professional life.

On the same day [of 8<sup>th</sup> December 2010] Raja Aftab, Joint Secretary Religious Affairs was arrested by FIA officials and taken to the 'drawing room' for further investigations. Earlier, the former Director General Hajj, Rao Shakeel was picked up in the first phase of investigations. JS Raja Aftab ul Islam had hired the residential buildings for the Hajj pilgrims, which were virtually inaccessible from the Haram. Subsequently the Pakistani pilgrims had to suffer on that count. In Mina, the tents provided to the pilgrims, lacked basic utilities as well.

*[Earlier, **on 14<sup>th</sup> December 2010**, Allama Kazmi was sacked from the Federal Minister's slot. The other Federal Minister named Azam Swati, who in fact was the complainant in that corruption case, was also discharged from his portfolio; it was done so by PM Gilani to teach the other coalition ministers '**not to fight mutually and not to point out corruption of their fellow members of the cabinet**']*

**On 19<sup>th</sup> December 2010**, FIA arrested the brother-in-law of Hamid Saeed Kazmi, for his alleged involvement in the Hajj scam. Abdullah Mahmood Khokhar was arrested from his residence in Lahore and subsequently transferred to FIA HQ Islamabad. Mr Khokhar was facing charges of getting money from travel agents as commission in the name of Mr Kazmi, the former & fired off Federal Minister.

More revelations relating to the Hajj fiasco surfaced when the Senate Standing Committee on Religious Affairs was informed that the government had charged pilgrims an extra Rs:153

million in the name of 'royalty' to be paid to two airlines. Each of the 85,000 pilgrims under the government scheme paid \$20 [*around Rs:1,800*] above the original cost.

Former Secretary Religious Affairs Agha Sarwar Qazilbash informed the committee that the money had gone to the PIA and the Saudi Airlines which were primarily responsible for transporting Pakistani pilgrims to Saudi Arabia. Under an agreement between the airlines, each of them had a 50% share in the pilgrimage to Jeddah and back.

In the event of one airline failing to fly its allotted quota of pilgrims, the other would be paid an additional \$20 per pilgrim to do the job. Instead of penalising the failing airline, how come poor pilgrims were asked to foot the additional bill; an issue was raised in the Senate. The practice had been there since several years, the Senate was told but with no figures that how much average used to be paid in the previous years.

**On 10<sup>th</sup> February 2011**, the government conceded in the SC that officials in the Pakistani Hajj Directorate had approached operators in Saudi Arabia with a plan to rip off intending pilgrims. FIA's Additional Director General (ADG) Syed Javaid Ali told a seven-judge bench of the SC that:

*'People related to Hajj operations in the kingdom have admitted that officials of the Pakistan Hajj operations requested them to overcharge pilgrims for a price, but they were not willing to give the statement in writing because the Saudi government would not allow them.'*

One Zain Sukhera was named as 'go in between' too, who was extensively known as PM Gilani's family friend; the media had found exclusive pictures of Sukhera taken with President Zardari and PM Gilani & his daughter etc. Mr Sukhera was appointed as a consultant in the ministry of Information Technology through PM's approval in January 2010.

Mr Sukhera was alleged [by an MNA Imran Shah] of passing over the money to the PM's son Ali Qadir Gilani, after getting it from the former DG Hajj Rao Shakil (who was under custody then). Meanwhile Ali Qadir Gilani told the media that he had done nothing wrong.

The matter of issuance of the diplomatic passports to Rao Shakil and his wife had also come under investigation, although both were included in the Exit Control List (ECL) in 2009. No clue surfaced ever that who had recommended for this favour and why; whether the illegal favour of having that facility had been used ever or not.

Mr Khushnood Akhtar Lashari, the then Secretary Establishment, placed [before the SC] summary of the appointment of Rao Shakeel Ahmed as DG Hajj wherein his name was considered along with two other officers by a Departmental Selection Committee [DSC] for the said appointment.

Astonishingly, it was categorically mentioned in the summary that two NAB cases were pending against Rao Shakeel Ahmed. However, the PM Gilani approved him to be appointed as Director General Hajj, Jeddah.

