

Scenario 36

JUDICIARY'S FACE BLACKENED (2001):

No one would feel pleasure while calling back those dark moments of Pakistan's history when country's senior judges, including Chief Justice (CJ) Lahore High Court (LHC) Justice Rashid Aziz and trial Judge Justice Malik Qayyum had worked out a joint plan to slaughter the prevailing judicial norms. These judges of an Islamic country, sworn to uphold the scales of Justice but degraded themselves and humiliated the Judiciary, just to seek pleasure of some stooge politicians.

The judges and the then Federal Cabinet ministers, in an unholy conspiracy, plotted against former Prime Minister Benazir Bhutto and her husband Asif Ali Zardari, who was behind the bars then. They had frozen their owned and allegedly disputed assets through judicial orders drafted not by them but in concerned minister's chambers. Members of the Cabinet included Federal Law Minister Khalid Anwar and Accountability Minister Senator Saifur Rahman. They liaised with the CJ and the trial Judge to politically eliminate the then Leader of Opposition Ms Bhutto while completing 'a sacred' mission given to them by the then Prime Minister Nawaz Sharif. It was done just to 'politically kill' a former PM, his political opponent.

J MALIK QAYYUM'S TRANSCRIPTS:

The judges on the bench took orders from the above mentioned two federal ministers of Law and Accountability respectively — on '***what sentence to give***'. According to the tapes of conversations, which were placed before the bench of the Supreme Court later as evidence, the Chief of *Ehtesab* (Accountability Minister) had told the trial judge J Qayyum how pleased PM Nawaz Sharif would be '***when Ms. Bhutto's inherited properties are confiscated, she is imprisoned for seven (7) years and disqualified from politics***'.

In selling himself to the regime, Justice Malik Qayyum and other Judges disgraced the high judicial echelons they occupied. There were other judges also who were named in those tapes. The transcripts indicated that a race was going on between the three trial-courts before whom Ms Bhutto was forced to stand trial on an investigation described as 'politically driven' by the World's Human Rights Forum [but facts might be otherwise]. At one stage Accountability Minister taunted Justice Malik Qayyum that '***Maulvi, (referring to another Accountability Judge named Ehsan ul Haq of the same LHC) would finish the case before Malik Qayyum's decision.***'

Benazir Bhutto was seemingly right to allege that all the three judges conducting the trials were biased. In one case, Justice Nawaz Abbasi gave an *ex parte* judgment freezing her undisputed assets in 1998 on the request of Saifur Rehman and his team. ***The 'freeze order' was announced by the Cabinet Minister several hours before it was actually signed.*** Forever, the annals of judicial history will be stained by a judgment written before the trial concluded. A judgment dictated by the Prime Minister's office against the PM's main political foe, the leader of opposition in the Parliament.

For aforesaid act of judicial misdeed, Justice Nawaz Abbasi was rewarded with retrospective seniority putting him in line for the coveted position of Chief Justice of LHC.

Another judge, Justice Najm ul Hassan, was also rewarded after he signed the 'historical' conviction order against Ms Bhutto (he was on the bench with Justice Qayyum). From an acting Judge, he was elevated to a full judge. A layman would be astonished to know the details that how Pakistani Judges once became tennis rackets hitting Ms Bhutto from court

room to court room, in city after city and province after province, in a bid to become the first to 'convict' her and reap the bitter harvest of sweet favours from the ruling regime. Shameful it was.

*[Ms Bhutto's judgment was signed on **14th day of April 1999**; sentenced on the charge of influencing a Swiss pre-shipment contract to benefit her husband; Senator Zardari. She denied the charge claiming she was a victim of political enmity {though another debateable issue}. The written order convicting Ms Bhutto & Mr Zardari had already been read before some media men by the Ehtesab Minister on 14th but in the court-room it was announced on **15th April 1999**. The PPP then charged that the order was pre-written but the judge claimed that it was a typing error.]*

It is interesting to note that Generals and Judges have never been tried in Pakistan. Under the provisions of the Army Act, all members of armed, air and naval forces are exempt from any kind of interrogation, investigation, judicial trials and appearance in courts & tribunals. Under this amnesty the army is ruling over Pakistan since 1957 and will continue for ever. Similar is the case of judges. No body can raise finger on them, no paper can publish comments on judges, judiciary or judgments because the law of 'Contempt of Court' is there to give them protection even when documentary evidence exists.

