Scenario 127

CABINET OF PML[N] IN 2013:

On 7th June 2013, a 25-member Federal Cabinet took oath in Islamabad; President Zardari administered the oath.

KASHMIRI CABINET SWORN IN:

When Nawaz Sharif announced his cabinet for his 3rd term in 2013, the people were concerned about knowing that most of his 27 members' cabinet comprised of his old friends from Lahore and Gujranwala Divisions. Not a single member was given representation in the federal cabinet from Faisalabad Division from where the PML(N) got 17 out of 20 seats [*the remaining three independent winners had also joined PML(N) later*].

Amongst the whole lot from Punjab consisted of ***Rajpoots & Kashmiri*** clans only with one from ***Jats*** whereas none from ***Arain, Gujjar, Syed, Pathan, Awan or Moghals*** were included to represent their communities.

Figures like *Khwaja Asif, Ahsan Iqbal, Zahid Hamid, Khurram Dastgir, Usman Ibrahim, Barjees Tahir, Khwaja Saad Rafiq, Rana Tanvir, Ishaq Dar and Pervez Rasheed* were all either from the said two Divisions [*nine ministers from Gujranwala while six from Lahore*] completely ignoring Dera Ghazi Khan, Bahawalpur, Sarghoda and Faisalabad Divisions. Obviously, there was a lot of cribbing among MNAs and heavy weights who were overlooked for the cabinet, but again, it was their chief's prerogative.

From Multan Division Sikandar Bosan was given a slot as federal minister; a member who had joined the PML(N) in the last moments with much hesitation and dithering sentiments otherwise he had spent his whole political career with Gen Musharraf and PML(Q).

There were few surprises in the cabinet line-up, with most being men, old loyalists of Nawaz Sharif from his previous stints in power, and overwhelmingly ***[19 out of 25] from Punjab***, the PML(N)'s stronghold. It appeared natural, given the makeup and mandate of the party, but it raised questions about the new government's ability to take the other provinces along in crucial situations.

No woman was made full minister; the PM retained the Defence and Foreign Affairs ministries with himself, would of course use Sartaj Aziz's experience and Tariq Fatemi's connections to keep US & India on their right hand side. ***Sanaullah Zehri***, perhaps to compensate him for the loss of his efforts for chief ministerial slot of Balochistan, was appointed a Special Assistant to the PM.

PM had successfully negotiated and guaranteed a deal between ***Sanaullah Zehri and Dr Abdul Malik*** to hold the chief ministry of Balochistan for half & half duration. Dr Malik held the term first in June 2013 and **on 12th December 2015**, Sanaullah Zehri took over the slot in turn.

On 10th June 2013; President Zardari addressed the joint session of the parliament, fulfilling a constitutional requirement, but he read out a speech given by the incumbent PML[N] government. The gesture was propagated as ***'a sign of the institutional maturity'*** but the general populace knew that from inside both party leaders were one and the same, two hands in one glove, taking care of each other's interests in the name of democracy and in an arena of ***'meesaq e jamhooriat'***.

Marvi Memon was given a special seat in 2013's National Assembly by the PML(N). The people of Pakistan cannot forget a day of August 2008 when Gen Musharraf had quit the presidency. She was in Gujrat that day at the residence of her leader Ch Shuja'at Hussain and was continuously weeping and crying for the sad event. Gujrat had seen and realized her mighty presence during a supplementary election when she was making fiery speeches at each cross road gathering against the PML(N)'s candidate. Then she was openly repeating a long list of allegations against both the Sharifs of Lahore.

Then Marvi Memon suddenly appeared in Imran Khan's known big *jalsa* [political gathering] at Ghotki in Sukkar District of Sindh. There she announced that ***'now I've reached the real political leadership of Pakistan and this was my destiny'***. However, when she was not seen in the next gatherings of the PTI, the people tended to forget her face.