*[Rao Shakeel had been facing criminal proceedings in Reference No: 76 of 2007 pending adjudication before the Accountability Court No. II, Lahore wherein evidence of 18 out of 32 witnesses was recorded.*

*The SC was further informed that investigation in a NAB case on the charge of 'assets beyond known sources of income' was pending against him since 2004.*

*Interestingly his name was appearing on the ECL at the time when he was selected out of a panel of three persons as DG Hajj. **Rao Shakeel himself had applied to Federal Minister for Interior Rehman Malik for deletion of his name from the ECL; and that on an SMS message by the Interior Minister, his name was removed from the ECL though cases were pending against him before the Accountability Court Lahore & NAB.***

On the same day of **10<sup>th</sup> February 2011**, following more facts were revealed before the Supreme Court:

- *FIA's Director Legal Azam Khan told the apex court that the Federal Minister for Religious Affairs, Hamid Saeed Kazmi, operated one bank account with a balance amount of Rs:180,000 but he also operated other bank accounts, one with over Rs: 10 million deposit and another with £60,000 [UK currency].*
- *The FIA was also investigating the transfer of 66 kanals [one kanal comes equivalent to 1/8<sup>th</sup> acre] of land in his name during the same Hajj days.*
- *The FIA's ADG pointed out that Zain Sukhera [another accused and a friend of the prime minister's son Ali Qadir Gilani] had an LLM degree but he was appointed an information technology expert by former IT Secretary Najibullah, of course, on the direct instructions of the sitting PM.*
- *The issue of import of a bullet-proof armoured vehicle for Ali Qadir Gilani also surfaced during the proceedings; not declared from which source; was he entitled for a custome free vehicle of that type.*
- *All Pakistan Travel Agents told the court that the Minister Mr Kazmi was involved in overcharging pilgrims by over Rs:2 billion.*
- *Secretary Religious Affairs Shaukat Durrani told that only 1,142 of the 26,658 affected pilgrims were yet to be reimbursed 700 riyals per head [as per instructions of the SC] and 728 others would be paid 250 riyals given by the Saudi government.*

**On 14<sup>th</sup> March 2011**, Special Judge Central (SJC) Sohail Nasir rejected the bail of former Federal Minister Hamid Saeed Kazmi and a dejected looking scholar was immediately arrested by the FIA officers from the courtroom. Though the FIA had registered a case against him for corruption during the Hajj season of 2010 but the former minister was on interim bail since then.

During the bail confirmation hearing, the accused minister told the court that he was not nominated in the FIR and the two main accused of this corruption case had already recorded their statements in the court, in the light of which he was totally innocent. After becoming a member of the National Assembly, transaction in his bank account was made only twice; those amounts belonged to his relatives, he had urged before the court.

Khurram Latif Khosa, the lawyer of ex-Federal Minister Kazmi, argued that the FIA should have arrested Ahmed Faiz, the main accused in the case, who was absconding. However, AD (Legal) of the FIA, deposed before the court that the Government of Pakistan had to suffer a loss of Rs: 200 million due to the mismanagement of Hamid Saeed Kazmi in his capacity of in-charge federal minister.

*[The Ministry of Religious Affairs had appointed Ahmed Faiz as the 'Building Supervisor in Jeddah on 7<sup>th</sup> March 2010, who hired 11 buildings there.]*

The apex court knew that the former federal minister was getting Rs: 95,000 per month as salary, including all allowances, but his transactions from bank accounts were out of proportion. Record was there to prove that Allama Kazmi had:

- On 18<sup>th</sup> April 2009, made a transaction of Rs:1,000,000 in Muslim Commercial Bank (MCB), Nishtar Chowk, Multan;
- On 6<sup>th</sup> November 2009 transacted Rs:500,000;

- On 5<sup>th</sup> January 2010 he made a transaction of Rs:380,000
- On 5<sup>th</sup> August 2010 he made another transaction of Rs:500,000
- On 21<sup>st</sup> March 2009 he made a transaction of £9,008 and
- On 28<sup>th</sup> August 2009 transacted £7,000.

Till then more investigations were in hand and so the bail was cancelled despite that son of the Attorney General of Pakistan and later the Governor Punjab [Lateef Khosa] was contesting his case.

During the 3<sup>rd</sup> week of April 2011, the government of Saudi Arabia gave Rs:30 million to the Ministry of Religious Affairs & FIA in compensation for the hardships Pakistani pilgrims faced during previous year's Hajj.

Interestingly, the Saudi government's 'compensation money' was to be paid by the parliamentarians and journalists who had performed Hajj free of cost; perhaps the Federal Interior Minister Rehman Malik had requested the Saudi government for that. Earlier, Malik Riaz of Bahria Town, and former Deputy Speaker National Assembly Haji Nawaz Khokar had deposited Rs:3.3 million and Rs:2.2 million in the government exchequer respectively.

**On 22<sup>nd</sup> April 2011**, a six-member bench of the SC lead by the CJP Iftikhar M Chaudhry heard that Hajj corruption case and termed FIA's investigation report unsatisfactory saying that the evidence gathered was being wasted. The apex court was told that the owner of Bahria Town Malik Riaz, the private secretary of the Federal Interior Minister Raja Javed, the former joint secretary of the Ministry of Religious Affairs and former DG Hajj Rao Shakeel and Sultan Shar were involved in the Hajj corruption.