Such was the injustice that it gave birth to the phrase in Pakistan, '*After Justice Qayyum's judgment in Benazir Bhutto's case, one should hire a judge rather than a lawyer*'.

The telephone of Justice Malik Qayyum at his Lahore residence was under surveillance during the period of trial of Ms. Bhutto. The then Chief Justice of LHC Rashid Aziz was also on tape. He was the judge chosen to hear accountability cases against Benazir Bhutto in her first term. Justice Rashid Aziz was afterwards sent to the Supreme Court where Ms Bhutto's appeal was to be heard.

The audio tapes proved beyond doubt that Senator Saifur Rehman had supervised the proceedings by liaising between Justice Qayyum and others. The tapes proved that he took directions personally from the then PM Nawaz Sharif regarding the conduct of the proceedings and the punishment to be awarded to Ms Bhutto and her spouse. The tapes indicated that Chief Justice LHC had met the PM Nawaz Sharif shortly before the judgment. The Chief Justice discussed the judgment with Mr Sharif including the timing of its announcement.

It is also on record that when Justice Qayyum once failed to deliver the judgment on a given 'tomorrow', Senator Saifur Rehman rang up Justice Qayyum from the PM's Office to further pressurize him to announce the judgment '**definitely tomorrow**'; Justice Malik Qayyum had affirmed he would do so.

In the same conversation, Justice Malik Qayyum and an official of the PM Secretariat discussed the quantum of punishment to be given to Ms. Bhutto. Justice Qayyum asked: "..... Tell me how much punishment do you want me to give her?" In reply the official told him "what ever you have been told by **him** (PM Nawaz Sharif)" and "not less than seven (7) years (page 29 of transcripts placed before the Supreme Court is referred). Justice Qayyum assured the official that "under all circumstances it will be done tomorrow. We are going to announce the judgment".

At the time the judge made this statement, the trial was still proceeding. A Swiss defence witness had arrived to depose in the court. Summing up arguments was still to be made by defence lawyers. In London, Ms Bhutto was at a CNN studio with Riz Khan, an anchor, when she received a call on Mr Wajid's mobile telephone informing by some secret sympathizer that the judgment would come the next day. She rang up defence lawyer Farooq Naek who had replied '**impossible, the trial has not yet concluded**'. However, true to his promise, Justice Qayyum announced judgment the next day.

[By announcing the judgment against Ms Bhutto and Mr Zardari, the Nawaz regime tried to divert attention from a judgment given by a British Court in the Al-Toufiq

case against members of Mr Sharif's family amounting to millions of dollars in a hidden offshore account.]

In another conversation, the Prime Minister's official asked the judge to **"give them full dose (with regard to Ms Bhutto and her husband)"** (page no: 36 of transcript is referred). In the same conversation the judge informed the official of his plan and timing to deliver the judgment 'tomorrow'.

The conversation between CJ Rashid Aziz of LHC and Justice Malik Qayyum had also indicated that the Chief Justice was in possession of the pre-written judgment concerning Ms Bhutto, which Justice Qayyum had to sign (page no: 35 of the transcript is referred). The Chief Justice said **"do you know without asking you it is already written and lying with us. He (Judge) can sign it for you and you can keep it with you"**. Justice Qayyum replied: **"I have already written the short order."**

This conversation took place on 14th April 1999 as it was announced next day. In fact the short order announced by Justice Qayyum on 15th April 1999, winding up the trial midway without examining remaining defence witness, was signed on 14th April 1999, a day before the actual decision. The PPP's lawyers had to point out this discrepancy in dates when filing an appeal. In one conversation, Senator Saifur Rehman had asked Justice Malik Qayyum **"one thing is to be done that is to get their (Bhutto's and Zardari's) video tape... kindly permit our man to sit in the room next to your room"** (Page no: 19 of the transcript is referred).

Justice Qayyum discussed the matter of video tape with the CJ Rashid Aziz. The Chief Justice said: **"It is right. Now also tell them that we are not supposed to know"**.