Once more she surprised the people when the electronic media flashed her sitting besides Nawaz Sharif during a party meeting. The PML(N) had accepted her besides her long known associations with Gen Musharraf and the PML(Q). During her last tenure, Marvi Memon was given a women seat by the PML(Q) and that too from Punjab. It was her beauty and political wisdom that she had given her vote to Mr Zardari during the presidential elections of 2008 and made it known to the whole PPP. ***It was her bad***

luck that she was not adequately paid by the PPP or the Presidency then.

PML(N)'s one third federal cabinet of 2013 was having the same faces which had been enjoying the blessings of Gen Musharraf during his nine years rule. Similarly exactly the same numbers of provincial ministers in the Punjab cabinet were the stalwart personalities who had been at the helm of affairs during the military rule of 1999 - 2007.

Throughout Gen Musharraf's military rule, Senator Zafar Ali Shah had been contesting Nawaz Sharif's cases in the lower and higher courts whereas one ***Zahid Hamid***, being the Federal Law Minister of Gen Musharraf, had been openly opposing Nawaz Sharifs at all levels. During 2013's elections, Zahid Hamid not only got elected on PML(N)'s ticket but was also taken as the federal minister whereas ***Zafar Ali Shah was pushed into the corner*** when fruits of reward were distributed amongst the workers in new Nawaz Sharif's government.

> **[*On 30th November 2015;*** *Zafar Ali Shah lost his local body election at Chairman Union Council's seat – he was aspiring for the post of the First Mayor of Islamabad. It was known to every one that Mr Shah was purposefully defeated at so small stake because the PML(N) workers were instructed from the high command - NOT to vote for him.*]

Sometimes, it becomes difficult to understand the real wisdom prevailing in the political corridors when one hears the news that people like ***Engr Amir Muqam were also taken on Advisory Board of the PML(N) government***. Amir Muqam had been the right hand man of Gen Musharraf for the whole last decade. Then he was specially awarded PML(N)'s tickets in Khyber PK province for 2013 elections which he lost at the hands of Imran Khan's candidates.

Even then Amir Muqam was preferred to be made Nawaz Sharif's Advisor whereas Saranjam Khan [known for laying his own CHADAR over Kalsoom Nawaz's head during hard days], Abdul Subhan Khan and Zafar Iqbal Jhagra like Leagui workers, who had been maltreated at numerous occasions for being with PML(N) during Nawaz Sharif's exile, were badly treated and totally ignored.

Not only this; amongst the female representations in the assemblies, only those women were nominated who were recommended by Amir Muqam and Sardar Mehtab Abbasi whereas the real worker ***ladies of the PML(N)***

like Shaheen Habibullah, Najma Noshirwan and Aasma Zarrin were simply pushed into the dark shadows. Six of the PML(N)'s ladies, who had represented their party in the National Assembly during the last troublesome tenure, including ***Tasneem Siddiqui, Shirin Arshad, Nisar Tanvir and Qudsia Arshad were also shunted out*** because the new relationships had won them over after 2013 elections.

Tasneem Siddiqui was the PML(N)'s member who had floated the famous bill of **'dual nationality'** over the parliament's floor which was successfully adopted and made to law subsequently.

Just on 2nd day of the oath ceremony, an English daily newspaper published story of a ***turf battle between Sartaj Aziz and Tariq Fatemi*** as there had been a history of hostility between the two gentlemen since good old days. The facts remained that:

> ***'Fatemi and Aziz were in the opposing camps on the crucial issue of signing of the Comprehensive Test Ban Treaty (CTBT) in the 1998 nuclear tests. Sartaj Aziz was the foreign minister who wanted Nawaz Sharif to sign the treaty*** *but Fatemi and his Foreign Office colleagues resisted it and eventually won. Till today, Pakistan has neither ratified nor signed the CTBT – but both were accommodated in the cabinet.*
>
> ***Mr Fatemi was rewarded more as his wife was also given a seat in the National Assembly as MNA from reserve ladies quota of the PML[N] '***

Anjum Niaz in her essay appeared in ***'the News' dated 17th June 2013*** opined that *'why has Nawaz Sharif vacillated in naming a full-fledged foreign minister? Cutting up the most important portfolio to accommodate two of his party loyalists makes no sense. Worse still, was to corral the duo into a working relationship that reportedly has a history of ill feeling.'*

In his last two terms as the prime minister, Nawaz Sharif was misguided by his companions to choose some of the worst people to head embassies abroad and institutions at home; the history had witnessed.