### **JUDICIARY vs EXECUTIVE ROW AGAIN:**

The FIA's investigations and the apex court's proceedings were going on at normal pace. The PM Gilani's government, off course, was feeling much pressure from inside and also that his elder son was being named, connected and dragged into the scam. Suddenly, the investigation team was changed in the FIA; the main Investigation Officer Hussain Asghar was sent to Gilgit as IGP on the pretext of his career requirement. The SC got its concerns registered at once.

**On 6<sup>th</sup> May 2011**, the government informed the Supreme Court about quashing the transfers of FIA investigators who were handling the task of probing into Hajj corruption case, reinstating them back to their original positions. The FIA boss had told the apex court that the senior officers deputed to investigate the said case had, at their own, requested him in writing to take away the Hajj Case from them.

Senior Advocate Hafeez Pirzada submitted before a 4-member special bench headed by the Chief Justice Iftikhar M Chaudhry that a summary for notifying the repatriation of Javed Bukhari and Hussain Asgher to their previous positions had been sent to the PM Mr Gilani. The chief justice remarked that the government suffered a loss of Rs:460 million because of this corruption plus a stigma of corruption in *Hajj* affairs. '*The money belongs to the nation and it would be recovered at any cost,*' the chief justice had reiterated.

DG FIA Malik Iqbal was ordered to submit the record of applications of Hussain Ashger and Syed Javaid in which they had requested to detach them from the case, adding that if there were no such applications, why did he make this false statement before the apex court that they had requested the transfer themselves.

In Para 32 of its judgment, the SC observed that Mr Hussain Asghar was already working as Director in the FIA and in fact it was DG FIA, who assigned him investigation of the case ..... Malik M Iqbal, DG FIA, admitted his omission..... See the details:

*'Hussain Asghar appeared and placed before the Court notification of his transfer to Gilgit-Baltistan as Inspector General of Police (IGP), therefore, explanation of Malik M Iqbal, DG FIA was sought. The SC observed that instead of ensuring to accelerate progress of the investigation in the right direction, the new DG FIA, Malik Iqbal, started hampering the investigation after taking over the charge and things had come to a stand still.*

*DG FIA was called upon to explain as to why in the mid of the investigation he relieved Hussain Asghar without bringing into the notice of this Court. The DG FIA had no objection if Hussain Asghar was re-posted to complete investigation and in this regard Malik Iqbal had sent a letter to the competent authority but got no response.*

*On 10<sup>th</sup> June 2011, the then Secretary Establishment and DG FIA both appeared in Court and sought time to enable them to approach the competent authority. The SC passed an order angrily because gimmicks were being played to block the investigation.*

*It was noted by the apex court that DG FIA Malik Iqbal had dishonestly gave the spare-ability report knowing well about Hussain Asghar's engagement.*

*Secretary Establishment obeyed the judicial order and issued the required Notification on 26<sup>th</sup> July 2011 for re-posting of Hussain Asghar back in FIA, but another big hindrance, the Chief Minister Gilgit-Baltistan had declined to relieve his IGP Hussain Asghar without provision of replacement.*

*However, DG FIA gave an assurance to the apex court that as and when Hussain Asghar reported for duty in FIA, the investigation of Hajj Scam cases would be handed over to him and the investigation team, already working with him, would be re-attached with the officer.*

*On the same day of 26<sup>th</sup> July 2011, Sohail Ahmed, the Secretary Establishment, who issued notification of transfer of Hussain Asghar in compliance with SC's orders, was made OSD an hour later.'*

DG FIA Malik Iqbal had also requested the court for more time to seek the prime minister's directions in this regard; **he got the time but suddenly opted to proceed on retirement.**

[However, the irony of fate was that Hussain Asghar never reported back to FIA; the gimmicks between Establishment Division, FIA, SC and CM Gilgit played its role. At last, the SC, **on 28<sup>th</sup> June 2012**, ordered the federal government to suspend IG Gilgit-Baltistan Police Hussain Asghar for not reporting back to the FIA HQ.

A 3-member bench headed by the Chief Justice Iftikhar M Chaudhry and comprising Justice Jawwad S Khawaja and Justice Khilji Arif Hussain was continuing with the said Hajj Case instead of 6-members in chairs.

Attorney General Irfan Qadir, during an earlier hearing, had informed the apex court that the federal government had issued a notification regarding cancellation of Hussain's transfer orders as IGP Gilgit-Baltistan and he was directed to report back to FIA HQ immediately but the officer did not come back despite being summoned several times.]