It cannot be a mere coincidence that **when Nawaz Sharif was sent home in October 1999, he was convicted too by the same Justice Malik Qayyum in chair**. Almighty GOD is there to take account of all (mis)deeds. History often repeats itself. Justice Qayyum's father Justice Malik Akram had sentenced Z A Bhutto to death in 1979 to oblige the then military dictator Gen Ziaul Haq in a controversial judgment. His son Justice Malik Qayyum sentenced Bhutto's daughter, Benazir, to please Gen Zia's political son, Nawaz Sharif.

Justice Qayyum took personal favours from Nawaz Sharif in person including diplomatic passports for him and his wife. The bestowal upon Justice Qayyum of diplomatic passports for himself and his wife, an act that appeared to have been unprecedented, following shortly after his issuance of a ruling against Ms Bhutto, was sufficient proof of the said judge's ill intentions.

It is also on record that once the Pakistani courts had ordered Zardari's release on medical grounds but the PML regime blocked it through a stay order from the Supreme Court in violation of the law of consistency. Nawaz Sharif, while he was in Attock Jail later, wrote a letter to the military authorities seeking medical treatment. Without constituting a medical board and without seeking a court order, a convict was released by Gen Musharraf on medical grounds. In contrast four trial courts and a High Court had ordered the release of Mr Zardari on similar grounds including medical, but the military authorities kept on denying him bail and allegedly demanded medical treatment.

In this context, Justice Qayyum did not hesitate to show his open bias. Even former Attorney General for Pakistan (Senator Syed Iqbal Haider) and former Law Minister (Senator Raza Rabbani) were denied admission to the Court room in which the said trial was proceeding.

Justice Malik Qayyum had imposed himself on this matter despite the Appellant's apprehensions of his bias by the fact that even when the Reference was transferred by the Court from the Principal seat of Lahore High Court to its Rawalpindi Bench, where other learned Judges were available, he took it upon himself to hold dual charge at Lahore and Rawalpindi Bench, just to hear Ms Bhutto's case. This was against the Constitutional provisions and the relevant law, rules and regulations but Justice Malik Qayyum chased the case with ulterior motives perhaps on the instructions of PM Nawaz Sharif and Senator Saif ur Rehman.

Justice Malik Qayyum did not allow sufficient time to Ms Bhutto to engage a counsel in Rawalpindi after the Reference was transferred to Rawalpindi Bench from Lahore. When the appellant had no lawyer, the judge ordered the case to be proceeded and told her that if she did not have a lawyer by the next day, he would not allow her to proceed out of the country to visit her children although court holidays were then beginning. Mention of her children by a judge was shocking to everyone.

Justice Malik Qayyum's brother Pervez Malik was an MNA of PML(N) and PM Nawaz Sharif was also playing pressure through him. During a hearing in Lahore High Court Justice Qayyum had expressed unhappiness over a remark by Ms Bhutto that **'Judges with close links to the regime should not be trying her.'** Justice Qayyum said in open Court:

'Had I seen the statement earlier I would not have granted the bail yesterday to Mr Iqbal Tikka, a Provincial Minister belonging to the Appellants party.'

On 1st March 1999, Justice Malik Qayyum had adjourned the matter to 8th March 1999, but however, he passed the orders for issuance of commission to go to Switzerland to verify the authenticity of the so-called foreign documents produced by Ms Bhutto in the said case. This decision of Justice Qayyum was immediately challenged in the Supreme Court vide CrPLA No: 46/99 & 47/99 and leave to appeal was granted on 12th March 1999 in this regard and it was ordered that the report of the commission be kept in sealed cover till its call later.

Though the appeals no: 46-47/99 mentioned above were pending in the Supreme Court but, on **15th March 1999** Justice Malik Qayyum had closed the defence evidence and refused to summon the witnesses without hearing Ms Bhutto or Asif Ali Zardari's Counsel in the matter. The order was passed in a post haste manner to help the prosecution.

Justice Malik Qayyum asked for argument on the main case without deciding the application under Section 265-K CrPC filed on behalf of Ms Bhutto and Asif Ali Zardari since long rendering the said applications in fruituous. Furthermore as the prosecution had failed to file reply to the said application, Justice Qayyum verbally ordered on **15th March 1999** on the request of Mr Farooq H Naek, the defence counsel, that **'the prosecution's right to reply has been forfeited'** but the same was not incorporated in the order sheet.