IPPs PAID RS:480 bn CASH:

On 28th June 2013; the newly saddled PML[N] government managed to get approval from the Economic Coordination Committee [ECC] of the cabinet worth of Rs:480 billion to clear dues of Independent Power Producers [IPPs]; ECC decided to release Rs:326 billion to IPPs in the first instance before 30th June 2013 – so were paid during that one night without AGPR's audit and recommendations / approval.

Settlement on 28th June 2013

	Rs: (Billion)
Gross Transaction Amount	503.025
Liquidated Damages	(22.916)
Total (Excluding LDs) (A)	480.109
Gross Transaction (B)	341.958
Dividend received	19.710
Total Net Transaction	**322.247**

Payments Details

Cash IPPs	161.229
PIB OGDCL	56.322
PIB PPL	23.363
PSO Cash + PIB	81.333

Settlement on 21 July 2013

WAPDA-Hydel	90.083
NTDC	10.216
Gencos	14.888
Nuclear Plants	22.964
TOTAL (C)	**138.151**
GRAND TOTAL	**480.109**
	(Cash 33.217 + PIB 48.116)

UPDATED ON **18th DECEMBER 2013**
PAYMENTS TO IPPS/ENERGY SECTOR OTHER ENTITIES

Sr. No / Entity Name / Total Amount	Rs. Billion
1 HUBCO (RFO)	75.000
2 KAPCO (GAS & RFO)	41.354
3 AES (Pakgen) (RFO)	6.982
4 AES (Lalpir) (RFo)	4.546
5 KEL (RFO)	3.504
6 SABA (RFO)	- -
7 LIBERTY (GAS)	9.906
8 UCH (GAS)	1.9261
9 ROUSCH (GAS)	8.687
10 FAUJI (GAS)	5.100
11 HABIBULLAH (GAS)	2.540

12 ALTERN (GAS)		0.270
13 AGL POWER (GAS)		19.336
14 THE HUBCO NAROWAL (RFO)		17.397
15 ATLAS POWER (RFO)		5.400
16 NISHAT POWER (RFO)		7.080
17 NISHATCHUNIAIN (RFO)		6.860
18 LIBERTY TECH (RFO)		6.817
19 ORIENT POWER (GAS/HSD)		1.307
20 SAIF POWER (GAS/HSD)		4.902
21 SAPPHIRE ELECTRIC (GAS/HSD)		4.208
22 HALMORE POWER (GAS/HSD)		2.522
23 ENGRO POWER (GAS)		8.974
24 FOUNDATION POWER (GAS)		7.074
25 SHYDO POWER (HYDEL)		1.159
26 LARAIB ENERGY (HYDEL)		0.105
	270.291	
27 SNGPL (Genco-II)		18.996
28 SSGC (Genco I&II)		2.901
		0.586
29 Mari Gas (Genco-II)		9.358
30 PPL (Genco-II)		13.843
31 PSO (Genco-I & III)		6.130
		19.853
	71.667	
Sub-Total (28 June 2013)	**341.958**	
32 WAPDA-Hydel		90.083
33 NTDC		10.216
34 Gencos		14.888
35 Nuclear Plants		22.964
Sub-Total (21 July 2013)	**138.151**	
GRAND TOTAL	**480.109**	

18 DECEMBER 2013

Payments to Ministry of Water & Power
For Settling Circular Debt
Summary of sources of financing

Pakistan Investment Bonds (PIBs)	Rs 128 billion
Expenditure savings	Rs 135 billion
(Fiscal deficit reduced from 8.8% to 8.2% for 2012-13)	
Dividends recovered from PSEs	Rs 20 billion
Cash paid from Federal Consolidated Fund	Rs 59 billion
Recovery of payables to Federal	

Government from PSEs Rs 138 billion

TOTAL Rs 480 billion

[Names of beneficiaries for Rs:71.667 were not detailed completely; there were spaces in official statement of MoF released]

The ECC, which met under the chair of Federal Finance Minister Ishaq Dar, decided to eliminate the circular debt by clearing the Rs:480 billion to the IPPs. The government released Rs:326 billion in first instalment before 30th June for which it attached four conditions. The remaining dues were cleared next month.