### **SC'S LANDMARK OBSERVATION AGAIN:**

On 27<sup>th</sup> July 2011, the SC had taken notice of government's decision of making Sohail Ahmad [Secretary Establishment] an OSD after he issued a notification for placing Hussain Asghar to join back the FIA. The Secretary Establishment had issued the said notification in compliance with SC's order dated 25-26<sup>th</sup> July 2011. The apex court asked the Attorney General (AG) to meet the PM in person to convey the Court's concern. The AG was asked to ensure that notification of making Sohail Ahmed as OSD should be withdrawn. The CJP had observed that:

*'There is no doubt that transfers and postings fall in the domain of the executive, but the executive should use these powers judiciously. If any authority makes a departure from any of its provisions, it is likely to lead to chaos in the country, which may lead to serious consequences.*

*'The court cannot leave such officers at the mercy of the executive to deal with them in a manner they like. Once a judicial order is passed, it has a binding effect on the executive as well as judicial functionaries in terms of Articles 5 & 190 of the constitution.'*

There had been harsh row between the Judiciary & the Executive over this issue. Certain law experts had taken it as un-necessary step on the part of SC as the judiciary had no authority to make investigation teams of their choice whatever be the circumstances. The judiciary should be sternly concerned with the outcome & results based on facts nothing beyond. That was why Sohail Ahmed's help by the SC could not bring any fruit except more frustration for all.

The apex court was right to point out that **'the executive should also use his powers and prerogatives judiciously'**. In Para 38, the judgment said that *'the discretionary powers vesting in an authority are to be exercised judiciously and in reasonable manner. In the case of Tariq Aziz-ud-Din: in re (2010 SCMR 1301), it has been held that the authorities cannot be allowed to exercise discretion at their whims, sweet will or in an arbitrary manner; rather they are bound to act fairly, evenly and justly.'*

An FIR no: 3/11 dated 17<sup>th</sup> March 2011 was also registered against Joint Secretary S M Tahir of Ministry of Religious Affairs under sections 409/420/467/468/471/109 PPC r/w 5 (2) 1947 PCA [Anti-corruption Act]. S M Tahir was member of the selection committee who had appointed Rao Shakeel as Director General (DG) Hajj and certain irregularities were committed during the appointment procedure.

One FIA official informed the court about the statements of two Additional Secretaries and other officers accusing Ismail Qureshi of suppressing the information that Rao Shakeel did not deserve to become DG Hajj because he had tampered with his age column in the unsigned curriculum vitae and was involved in two corruption cases; one in the AC Court and other being investigated by the National Accountability Bureau (NAB).

The court noted that the additional secretary, who had prepared the working paper for the Special Selection Board [SSB] that approved the appointment, had not mentioned the two disqualifications. Joint Secretary Mr Tahir stated that Secretary Ismail Qureshi had asked him not to bring the information to the notice of the SSB.

Ahmed Faiz, another main accused in the Hajj scandal [*the middleman for hiring accommodation in Saudi Arabia but was living there illegally after his visa had expired*] was working on directions of S M Tahir and Minister Hamid Saeed Kazmi. S M Tahir had denied any contact with Ahmed Faiz but the investigators presented phone-calls record that showed frequent contacts made to Faiz from Tahir's mobile.

Ahmed Faiz was on the official roll of Directorate of Hajj and Rao Shakil had told the apex court on its first hearing [on 8<sup>th</sup> December 2010] that *'he dismissed an officer Ahmed Faiz upon corruption charges.'*

The FIA had checked 21 banking records of six persons including S M Tahir, Former Minister Hamid Saeed Kazmi, Shagufta Jumani, Secretary Religious Affairs Agha Qazilbash, Rao Shakeel's brothers in law Nadeem Khan, M Aleem Khan and M Waseem Khan.

### **JUSTICE SIDDIQUI'S INJUSTICE:**

From the bank accounts record it was revealed that there were millions of rupees transferred during year 2009-2010 to the account of S M Tahir. The FIA arrested Tahir on 6<sup>th</sup> October 2011 from the court premises when Special Judge Central (SJC) Sohail Nasir had rejected his bail and after routine investigations, he was sent to judicial lockup four days later.

However, on **30<sup>th</sup> March 2012**, Justice Shaukat Aziz Siddiqui of the Islamabad High Court (IHC) quashed that FIR registered by the FIA against S M Tahir though there was ample evidence on the file, including details of huge transactions of money into his accounts; obviously unjustified.