Once, during the trial, Justice Malik Qayyum had allowed the pleader of Ms Bhutto & Mr Zardari to call their Swiss expert witness Mr Salvatore Aversano at any time before the prosecution closed its case. When the witness, having travelled overnight from Switzerland and arrived in the court to give his evidence he was neither allowed to give evidence nor allowed to swear an affidavit. This course was deliberately adopted by Justice Qayyum to satisfy his then political masters.

On 27th April 1999, Justice Malik Qayyum arbitrarily and without giving notice to or hearing Ms Bhutto, ordered to freeze their assets and all accounts as a result of which the appellant could not engage a counsel to defend her [though it was not a plausible excuse]. The court also ignored Ms Bhutto's request that the government be asked to pay for her defence counsel as her assets had been frozen.

Later, the Supreme Court, while deciding Ms Bhutto & Zardari's appeal, had categorically declared that:

'Justice Qayyum was naturally and materially affected by his personal bias and prejudice and other judge Justice Najam-ul-Hassan Kazmi was an unconfirmed judge of the Lahore High Court and that too on an extended one year term.'

The Supreme Court of Pakistan held in the said appeal that the proceedings by the trial court (comprising of J Malik Qayyum and J Kazmi) were violative of a basic principle that:

'Justice should not only be done but it should also be seen to have been done. This principle was recently upheld by the House of Lords in England in the "Pinochet Case" whereby it historically set aside one of its own judgment on this principle. In that

case the "perception" that one of the members of the court might be bias towards one side was sufficient to set aside the order.'

J MALIK QAYYUM'S VIEWPOINT:

However, J Malik Qayyum, in an interview published in daily '*Jang*' dated **5th February 2006**, had denied the whole set of charges and miss-perceptions referred to his person as judge. The summary of explanations forwarded by him is given below:

- I've not ever heard about those audio tapes, never seen them, don't know from where they had come. The government of Pakistan had denied those tapes ever made or possessed. Those audio tapes were not placed before the court even during appeal of the said Benazir Bhutto's case. No body, even the Supreme Court, had ever asked us to comment if those tapes were concerning us.
- Is there any sane judge existing anywhere who would ask a politician to tell him *'how much punishment should be awarded in a case?'*
- I had not resigned from my position of a HC judge because those audio tapes were correct. I had resigned because the Supreme Court had given verdict against me. I did not want to go in detail nor in controversy so I went side lined.
- The then military government had never exerted any pressure on me to resign, I did it voluntarily. Yes! I myself had felt more pressure from media campaigns against me.
- The Supreme Court had done wrong with us. The apex court had not gone through the judgment I wrote but they went for trial of the judge. The SC did not see what was written in the judgment; it went after the judge who had written it. They should have analyzed the judgment first.
- Regarding resignation of CJ LHC Rashid Aziz, the truth was that the CJP Irshad Hassan Khan went somewhat personal against the former. In a mutual meeting, the CJP had asked J Rashid Aziz that why he was not inclined to tender his resignation. J Rashid Aziz said that because:

'We have not been heard on tapes issue. The decision has been made against judicial spirits. We'll be moving the SC in September, after vacations.'

The CJP Irshad Hassan Khan got furious and asked J Rashid Aziz to move tomorrow and why to wait till September.

'I'll sit in the court tomorrow and turn down your petition or appeal immediately.'

J Rashid Aziz was stung to hear the mind of a CJP.

- The CJP Irshad Hassan Khan had also threatened CJ LHC Rashid Aziz that he would refer his case to the Supreme Judicial Council if he would not resign. [*It should not be termed as threat. The CJP might have spoken about a possibility.*]
- My relations with Nawaz Sharif were not secret. I heard Benazir Bhutto's cases because the same were not Benazir Bhutto vs Nawaz Sharif.
- Once Benazir Bhutto was present before the court I was presiding. She said that:

'Your father had given verdict against my father Mr Bhutto and you want to punish me. Please do not hear my case.' [The irony of fate was that even then J Malik Qayyum continued with the trial like J Maulvi Mushtaq Hussain in the past]

I asked her to give me in writing which she never opted to do.