The conditions included that IPPs would generate maximum power and bring 1700 megawatt [MW] to the national grid before start of the holy month of Ramazan; then to be started on 7th July 2013. Similarly, HUBCO and Pak Jin and other power plants would run through coal and PEPCO would provide oil on deferred payment for 60 days. The IPPs would not approach the courts in case of late payment.

The ECC had also ***decided to revoke two LNG import*** projects initiated by previous regime of PPP; instead it decided to initiate new bidding process for LNG import AND to contact with Qatar government also on priority basis. The ECC also decided to expedite the work on Nandipur project, as the same had been delayed by more than five years because of flimsy disputes and machinery worth billions of rupees imported for it had been rusting at Karachi port and incurring demurrage.

The ECC also gave approval to the Ramazan package worth of two billion rupees wherein subsidized commodities were to be made available at Utility Stores Corporations. The ECC also reviewed the economic situation of the country; mentioning PPP's lethargy during the past five years.

***CORRUPTION IN SWIFT PAYMENTS*:**

The main issues were that:

a. After managing clearance from the ECC, Governor State bank of Pakistan [SBP] was straightaway ordered to release the said money. They released it to the Ministry of Finance [MoF] which on the same day transferred the whole amounts to Ministry of Water & Power [MoW&P] for onward distribution.

b. The IPP's files were not referred to AGPR for checking and report which was the constitutional requirement. Basically the whole set of payments should have been checked and cleared by AGPR.

c. The bills and invoices claimed by all recipients were mostly the photocopies which were not admissible for any payment method.

d. The then AGPR Akhtar Buland Rana had raised objections on the release of so huge funds without scrutiny; he was asked to transfer that officer who was chasing MoF and SBP for audits – the AGPR was immediately sent home.

e. The load shedding remained at such; the money paid went in vain apparently; the people could not get relief.

f. All the IPPs claimed their demurrages and late payment fines – which were admitted by the government and paid whereas the fines due on them due to less production were withdrawn.

The IPPs earlier, in talks with the PPP government had offered a relief of 25% of the total arrears to the government but the PML[N] government paid all the arrears in one go. The payment also included Rs:31 billion penalty for not purchasing electricity from the IPPs [*verification needed as how the PPP government could refuse to buy power from them as there had been acute shortages of electricity throughout their tenure*].

On the other hand the PML[N] government relieved Rs:22.91 billion penalties against the IPPs – neither there was logic in it nor the demand was urged even.

Under an agreement signed in 1994 the government had to arrange the oil supplies for power generation in IPPs in exchange the company would have been paid the spending on costs. The agreement in year 2002 was amended and the companies were allowed to arrange oil supplies on their own with conditions of pre-audit, post-audit and inspection, which could not happen for even once since than.

On 24th July 2013; the MoF issued details of payment of Rs:480 billion to Independent Power Producers (IPPs); the payment had already been made before 30th June 2013. With voices growing against the lack of relief in load-shedding despite clearing of circular debt, the federal government had to release the details of those payments made to IPPs in a bid to address transparency concerns. The PML[N] government took the decision after the PPP alleged misappropriation in circular debt payments.

MoF undertook an exercise to clear Rs:503.1 billion in circular debt by May 31. Out of the total circular debt, the ministry paid Rs:480.1 billion in cash, bonds and book adjustments, while Rs:22.9 billion withheld on account of liquidated damages owed by IPPs to the government; which were also released later.