There were allegations against S M Tahir including distortion of facts in appointing DG Hajj Rao Shakeel, frequent contacts on phone with other major accused Ahmed Faiz, illegal transactions of ill-gotten money shares into his bank and lot more ***BUT EVEN THEN JUSTICE SHAUKAT AZIZ SIDDIQUI OF IHC issued the 'quash' orders.*** FIA people termed this decision as unjustified, calling Justice Siddiqui as a ***'friend of friends'*** because, the FIA maintained, the offence was very much there and quite a serious one. One cannot hold tongue of the general public - especially of a bad policeman. Also available on FIA's files that:

*'In 1995, two HMRC officers from UK visited FIA (HQ). They had come to Pakistan to trace high value stolen Mitsubishi Shogun Jeeps, taken out fraudulently from UK, on forged ownership & insurance documents and were plying frequently in Mirpur District of Azad Kashmir.*

*Those officers had traced some of them and told the FIA; FIA team recovered them, and most of the keepers admitted their guilt. They handed over the jeeps to FIA which were in turn to be given to those British Officers after legal formalities. Cases were registered against those keepers; jeeps were impounded in FIA yard.*

*Two of the keepers were 'friends' of Justice Nawaz Abbassi [then used to be in Lahore High Court at Rawalpindi Bench, subsequently elevated to the SC from where he was sent home in 2009 being a PCO judge with CJP Dogar], they approached him. Justice Nawaz Abbassi called the FIA people with record next day. FIRs were placed before the court along with forged documents.*

*Justice Abbassi smiled for a while and quashed the FIRs; FIA was not given any reason then. **The British Officers 'gathered a nice impression of Pakistan's higher judiciary' and went back to UK in the same day flight.'***

### **SC'S VERDICT – MONEY GIVEN BACK:**

The **judgment on 'HAJJ SCAM' dated 29<sup>th</sup> July 2011** authored by the Chief Justice Iftikhar M Chaudhry contained that the then Minister for Religious Affairs, Hamid Saeed Kazmi was firmly involved in the Hajj Scam. It was a 6-members bench which heard the case and gave unanimous judgment. The other members on the bench were Justice MIAN



SHAKIRULLAH JAN, Justice TARIQ PARVEZ, Justice KHILJI ARIF HUSSAIN, Justice M A SHAHID SIDDIQUI, and Justice AMIR HANI MUSLIM.

The judgment said that Allama Kazmi had appeared before the bench voluntarily along with his counsel. Since it was a high profile case relating to massive corruption, the Members of the Parliament and the Hujjaj also started appearing before the Court during proceedings and joint application signed by 122 Hujjaj was also filed before this Court raising painful voices, highlighting the miseries of the pilgrims.

To ensure above the board accountability of the wrongdoers responsible for massive corruption, the DG FIA was asked *'to appoint some senior officer in order to see that investigation is carried out transparently, in accordance with law without caring status of the accused.'*

The judgment observed that the Ministry of Hajj had charged SR:700 from each Haji for providing them suitable accommodation in *Haram & Mina* and admittedly they were not provided accommodation despite collecting the rent from them. Therefore, by Court's order dated 13<sup>th</sup> December 2010, the Secretary Religious Affairs was directed to refund the amount of SR:700 to the said pilgrims and submit certificate to this effect before the court. In pursuance of the aforesaid directions, the Government of Pakistan had reimbursed an amount of Rs:470 million to about 25000 Hujjaj, which amount was charged from them towards rent.

The SC had also declared that Secretary Ministry of Religious Affairs (MORA) was having no control on the affairs of the Directorate General of Hajj, Jeddah. DG Hajj had assumed unchecked authority in all administrative and financial matters. This reflected gross mismanagement and lost control on the part of Secretary MORA.

Hussain Asghar, Director FIA with the rank of DIG Police, was assigned [by the DG FIA] the task to head investigation in the Hajj Scam. He took over the charge and accelerated the investigation by collecting evidence. During the course of investigation, he also visited Saudi Arabia. One of the Federal Ministers [Mr Swati] was supporting the allegation of corruption against the other Federal Minister [Allama Kazmi].

When the investigation was in progress and sufficient incriminating evidence was collected by the FIA team headed by Hussain Asghar, Syed Jawaid Bokhari was posted as ADG FIA, and the officers earlier assigned investigation were disassociated without assigning reason. ADG Bokhari was assigned investigation but he soon disassociated himself [for reasons best known to him]. *The details are given in above paragraphs.*

The SC bench observed that ***'the NAB had done nothing at all in the matter for almost TWO YEARS; who had remained only the silent spectators of this entire drama and had only witnessed the escape of the accused persons to foreign lands.'***

Interestingly, the former Federal Minister Mr Kazmi, declared 'kingpin' for that corrupt practice, was declared guilty by the Supreme Court's 6 member bench headed by the CJP himself. However, ***on 22<sup>nd</sup> May 2012, an FIA team, in its completed investigation report of the said case, found him 'innocent'***, [how the millions of rupees & UK Pounds in his bank accounts were accounted for; from where the same money came during 2009-10 suddenly; where they had gone?].