- The red passports were issued to us much earlier than the said decision announced in Benazir Bhutto's cases. [*The Foreign Office holds that the same were issued a week after the judgment.*]
- What to speak about Saifur Rehman. He was a little fry, how could he dare to talk to a judge of High Court on phone. Dictations by him are cooked stories.
- Once, Benazir Bhutto came to see me in my hotel's room I was staying in at Dubai. In those days I had no case against her to hear. She had actually come to see the CJ LHC Rashid Aziz who was staying in the next room to request that her four different cases, being heard by four different judges, should be placed before one judge. Later, she made a written request with that plea to the CJ LHC and specifically mentioned that she had full faith in J Malik Qayyum. The said letter is still available in LHC's record. [*How an accused could demand for a judge of her choice: no tradition, never heard*]

Much water had passed through the bridge of judicial values till then. Still there exists a school of thought who raises questions like:

- If the CJ LHC Rashid Aziz was upright then why he got aback when he was asked to face Supreme Judicial Council, he would have liked so to clear the filth.
- J Malik Qayyum, however, avoided confirming that Nawaz Sharif and Saifur Rehman were taking keen interest in Benazir Bhutto's hearings through him.
- Fact remains that the SC had gone through J Malik Qayyum's judgment first and observed '*... The bias is seen floating at the surface of the judgment.*'
- The truth lies that it was Nawaz Sharif who had got referred the Benazir Bhutto's cases especially to J Malik Qayyum otherwise there were about thirty more judges in the LHC. J Malik Qayyum should have refused to hear those cases being known that his brother, Pervez Malik, was an MNA of PML got elected virtually unopposed due to Nawaz Sharif's special blessings.

It is an endless debate. Let us hope such episodes do not surface again in Pakistan.

One can, however, aspire that on the similar given lines Mr Z A Bhutto was hanged just because he was allegedly the directing authority in the killing of Nawab Ahmed Qasuri; Nawaz Sharif was also the directing authority of cases against Benazir Bhutto & Mr Zardari. Nawaz Sharif was the actual beneficiary in those trials whereas CJ LHC Rashid Aziz, Justice Malik Qayyum, Saif ur Rehman and Khalid Anwar were the 'obeying ponies' and front actors only. Will ever our judiciary take notice of this bitter fact?

PRESIDENT RAFIQ TARAR SENT HOME:

It is interesting to note that Rafiq Tarar was continuing with his office as the President of Pakistan till 20th June 2001, when Gen Musharraf issued an amendment Order No. 2 of 2001 saying that:

'The person holding the office of the President of the Islamic Republic of Pakistan immediately before the commencement of the Proclamation of Emergency (Amendment) Order 2001, shall cease to hold the office with immediate effect.'

Not only this, under the same order it was declared that:

'The Chairman and Deputy Chairman of the Senate have already ceased to hold office; the Speaker and Deputy Speaker of the National Assembly and the Provincial Assemblies shall also cease to hold office with immediate effect.'

On the same day of 20th June 2001, Gen Musharraf issued another Order No. 3 of 2001 saying that his order of 14th October 1999 would take effect notwithstanding anything

contained in the Constitution or any other law and he would take over Office of the President immediately.

Some historians has painted him as a saint saying that '*President Tarar was in deep shock and wholeheartedly upset after hearing the military coup d'état took place to remove the elected prime minister Nawaz Sharif and voluntarily resigned from the presidency in favor of General Pervez Musharraf on June 20, 2001*', but it was not the whole truth. Tarar chose to remain in office until 2001, at which point Gen Musharraf assumed the presidency in order to restructure Pakistan's model of government. The question arises that if he [Mr Tarar] was so fond of democracy, he should have left the presidency on 12th October 1999 declaring that '*having a judicial mind he was not in a position of approving the military coup*' but he never did so until he was kicked out of the presidency by Gen Musharraf in June 2001.

Once in December 1997, the Acting CEC Justice Mukhtar Ahmed Junejo, had found Mr Tarar, a former Supreme Court Judge, guilty of propagating views prejudicial to the integrity and independence of the judiciary at the time of his nomination as a presidential candidate under Article 63(G) of the Constitution and debarred him on 18th December 1997 to contest the presidential elections.