On 19th August 2013; PPP's Shehla Raza tweeted that Nawaz Sharif should tell the nation that out of Rs:480 bn how much had gone to Mian Mansha's Nishat Group. It was alleged that all the home work was kept ready by the PML[N] before taking oath for the new government and Mian Mansha's IPPs were to be compensated the most.

On 27th September 2013; The government ordered **a third party audit** of payments made to the IPPs, generation companies and fuel suppliers**.** Zargham Eshaq Khan, JS of the MoW&P, informed a sub-committee of the Senate headed by PPP's Maula Bakhsh Chandio that the third party audit by three chartered accountants had been ordered to address the perception of any wrong doing.

The Joint Secretary MoW&P also told that the circular debt had gone up again to Rs:240bn at the end of the current financial year because its major causes were still there. The causes included:

> ***'….increase in recoverable amounts of distribution companies of Wapda, more line losses than allowed by the regulator, delayed charging of fuel price adjustment, non-payment of GST refunds by the Federal Board of Revenue [FBR] and delayed receipt of tariff differential subsidy from the federal government.'***

JS Khan told that out of the Rs:480bn circular debt, Rs:138bn was cleared through book adjustments in the accounts of public sector companies for clearing tax dues and debts. The sub-committee held that the money wasted to clear ***the circular debt was more than enough to finance 4,300MW Dassu Hydropower project***.

The fact remained that ***neither the audit of payments made to the IPPs had been conducted during the past five years nor any audit of National Electric Power Regulatory Authority [NEPRA] was carried out during the period***.

The National Transmission and Dispatch Company [NTDC] informed the sub-committee that the nation suffered a huge loss of over Rs:130 billion because of non-implementation of 425MW Nandipur project for more than five years.

On 11th October 2013; there were headlines in the print media - **CIRCULAR DEBT AGAIN PEAKS TO RS 157 BILLION AGAIN;** and some remarks were amusing that ***'Mian Manshaa ki phir se mojein, Anjuman e Ghulamaan e Raiwind kya kehtein hain iss par.'*** [Mian Mansha, being member of ***'Raiwind Club'*** would loot again]

Pakistan's energy sector circular debt had again peaked to Rs:157 billion three months after Rs:480 billion was settled by the MoF without audit of IPPs' claims. The government had reconciled an amount of Rs:561 billion in June 2013 of which Rs:480 billion was settled, which implied that only Rs:81 billion remained unsettled with the re-emergence of Rs:75 billion till September 2013. The NTDC argued that:

> *'…..circular debt would not be eliminated without an increase in gas quota to thermal power plants, conversion of furnace oil fired power plants to coal, increase in hydel generation, fixation of tariff taking account of socio-economic conditions of consumers, improvement in recovery and eradication of power theft.'*

An MOU was signed between the NTDC / CPPA and the IPPs on assurance of optimal utilization of available capacity. The IPPs were asked to ensure optimum of their available capacity which they did not comply with on the pretext that gas and oil supplies were not adequate. The MoU for conversion of four IPPs, i.e., Hub Power Company (Hubco), Lalpir, Pakgen and Saba Power to coal were also signed on 28th June 2013 between the concerned IPPs and NTDC.

The implementation of that MOU was being handled by the Private Power and Infrastructure Board (PPIB). Different IPPs approached PPIB for conveying the intentions and understanding of the GoP and power purchaser to Nepra in the light of which the IPPs may approach Nepra for revision in working capital component of the tariff to implement the proposed extension in payment time from 30 days to 60 days.

At the time of Rs:480 billion settlement, an undertaking was given by the IPPs to resolve disputes relating to liquidated damages and capacity payment deduction presently raised by the parties before the Supreme Court, in accordance with dispute resolution mechanism as provided in respective Power Purchase Agreements (PPAs). Of nine IPPs, eight served dispute notice under section 18.2(b) of the PPA and nominated former Justice Sair Ali as expert for resolution of the dispute between the IPPs and NTDC.

As per section 18.2(b) of the PPA, the notice receiving party has to notify the initiating party whether such person is acceptable or not within 15 days of receiving dispute notice or the responding party shall propose a person to be the expert. The MoW&P further stated that the case was under process for approval of the MD NTDC through General Manager (L&CA). The IPPs were to respond after MD's approval was received in CPPA.