As per FIA's comprehensive report, the FIA investigators found no evidence against Former Minister Mr Kazmi, whereas Rao Shakeel had hired expensive accommodation for pilgrims and JS Aftab Raja continued endorsing his (Rao's) decisions.

FIA had declared former Director Hajj Rao Shakeel as 'main accused' and former Joint Secretary (Hajj) Aftab ul Islam Raja as 'co-accused'; that was enough in those days. S M Tahir was let off by Justice Siddiqui through quashing an FIR against him. Ali Qadir Gilani was sitting

PM's son and Zain Sukhera was their family friend – they could not be named or touched so FIA went silent about them.

Who bothers about '*such minor things*' in Pakistan?

As per final report, the accused paid 55 percent rents of the 87 acquired buildings in advance, while under the set procedure, it was to be paid at the rate of 15 percent. They hired some under-construction buildings also, which created more difficulties for Pakistani pilgrims in Saudi Arabia.

**On 27<sup>th</sup> August 2012**, Special Central Judge M Ahmad Farooqui of Rawalpindi bench accepted the bail plea of former Federal Minister Hamid Saeed Kazmi in Hajj corruption case and directed the authorities for his immediate release against two surety bonds of Rs:100,000 each. He was arrested on 15<sup>th</sup> March 2011, in the FIA's FIR under Sections 409/420/467/468/471/109 of the Pakistan Penal Code (PPC). The former federal minister had been imprisoned in Adiala Jail Rawalpindi, for about seventeen months.

### ***FIA'S OLD TEAM COMES BACK:***

**On 26<sup>th</sup> September 2012** at last, the Supreme Court ordered for immediate re-instatement and posting in FIA of the suspended police officer Hussain Asghar, who earlier was investigating into the Hajj corruption scandal. The 3-member bench headed by the Chief Justice Iftikhar M Chaudhry was hearing the Hajj corruption scandal case.

It was on the apex court's record that former Gilgit Baltistan IG Hussain Asghar was suspended and a departmental action was underway against him, while a new Gilgit Baltistan IG had been posted. The apex court ordered Establishment Division to at once re-instate Hussain Asghar, post him in FIA and apprise the court about it.

The federal government, however, acted upon SC's orders this time.

**On 25<sup>th</sup> October 2012**, the 2-member bench of the Supreme Court, comprising Chief Justice Iftikhar M Chaudhry and Justice Jawwad S Khawaja, was informed that Saudi nationals were also involved in the said Hajj corruption scandal, therefore, the Saudi government was not willing to help in the investigation of the case. FIA's Hussain Asghar submitted that Saudi authorities had refused to hand over the proclaimed offender, Ahmad Faiz, who was otherwise residing in Saudi Arabia in an illegal way.

The FIA told the bench that majority of the people involved in corruption were Saudis and Ahmed Faiz was working as a middleman. Ahmad Faiz was the only person who knew about the exact amount of the 2010 Hajj corruption embezzled at Saudi's end. A parliamentary delegation led by Khalid Soomro had also visited Saudi Arabia earlier to investigate it.

Irony of fate was that till that day, the investigation into the appointments of Rao Shakeel as DG Hajj and of Zain Sukhera in IT Ministry as Consultant and later's association with Hajj matters in 2009-10 were not finalized by the FIA; a poor performance indeed. FIA's IO, Hussain Asghar, informed the apex court that Prime Minister's Secretariat, Establishment Division and MORA were not cooperating with the agency regarding the said two aspects; the reasons were obvious. Bahauddin Zakariya University Multan was also not providing the details of alleged fake degree of Zain Sukhera.

**On 5<sup>th</sup> November 2012**, FIA summoned Abdul Qadir Gilani son of the former PM Gilani and his friend Zain Sukhera for investigation. The investigations had taken a new start following the restoration of Hussain Asghar as investigation officer [IO] and a new investigation team got constituted to deal with the Hajj scam afresh.

The then Principal Secretary to the PM and the sitting Secretary for Water & Power Nargis Sethi was also called in FIA to record her statement. Details of assets in respect of the persons summoned were also collected. Nargis Sethi was investigated with regard to appointment of DG Hajj while Abdul Qadir Gilani was required to explain his conduct in matters related to Zain Sukhera.