J Rafiq Tarar was found guilty of making derogatory remarks against the apex judiciary. In a seven-page order released later J Junejo had said: '*I am of the view that case of Mr Tarar is covered by sub-clause (g) of clause (1) of Article 63 of the Constitution and since he cannot be elected as member of parliament, hence in terms of Article 41(2) of the Constitution of Pakistan, he cannot be elected as president of Pakistan. I therefore, reject his nomination papers.*' Parliamentary Secretary for Law Syed Zafar Ali Shah, termed the order of the acting CEC unconstitutional and illegal, thus had challenged the said decision.

Now see a script of the '***Dawn***' dated **28th February 1998** written by Ardsheer Cowasjee:

'What was Leghari's successor in office, Rafiq Tarar, doing in Quetta on the day the order suspending Chief Justice Sajjad Ali Shah was handed down by the Quetta Bench of the Supreme Court? Why did Tarar and two others fly to Quetta in a special plane on that disastrous day? Leghari is right. Questions are being asked. Why were the police at the Quetta airport ordered not to manifest his arrival (which instructions they in fact manifested)? Where did Tarar stay on the night of November 26 (his departure on November 27 having been manifested by the airport police)? What reward was he given for his day's efforts? Why, on January 20, was a story leaked by the government to the press about the obstruction of justice early in 1997 in an alleged rape case involving a servant in the then Justice Ajmal Mian's Karachi house when he, as CJ, was presiding over the bench hearing contempt of court cases against Nawaz Sharif and others? Why were stories leaked about the foreign scholarship sponsored by the government to the wife of the good [Justice] Saeeduzzaman Siddiqui?'

The judicial record would reflect that during the three year's stay in the Supreme Court, J Rafiq Tarar could only author two judgments worth to be mentioned in the PLD including one in the case of the 1993 dissolution of the National Assembly restoring Nawaz Sharif. The second being Criminal Appeal No. 74/SAC/L, decided by J Tarar on 19th February 1994, reported at **1994 SCMR 1466** namely "Muhammad Ashraf and Others vs The State". Muhammad Ashraf, Khalid Javaid and Zafar Ali had been sentenced to have their right hands amputated from the wrist and their left legs from the ankle, to seven years RI, and to a fine of Rs.20,000 each being guilty of theft of Rs.40,000 and of a licensed pistol. Justice Rafiq Tarar had headed the bench comprising members J Afrasiab Khan & J Muhammad Zubair and the judgment concluded with:

'..... The only punishment provided by section 17(3) is the amputation of right hand from the wrist and left leg from the ankle which has been imposed by the learned trial Court and we confirm the same.'

Another interesting case was of 3rd August 1994, heard by J Munir Khan and J Mir Hazar Khan Khoso of the Supreme Court, reported at **PLD 1994 SC 885**. This was an appeal against a 'not reported' judgment of that court dated 14th March 1993, passed in Criminal Appeal 91/SAC/L/92 by the honourable Supreme Appellate Court comprising Justice Tarar.

Supreme Court Judges Munir Khan and Khoso heard the convict's appeal against Justice Tarar's judgment and, inter alia, recorded that:

'...we are in no manner of doubt that the trial Court and also the learned Appellate Court had no lawful authority / jurisdiction / power whatsoever to convict the petitioner under section 302 PPC or to impose penalty of death on him, and have acted in gross violation of law. The Courts derive authority to punish the accused from the statute. If the statute does not provide death penalty for the offence then obviously the Court would have no jurisdiction to award the same, and, as such, the conviction and sentence of the petitioner recorded under section 302 PPC is coram non iudice.'

It was declared that the error committed by the Courts in convicting the accused / petitioner under section 302 PPC and sentencing him to death was so serious that had the petitioner eventually been hanged to death, it would have amounted to murder through judicial process. The said case was remitted back to the Lahore High Court for a "fresh decision in accordance with law."

