

## Scenario 110

### **POLITICAL ATTACKS ON PAK-ARMY**

#### **ATTACKS FROM A A ZARDARI:**

**During mid-2011**, President Asif Ali Zardari escalated his battle with the army and judiciary that was aimed to test the limits of the country's burdened experiment with democracy. Intensifying pressure by judges had plunged his administration into a new drama and eclipsed Pakistan's most serious problems: economic decline, chronic energy shortages and militancy. Rasul Bakhsh Rais, professor of political science at LUMS opined:

*"People feel cheated by the political forces that they voted into power - they are anxious and pessimistic."*

The uncertainty was more felt by Pakistan's foreign allies, notably the US, who was desperate to repair the diplomatic damage done over the '*Salala event of 26<sup>th</sup> November 2011*' - an air strike that killed 24 Pakistani troops on the Afghan borders. Mr Zardari's conflicts with judges and the Pak-Army were directed on both fronts – triggering speculation by Pakistani TV media channels that his government was on the verge of collapse.

Then the PPP's conflict with the military centred on allegations that Mr Zardari had authorised sending of a secret memo seeking US help to curb the influence of the army after Osama bin Laden's killing in Abbotabad. Then the PM Yusuf Raza Gilani defied his Generals by sacking Gen Naeem Khalid Lodhi, the Defence Secretary, **on 11<sup>th</sup> January 2012** over the charges of "gross misconduct and of creating misunderstanding between the state institutions"; he was effectively the top army representative in the civilian bureaucracy.

PM Gilani had announced his decision shortly after the army warned that his remarks criticising senior Generals over the memo affair could have "grievous consequences"; PM Gilani's thundering speech on the parliamentary floor dated **22<sup>nd</sup> December 2011**, known as '**state within state**' is referred; already cited in aforesaid scenarios.

Some media channels instigated the Pak-Army to stage a repeat of its last coup of October 1999 because they were already controlling important aspects of foreign policy and security. Corps Commanders Conference in GHQ just after the said developments was another indicator in that direction – something was melting in the pot.

*[Gen Lodhi, who retired from the Pak-Army in March 2011 and appointed Defence Secretary in November, became embroiled in a controversy during December 2011 after he submitted a statement in the Supreme Court on behalf of the Defence Ministry, saying that the civilian government had no operational control over the ISI, Pakistan's powerful spy agency.*

*Considering that Gen Lodhi had overstepped his authority, PM Gilani objected to the blunt statement; a public acknowledgment that while the intelligence services are technically answerable to the PM, they are widely perceived to act independently of civilian control.*

*Considering that Gen Lodhi was not authorized to speak such things publicly. The relationship between Gen Lodhi and PM Gilani broke down after the PM's staff pressed Gen Lodhi to issue contradiction about the controversial memo.*

*The army and intelligence chiefs, Gen Kayani and Gen Pasha had told the Supreme Court a month earlier that the memo — said to have been orchestrated by ambassador Hussain haqqani — was authentic, and pointed to a conspiracy against the military. The government and Mr Haqqani had held that they had nothing to do with the memo.]*

President Zardari, on the other hand, was under greater threat from assertive judiciary, particularly if the SC would be backed by the military after the outcome of Supreme Court's investigation in the memo episode.

In separate proceedings, judges had warned that they could disqualify PM Gilani for not obeying its orders to reopen the investigations against Mr Zardari. The case had been deferred for further consideration, raising the prospect of yet another internal strife. The ruling PPP was being pushed into the corner so they decided:

***'So be it, if we're going down, we're not going down without a fight.'***

The PPP government, in any case, wanted to stay and stagger on until Senate polls in March 2012.

### **GEN PASHA OF ISI RETIRES:**

Lt Gen Ahmed Shuja Pasha, the ISI Chief, went on retirement on **18<sup>th</sup> March 2012** and Lt Gen Zaheerul Islam, the Corps Commander of Karachi, replaced him. The new incumbent was no stranger to the ISI, having served as its Deputy Director General in the past. The so called controversies surrounding the premier spy agency of Pakistan during the recent years were to be discouraged and the ISI was put back to its real professional duties. ISI's involvement in the politics of the country from behind the scenes was curtailed. The outgoing commander, Gen Pasha, during his extended tenure had brought certain controversies in play, some of which even continued till the last days of the PPP government in March 2013.

The biggest and most controversial event of Gen Pasha's tenure was the discovery and elimination of Osama bin Laden in Abbottabad, within a stone's throw from the Pakistan Military Academy. The ISI was accused of incompetence or collusion for not exposing the al Qaeda leader's whereabouts in the garrison city for over five years and its failure to detect the unilateral US raid. After the American SEALs raid had killed Osama bin Laden, an unprecedented session of parliament had seen Pasha offering to step down – but no heads rolled after the Abbottabad debacle.