**On 25<sup>th</sup> February 2013**, the Supreme Court (SC) passed orders for the federal law ministry to send legal opinion to the FIA on question of probing into the involvement of former PM Gilani in the Haj corruption case. A 3-member SC bench led by the CJP Iftikhar M Chaudhry was told that evidences from 44 witnesses had been recorded and six witnesses had been left, ***while astonishingly adding that evidence was not available against Hamid Saeed Kazmi.***

The federal interior ministry did not allow the FIA's IO to file an application seeking rejection of Kazmi's bail which was earlier accepted on 27<sup>th</sup> August. Whereas Director (Legal) Azam Khan of the same organization [FIA] exactly maintained his view at 180 angle – saying that there was not enough evidence to get Kazami's bail cancelled. Hussain Asghar told the apex court that Kazmi had influenced the witnesses; therefore, the application was filed to seek cancellation of his bail.

During the discussion on the bail issue of Allama Kazmi, Justice Ejaz Afzal remarked '*if an accused misuses bail, then the Prosecutor General could move the court against him*'. The CJP observed, '*You need not approach the interior ministry in connection with the cancellation of bail*'. The apex court also admonished the federation's counsel for supporting Kazmi while saying that:

*"You are a lawyer for the federation and not for the accused. You should review your attitude. You should oppose the accused but you are defending him. Time does not remain the same always."*

For another accused Ahmed Faiz, the CJP told the FIA's IO to get the accused's passport cancelled [which was already cancelled till then]; if the interior ministry would cooperate in that regard, then the Saudi government would also cooperate. It was mystery that why he was not being arrested.

It has been narrated earlier that the name of DG Hajj Rao Shakil had been removed from the ECL by the Federal Interior Minister Rehman Malik himself after Rao's appointment to that assignment. Rao Shakil had been placed on the ECL again, the apex court was told. He said the former establishment secretary had appointed Rao Shakil despite knowing that his name was on the ECL.

During the course of proceedings, the counsel for Rao Shakeel, the DG Jajj in FIA's custody, once prayed the Islamabad High Court that his client was imprisoned for the last two years so should be released on bail. The IHC, however, rejected the plea for bail **on 8<sup>th</sup> March 2013** because the court was told that trial could not be concluded due to delaying tactics by the accused.

#### **FORMER PM CALLED IN HAJJ DOCKS:**

**On 10<sup>th</sup> April 2013**, the SC summoned the former PM Mr Gilani to appear in person or through his counsel and submit a reply regarding his alleged involvement in this scandal but he refused to come, saying he was enjoying immunity as per constitution. The matter was referred to law ministry but no reply had been received by the apex court till then. FIA's IO Hussain Asghar had earlier told the court that the then PM Gilani was also involved with reference to Zain Sukhera as the former had appointed him as joint secretary and consultant in the PM's House.

A 3-member bench of the apex court, headed by the Chief Justice Iftikhar M Chaudhry, taking notice over the Law Ministry's opinion regarding the immunity of former premier, issued notice to the federal Law Secretary and Attorney General of Pakistan (AGP). The court also sought explanation from the Law Ministry about its legal opinion to the FIA, wherein it had approved Gilani's claim about his immunity under Article 248 of the constitution during the investigation of Hajj scandal, despite knowing that he was not occupying the prime minister's post anymore.

The SC also asked the Law Ministry to explain whether it had given this opinion on its own behalf or on the advice of the prime minister.

The court also directed the caretaker interior minister to consult his counterpart in Saudi Arabia for bringing back a Hajj scam accused, Ahmad Faiz. It also said that they should be told why another accused, former Establishment Secretary Ismael Qureshi had not been called in the said investigation.

**On 20<sup>th</sup> April 2013**, former Establishment Secretary, Ismael Qureshi, when called to join the investigation, who asserted his innocence in a statement made to the FIA saying that PM Gilani had simply ignored his advice against Rao Shakeel's appointment as Director Hajj and putting Zain Sukhaira as Information Technology advisor. [*Sukhaira was allegedly the front man for Abdul Qadir Gilani, the former premier's son*]

Ismael Qureshi was facing serious charges, such as the concealing of facts and making illegal appointments. He affirmed in his written statement that Rao Shakeel was facing a reference for a record tempering case with the NAB's Punjab office; thus his appointment as DG Hajj Affairs was not in line with appropriate rules and procedure. PM Gilani had ignored his written note on the summary and went ahead.

Moreover, Ismael Qureshi held PM Gilani responsible for appointing Sukhaira as the IT ministry's advisor despite his not having the required qualifications.

Contrarily, the other officials of the Establishment Division had given the written statements to the FIA that Ismael Qureshi had concealed essential facts in the summary moved for the appointments of Shakeel and Sukhaira. He had failed to mention that Shakeel was on the Exit Control List; he did not mention that Shakeel was facing trial for record tampering and many more facts.