On 1st November 2013; the Lahore High Court [LHC] ordered the audit of Rs:480 billion paid by the government to the IPPs and observed that the burden of the incompetence of the officials and politicians would not shift on the masses. Chief Justice Umar Ata Bandial also observed that equalisation surcharge would not be received from the consumers. The court was hearing petitions against electricity load - shedding, fuel adjustments and equalisation surcharge.

As hearing started, the court was told that load - shedding did not reduce despite payment of Rs:480 billion by the govt to the IPPs. Following court notices, JS MoW&P Zargham Khan appeared before the court and submitted that unannounced load - shedding had ended. Moreover, the companies had to bear line losses due to substandard transformers and supply lines. The Karachi Electric Supply Company [KESC] could not take electricity more than 650MW, but it drew 950MW from the national grid station.

At this, the CJ observed that the amounts of the line losses had to be paid by the poor masses. The companies could have adopted modern methods for distribution of the electricity so that nobody could get power more than its due share. The court ordered that all the appointments of officers in LESCO should be made on merit; the schedule of power load - shedding should be uploaded on the website. The court also summoned the record of equalisation surcharge imposed on the consumers besides ordering the audit of Rs:480 billion paid by the govt to IPPs.

ISSUE RAISED IN PARLIAMENT:

On 19th December 2013; Dr Arif Alvi MNA raised questions in the National Assembly [NA] that:

(a) Whether it is a fact that Rs:480 billions have been paid to

Independent Power Projects (IPPs) for settlement of circular debt;

(b) whether it is also a fact that the audit has been conducted and completed thereof; if so, the names of audit companies along with the details thereof;

(c) whether it is further a fact that excess payments were made to IPPs; if so, the details thereof;

(d) whether any tenders were called for grant of audit contracts there for;

(e) whether any of the said companies audited the said 23 IPPs in the past; and

(f) whether bulk payments were made on June 29, 2013 till late at night; if so, the reasons thereof?

Khwaja Asif, Minister for Water & Power replied that:

*The office of the Auditor General of Pakistan had completed the audit of cash payment **[which was a blatant lie, the payments were NOT made through AGPR]**; the audit report was awaited; whereas for the appointment of Chartered Auditor Firms the bidding process was completed. The bidding process had been initiated by the office of Director Finance of NTDC. No excess payment was made to the IPPs.*

*Top 14 audited firms listed in the country were hired by various entities and due care had been exercised to avoid any conflict of interest. Funds of Rs:341 billion were received from MoF on 28th June, 2013 and payment was made on the same day as per **Annex-II.***

In reply to a question of MNA Shagufta Jumani, Kh Asif told that:

(a) Reconciled overdue payables to Power generators as on 31-05-2013 were Rs:561 billion [and not Rs:480 Bn]. Company-wise payment made in this regard is placed as Annex-I of the NA's record..

(b) Total payments of Rs:787.447 billion [and not Rs:503.1 Bn] were made to Power generators from 01-06-2013 to

23-10-2013. Further, detail of outstanding payables as on 23-10-2013 attached at Annexure II of the NA's record.

MNA Nighat Perveen Mir asked Kh Asif *whether it is a fact that the electricity of Rs:1800 billions is being stolen annually in the country;….*Kh Asif went silent.

During the 3rd week of May 2014; the IPPs which had earlier been paid Rs:480 billion by the Nawaz Sharif government in June 2013 asked the government in plain words **to pay another Rs:300 billion or face 12-14 hours load - shedding**. A letter to the MoW&P, the Advisory Council of IPPs [IPPAC] sensitised the government and had held a meeting on 15th May 2014 to discuss the re-emergence of huge amount of circular debt.

The IPPs were then facing a huge liquidity crisis in the awake of re-emergence of the circular debt of Rs:300 billion owing to which they were not able to generate electricity at the required level. The letter said that the government took the bold step of clearing the outstanding amount of Rs:480 billion in June 2013 for electricity taken by Pepco during June 2012 - June 2013 but not paid for the electricity taken since then.