The second controversial episode of Gen Pasha's tenure was the famous memo-gate affair, in which Mansoor Ijaz was privileged by Gen Pasha's sneaky visit to him in London, following which the ISI and military chief, Gen Kayani, deposed before the Supreme Court that Ijaz's allegations had substance. Subsequent developments in the memo-gate case, particularly the proceedings of the Memo-Gate Commission, which allowed Ijaz to depose by video link, however, the issue could not be materialized.

At the peculiar moments of extensions to Gen Pasha and Gen Kayani, the media had taken position that changing horses in midstream when the war against terrorism was at its peak was not a good idea. However, the two top commanders who received extensions became controversial after the two events outlined above.

Military command extensions have a chequered history in Pakistan – the same caused heart-burn within the ranks of those with a legitimate expectancy to succeed the incumbents and a breakdown of institutional continuity. Thus for another extension for Gen Pasha the then opposition PML(N)'s strong rejection of any such notion, explicitly expressed by Ch Nisar in the press and on the Parliament's floor, tilted the scales against the General.

The ISI's change in command, however, did not alter the policy framed by GHQ to continue with the 'strategic depth' policy for Afghanistan – which was augmented by introducing a new green doctrine in ending 2012.

Operation Zarb e Azb, started by Gen Raheel Sharif in early 2014, however gained more attention then.

### **SIACHEN TRAGEDY:**

**On 7<sup>th</sup> April 2012;** with the tragic news of 129 Pakistani soldiers buried alive in an avalanche near the Pakistan Army's base camp at Siachen pushed the whole nation in agony and sorrow. One km metre wide and 25 metre high wall of snow and mud simply moved downwards. It was in Gayari Sector, near the Siachen Glacier region, trapping 129 soldiers and about a dozen civilian contractors under deep snow. The incident occurred at an altitude of about 13,000 feet and 180 miles northeast of Skardu (Capital of Baltistan). It was the worst avalanche that the Pakistani military had ever experienced in the area.

**Some basic facts:** Siachen means '*the place of wild roses*'. Siachen glacier is the great Himalayan watershed that demarcates central Asia from the Indian sub-continent, and that separates Pakistan from China in this region. It is the world's second longest non-polar glacier, and thus is sometimes referred to as the third pole. It is 70 km long and flows from an altitude of 3600 meters to 5750 meters above sea level.

### **The conflict:**

- ***Siachen is known as the world's highest battlefield between India & Pakistan. Troops are deployed at elevations of up to 6,700 metres (22,000 feet) at minus 60 degrees Celsius.***
- Siachen conflict began in 1984 when both India and Pakistan, started sending mountaineers, in an attempt to lay their claims over the area.
- Subsequently, though, the situation resulted in almost an undeclared ceasefire, with the major challenge being the survival of the men of both countries in such a harsh terrain.
- Several skirmishes took place till 2003 when a formal cease fire was declared.
- The roots of the conflict over Siachen lie in the non-demarcations on the map northward to the China boundary beyond NJ9842, which is the line's "dead end" in the India-Pakistan line of control agreement.
- The 1949 Karachi agreement and the 1972 Simla agreement presumed that it was not feasible for human habitation to survive north of NJ9842.
- ***UN officials presumed there would be no dispute between India and Pakistan over such a cold and barren icy wasteland.***
- The contentious area is only 900 square miles (2,300 km<sup>2</sup>)
- Indians control the heights while the Pakistanis control the glacial valley. As a result, Pakistanis cannot climb up, and Indians cannot come down.
- ***Together, the two nations have about 150 manned outposts along the glacier, with some 3,000 troops each.***
- Over 2,000 soldiers [reportedly] have died at Siachen. More soldiers have died from frost bites, cold and avalanche i.e. harsh weather rather than combat.

***The strategic importance:***

Dr Stephen Cohen, ***a well-known and respected Washington-based South Asia analyst, considers,*** "Siachen conflict is a fight between two bald men over a comb."

***In his view,*** "Siachen... is not militarily important... They (Indian and Pakistani armies) are there for purely psychological reasons, testing each other's 'will'."

***Question arises then: why India Occupied Siachen?***

There were two benefits. One was stopping Pakistan from sending tourists to Siachen (which Pakistan never stopped with its control over K2) and then to try and infiltrate to a point where they can monitor the KKH. [***By the way the KKH is otherwise being monitored from satellites mechanism***]. What would India get or discover from seeing trucks pass by on the highway.

As a matter of fact, it offers no importance to India. India and Pakistan could have put a joint team, a much smaller force for observation sakes, perhaps geologists or any other branch of science suited and carry out a joint scientific operation. This would mean a lot less casualties and no fear of a fight breaking out and since it's a joint observatory place, a safer place can be chosen for the base. This would bring costs down as well as save lives. India sometimes goes skeptical about the tourist expeditions which are often not programmed by the Pakistan government or Army – thus the trouble shoots up.

Coming back; only 129 bodies could be recovered despite the hectic efforts of 180 military and civilian rescuers. The victims belonged to the 6th Northern Light Infantry battalion of the Pak-Army. The tragedy triggered a heated debate in political and security circles as to whether it was worthwhile for both India and Pakistan to maintain a military presence in the sub-zero 'hell'. The affirmative answer also appeals sometimes because the glacier puts the KKH [*Karakoram Highway*] — a critical link between China and Pakistan — within range of Indian artillery.