About bringing back Ahmed Faiz, FIA informed the apex court that the ministries of interior and foreign affairs had written letters to their Saudi counterparts but till then no response from them. Ahmed Faiz was an agent who, on behalf of Pakistani authorities, had arranged buildings in Saudi Arabia. In fact, Saudi police were reluctant to raid the places they had pointed out to them.

**On 21<sup>st</sup> June 2013**; Pakistan's real estate tycoon Malik Riaz appeared before a Special Investigation Unit (SIU) of the FIA in Hajj corruption scam; Hussain Asghar, the director of FIA's SIU questioned Malik Riaz regarding the provision of accommodation to 448 Hujjaj who had performed Hajj on courtesy visas facilitated by the MORA and Interior Minister Rehman Malik during 2009 and 2010.

Malik Riaz, in his written statement said that in 2009 he had made a Rs:1,750,000 payment for air tickets of 200 pilgrims, including 32 employees of Bahria Town, through cheque No: 0191690 dated 4<sup>th</sup> November 2009; similarly, in 2010 he paid for the air tickets of 248 pilgrims including some journalists, and 56 employees of Bahria Town. He also paid Rs:1,69,400 for the air tickets in 2010 through cheque No: 0191720 and Rs:3,200,000 through cheque No: 0191722 to PIA. He said that courtesy visas of Hujjaj in 2009 and 2010 were facilitated by Raja Javed Iqbal, Personal Secretary to Rehman Malik.

Malik Riaz informed the FIA investigators that he later paid Rs:2,552,416 accommodation charges of his 32 employees who travelled for Hajj in 2009 through a cheque No: 0191738

AND Rs:64,40,000 accommodation charges of 56 employees who went for Hajj in 2010 through cheque No: 0191739.

When asked whether he paid the accommodation expenses of his employees following the direction of the SC, he said when he came to know that some amount was due against him he paid the same.

**On 4<sup>th</sup> July 2013**, the SC rejected an application seeking immunity for former PM Mr Gilani; the CJP Iftikhar M Chaudhry was heading the bench.

### **TRANSPARENCY INT'L REPORT [2012] SPEAKS:**

Referring to **Transparency International Pakistan [TIP]'s report** published in all media **on 5<sup>th</sup> February 2012**, Pakistan lost more than Rs:8,500 billion (equivalent to US\$94 billion then), in corruption, tax evasion and bad governance during the four years of Prime Minister Yusuf Raza Gilani's tenure.

The TIP advisor, Adil Gillani, told the media [and believed] that:

*'Pakistan does not need even a single penny from the outside world if it effectively checks the menace of corruption and ensures good governance. During the four years of the PPP regime under Gilani has broken all past records of corruption and Pakistan started rising in the ranks of the most corrupt nations of the world.'*

Adil Gillani explained that the TIP pointed out corruption of Rs:390 billion in 2008, Rs:450 billion in 2009, Rs:825 billion in 2010 and Rs:1,100 billion in 2011 [totaling Rs: 2765 billion] in identified cases, like that of Hajj Corruption Case, NICL Case etc running those days at high peak.

In addition to this, Adil Gilani explained the following:

*'The PPP's Finance Minister himself confirmed corruption in FBR of over Rs:500 billion per year, which makes the total Rs:2,000 billion in four years; Auditor General of Pakistan pointed out Rs:315 billion corruption in 2010; Public Accounts Committee recovered Rs:115 billion in 30 months till 2011; circular debt is Rs:190 million; KESC was given Rs:55 billion illegal benefits per annum since 2008; state-owned enterprises like PSO, PIA, Pakistan Steel, Railways, SSGC, SNGC are eating away Rs:150-300 billion per annum; tax to GDP ratio in 2008 was 11%, which in 2011 has reduced to 9.1% instead of being increased.'*

Adil Gillani further added that *'Pakistan's Gross Domestic Product [GDP] is worth US\$175 billion and the drop of 1.9% in the tax GDP means annual loss of US\$3.3 billion. This confirms that FBR is losing Rs:300 million per annum; thus annual additional loss since 2008 makes Rs:1,200 billion in four years.'*

It was not only the Transparency International but other international bodies including the World Bank and ADB had also been showing their concern over rising trend of corruption in Pakistan under PM Gilani's regime. It was that mounting corruption and extremely bad governance, which even dithered the outside world to offer cash to Pakistan during 2010 and 2011 floods.

Those were the days when corruption became a fashion in such a shameless manner that even the cabinet ministers started openly pointing fingers at each other and even at the highest levels including the prime minister. Some even approached the Supreme Court but

despite all this, corruption remained the hallmark of the PPP regime under Gilani & Zardari, who always defended it in the name of democracy; Hajj Scam & NICL Case are referred in that context.