However, due to failing recoveries, the receivables of electric power distribution companies (Discos) had reached Rs:500 billion. This resulted in Rs:300 billion again re-accumulating as circular debt because the NTDC was unable to pay for the full amount for the electricity it was taking from the power generators.

The IPPs, individually and through IPPAC, had been agitating this issue with the relevant ministries in the Government of Pakistan in an effort to seek release of payments for electricity already supplied many months ago. Some payments made but were insufficient to keep the plants fully operational and as a result the receivables were escalating again.

In view of that serious liquidity crunch, the IPPs were not able to generate power at full capacity and due to huge increase in the summer demand, the shortfall substantially increased and as a result the load - shedding hit 12-14 hours a day during most part of the summer. Many companies, the letter disclosed, were likely to default on their bank loans, because of non-payment by NTDC. Moreover, the cost of power generation was further increasing the need for the subsidy due to non supply of gas to gas based IPPs as they were by and large being run on HSD (high speed diesel).

The fact remained that during 2012-13 when NTDC did not pay on time, and as a result IPPs were shutting down, NTDC imposed penalties as a violation of the agreement, and that matter was already being considered by the arbitrator. The imposition of more penalties resulted in serious legal complications and forced the IPPs to invoke their legal rights to protect themselves against being forced out of business. The situation was affecting the industry and economy both.

In the circumstances, IPPAC urged the government to realise the importance and urgency to take immediate action by clearing the overdue amount of all IPPs without any further delay and to keep retiring the circular debt frequently till the structural adjustments started by the present government start yielding results.

On 25th August 2015; *Security Exchange Corporation of Pakistan [SECP] expressed its inability to intervene* in the matters of IPPs in response to a letter of the MoW&P seeking the regulator's intervention in alleged financial irregularities in IPPs.

The SECP clarified Kh Asif, the concerned minister, that the entity was only the corporate regulator in case of the IPPs - it could not oversee their operations being not in their mandate; which were to be regulated by NEPRA. By law, NEPRA keeps the mandate to undertake inspection of these entities on a routine basis.

The high-handedness of the IPPs could be imagined that the SECP on several complaints had ordered the inspection of the accounts of those IPPs but the companies challenged the decision in courts and ***got stay orders from high courts in Lahore and Islamabad. The IPPs who had managed stay orders from the courts since 2012*** included Atlas Power, Liberty Power, Orient Power Company, Sephyr Electric Company, Safe Power Ltd, Mian Mansha's Lalpir Power Ltd and his son Hasan Mansha's Pak Gen Power.

It is pertinent to mention that the PML[N] government had paid staggering amount of Rs:480 billion in arrears to the IPPs including 60 billion rupees of Universal Service Fund [USF]. Payment of USF was ordered by a 3-member bench of the Supreme Court headed by Justice Jawwad S Khawaja - a verdict against spending the USF.

On 8th October 2015; Public Accounts Committee [PAC] of the Parliament directed the Auditor General of Pakistan [AGP] to present the audit report which raised objection on the Rs:480 billion payment to the IPPs. The Committee further directed the FBR to submit copies of all SROs withdrawn in past years and also directed to replace the legal team of FBR. The committee meeting was chaired by Syed Khurshid Shah which examined the FBR audit report for 2010-11.

> *[It was a mockery of the system that* ***PPP's Syed Khurshid Shah, the Leader of Opposition in NA, was reviewing the audit report of 2010-11 which had the audit objections on 'irregular' spending during PPP's own government*** *– just to clear it, shelve it and to make the Pakistani people fool once more in the name of democratic process.]*

The committee was informed that 90% legal cases pending in the courts of law were related to taxes. The panel of 1900 legal experts was curtailed to 700 legal experts. The Board was paying Rs:30,000 fee per case. One member remarked that big tax defaulters hired services of expensive legal experts to contest case in the court. In his ruling, Chairman Committee directed to dissolve the panel of legal experts of FBR and a new panel of lawyers having at least ten years experience of high courts practice would be constituted.