Three years later, whilst the Anti-Terrorism Act was being drafted, retired judges but subsequently made Senators, Rafiq Tarar and Afzal Lone [*another benefactor of the Ittefaq empire and later rewarded with Senate seat*], were called in. They recommended what could be termed a parallel judicial system composed of special courts with special judges with special powers to try all those suspected of terrorist acts. Chief Justice of Pakistan Sajjad Ali Shah objected, and proposed that suspects be tried in the normal course by Session Judges (requesting that many more be appointed). To expedite matters, trials could be held in the jails. Those convicted could appeal to the High Court, and then to the Supreme Court. The CJP had assured the prime minister that the entire trial period would be completed within three months. Nawaz Sharif did not want trials held in three stages, so it was finally agreed by all that the Session Court stage would go, that suspects would be tried in the High Courts, and then allowed an appeal to the Supreme Court.

However, much to the CJP's surprise, when the Act was passed by the parliament, the law laid down that a suspect would be tried by a special judge in a special court, that an appeal would lie only before a special tribunal of two specially appointed high court judges, that no bail would be granted, and no appeal to the Supreme Court allowed. It was all as initially recommended by Justice Tarar & Justice Lone on the whims of their PM Nawaz Sharif.

The PML nominated Senator Rafiq Tarar on 15th December 1997 as their presidential candidate [it was *Abbajee's* order: '*Select my friend and legal adviser, Rafiq Tarar, whose wit and wisdom I share, and with whom I often sup late into the night*']. What was good for the Sharifs, was good for the party, and was good for the nation. Without further argument, without consulting his ruling party members, or the leaders of the coalition parties, Nawaz Sharif nominated Tarar. But on 18th December, the Acting Chief Election Commissioner Mukhtar Junejo rejected his nomination papers under Article 63(g) of the Constitution.

'**Can we remove Junejo**', was Nawaz Sharif's first aristocratic reaction. '**Risky**', he was told. Rather than honourably withdrawing from the race, Rafiq Tarar appealed for help to Mian Sharif. Within moments, the prime minister ordered to place an appeal before their family judge Justice Malik Qayyum of the Lahore High Court for an interim stay and appropriate verdict to allow J Tarar to successfully contest the election. On 19th December, Justice Qayyum suspended Junejo's order, allowing Tarar to '*participate in the election provisionally subject to further orders. A larger bench will hear the petition on the 23rd.*' The issue was resolved and Sharif's wish upheld because '**it was in the greater interest of the nation**'.

[It has already been mentioned elsewhere that Justice Malik Qayyum was sitting on a condolence mat to offer 'Fateha' of a nearby relative when he received Nawaz Sharif's message to issue stay order for J Rafiq Tarar on urgent basis. He immediately left the condolence mat, reached the court and issued orders.]

Earlier, Senator Justice (Rtd) Rafiq Tarar was despatched to Quetta by his PM Nawaz Sharif in a special flight which landed at Quetta at night. The Quetta airfield was not normally lit up after nightfall as no flights used to land there. The runway was specially lit up for Tarar and the security man on duty had reportedly noted in his log: *'Instructions have been received from Islamabad that the details of the special flight carrying the visiting dignitary, Senator Rafiq Tarar, must be kept confidential and not reported'*.

Referring to *'Laughing at ourselves'* by Ardeshir Cowasjee appeared in the **'Dawn' dated 11th November 2000**, it should remain available on the pages of history that Senator Rafiq Tarar had known that the Supreme Court building was going to be attacked on 27th November 1997 of which he had been a part for about three years as Mr Justice. Not only this, the ISI also knew it before hand and the then Incharge ISI, Gen Rana had reported the then COAS, Gen Jehangir Karamat, at the dawning of 27th November, that **'Nawaz's cohorts were to raid the Supreme Court in the morning'**. Even they did not bother to check the raid.

Referring to comments by Kunwar Idris, published in the **'Dawn' of 20th December 1998**:

'Also casting a dark shadow on him [Mr Tarar] is the referendum of December 1984 when, as a member of Zia's Election Commission, he solemnly assured the people that 55 per cent and not just five per cent of the electorate had turned out to confer legitimacy on Zia's dictatorial rule. Mr Tarar also has to dispel the widely insinuated impression that he was involved in the 'Quetta Shuttle' which divided the Supreme Court and wrote the saddest chapter in Pakistan's constitutional history.'