The audit official informed the committee that in 37 cases the audit department raised Rs:4.87 billion worth of audit paras. The recovery of Rs:1.89 billion was then pending in the courts of law, whereas Rs:2.47 billion had been recovered in various cases.

The case is still a rolling stone even after 30 months.

CHAIRMAN SECP FIRED:

On 12th April 2013, a two-member bench of the Supreme Court set aside Muhammad Ali's appointment, saying that his selection failed to *"meet the requirements of the Securities and Exchange Commission of Pakistan Act 1997 (the SECP Act)."*

However, the skeletons in his cupboard continued to haunt Muhammad Ali despite his unceremonious exit from the SECP — this time through the FBR. Ali claimed in his written statement that he had sold his shares in the R.I. Enterprise to another person in April 2006 but further investigations falsified his claim. The Enquiry Officer held that the available documents had shown that his annual salary was Rs:380,000 only which did not commensurate with huge investment of Rs:52.5 million.

Many concerned people, however, believed that Mr Ali was an upright person who was keen to see the SECP in high profile with recognized transparent procedures.

On 26th September 2012, under his stern labour the SECP announced the formal launch of five manuals [***for Litigation Management, Adjudication & Supervision, Off-site Surveillance & Monitoring, Inspection & Enquiry and investigation***] which were hailed as a milestone in creating greater transparency and increasing market confidence. For him, the manuals were nothing short of a revolution. He had already set in motion plans to train all SECP officers along the lines prescribed in them. In less than a year, Mr Ali, with the support of his commissioners and senior management, had overhauled and uplifted the entire institution.

Time, however, was not on his side. **On 12th April 2013**, his appointment both as Chairman and as Commissioner was set aside by the court on the grounds that it had been made without due process. In fact he was made the scapegoat for the government's failure to create such processes otherwise he had the strength of character and ability to rise again with renewed vigor, keener insight and sharper focus. Some opined that the SECP had lost a gem and wondered if the institution would rise again.

In the 1st week of August 2013, Mr Ali strongly denied the contents of FBR's report about his non-filing of wealth tax and non-disclosure of any investment. It was in continuation with a planned media campaign against him because he had taken action against a certain brokerage house. 35 pages order by FBR confirming sale of Ali's stake in RI Enterprises in 2006 was available in FBR record but the Enquiry Officer had deliberately ignored it, it was urged.

In July 2013, Mr Ali wrote a detailed letter to the prime minister informing him of the pressure and black mailing tactics used by certain business and media groups to malign him and to stop him from coming back in SECP. The SECP had completed various high profile inquiries during Ali's tenure. The most important one was the criminal complaint in shares of Azgard Nine Limited, in which five companies of a major brokerage house were found to be involved in market manipulation.

This inquiry was started in 2008 but it was never taken to completion but during Ali's tenure the same were taken to their logical end. Despite tremendous pressure, the SECP went ahead and approved the criminal complaint in light of the law and filed the case. The Sindh High Court later stayed the proceedings.

On 1st August 2013; the Federal Board of Revenue [FBR] Pakistan ordered action against former ***Chairman of the Securities & Exchange Commission of Pakistan [SECP]*** Muhammad Ali for concealing personal investments and not filing wealth statements for the years 2010, 2011 and 2012 while serving as one of the country's top regulators. Commissioner IR Zone-II, RTO III Karachi, was asked to expedite proceedings against him under the relevant provisions of Income Tax Ordinance 2001.

Another more serious breach of law was that he had concealed his personal investment of about Rs:52.5 million in R.I. Enterprises in which he held 15% shares through the years 2006-11. The R.I. Enterprises — a land developing and construction company — had four other partners and all of them were stock market brokers. Holding shares in this company being the SECP Chairman was a direct clash of interest. Muhammad Ali was a former broker who was appointed the SECP Chairman in controversial circumstances in December 2010 due to his alleged closeness to a former adviser.