One Col Ali told about that sad event:

*'...suddenly, with no warning, huge rocks and tons of snow and ice swept down from the mountain at a distance of 4.2 kilometres and covered the base with 40 million cubic meters of glacial mass in an instant. The average depth of the debris which buried the camp was between 40-60 meters.*

*All men, 124 of them soldiers, three officers, and six civilians, embraced martyrdom within moments; no one had a chance in the face of nature's colossal power.'*

The Pakistan Army was assisted by German, Swiss, Norwegian, American and British teams of experts. Earth-moving and other heavy equipment was quickly moved up to the site of the avalanche and rescue efforts were immediately put into effect.

The two regional rivals have been locked in a protracted battle over the glacier since 1984 when India had sneaked a march on the 78 kilometre piece of wilderness, fearing that Pakistan wanted to lay claim to it because of the glacier's strategic location. Thousands of troops stationed on both sides have had to brave extremely cold weather, leading at times to amputations because of frostbite, aside from altitude sickness and psychological trauma caused by long periods of isolation. It is true that more fatalities had been caused by extreme weather conditions than actual combat.

The area is normally quiet since the signing of the 2003 ceasefire accord between India and Pakistan. Proposals were mooted lately to declare the area a 'peace park', a proposal no sane

person would dispute, though the abiding mistrust generated by the confrontation between India and Pakistan have made this a difficult proposition, unless there are cogent guarantees backed by world powers through the UN.

If at all such an initiative is mounted, it will have to be on a reciprocal basis to ensure the wholehearted participation of the two regional rivals.

Viewed in the wider perspective, the loss of 124 Pakistani soldiers and 11 civilians because of the Siachen glacier avalanche underscores the need for both India and Pakistan to address all bilateral issues peacefully. This human tragedy could instil some sense into the hawks on either side of the border, leading to a cut in military spending by both the countries and diversion of scarce resources to the development of infrastructure and human capital – but went waste.

The talks for demilitarization of Siachen did take place between India and Pakistan in May 2011, but failed to reach any agreement. The truth remains that this stretch of icy wasteland holds no political or economic importance to the inhabitants residing on both sides of the border.

**On 8<sup>th</sup> April 2012;** President Asif Zardari and Indian PM Manmohan Sindh held meeting in New Delhi, and the two leaders had underlined importance of the issue – but simply assurances were exchanged; nothing practical.

**In the 3<sup>rd</sup> week of April 2012,** Pakistan held again that Siachen glacier was part of dialogue process; India and Pakistan brought several proposals including mutual deployment of troops for resolving this issue. Pakistan made no change in its stance on Siachen glacier (*where troops of both countries stand deployed there since 1984 when India sent its Army*).

**On 22<sup>nd</sup> April:** PM Syed Yusuf Raza Gilani, while speaking on Siachen and the Kashmir dispute both, said that: "*I strongly believe that better sense will prevail on two sides and we will resolve these issues through dialogue.*" All exercise went fruitless.

Till October 2013 at least, Pakistan Army was still working to recover the remaining seven bodies buried in Siachen's Gayari sector. Two more dead bodies were recovered in June. Gen Kayani was addressing a memorial service held in the honour of 140 people of the northern light infantry battalion, who were buried under ice in April last year. The disaster could have served as a wake-up call for Pakistan and India to revisit the Siachen issue, and probe into the logic of why troops were there at all.

The difficulties associated with the area are immense. Temperatures go down as low as -50 degrees Celsius, and the rarity of air and associated lack of oxygen pose significant challenges. This means, for instance, that the lift capacity of the special helicopters operating in the area is reduced when they go up to high-altitude posts. Troops need special apparel and gear for survival. Many are incapacitated due to frostbite and other weather - related conditions. There is not enough oxygen to light fires for even cooking purposes.

All this hardship becomes senseless given the fact that the area cannot be used for large troop movements that either country could use to outflank or out - manoeuvre the other. The occupation of Siachen makes no military sense at all.

Under the 1972 Simla Agreement, the line of control between Pakistan and India was delineated up to a point known as NJ9842. The dotted line then proceeds northeast so that Siachen clearly appears on the Pakistan side. The agreement's script states that from this point onwards, the line will proceed northwards as shown by the dotted line.

In the early 1980s, reports surfaced that some Indian reconnaissance parties had been visiting the area occasionally. Some cigarette packets and food packages found on the main Siachen glacier confirmed these activities. The matter was still under active consideration at Pakistan's GHQ when news came that the glacier had been occupied by India with an approximately brigade - strength deployment.

A brigade of the Pakistan Army was immediately sent up then. This brigade occupied all the passes giving access to the Siachen glacier, which prevented India from gaining access to areas administered by the government of Pakistan. This position, known as the **Conway Saddle**, continued to be firmly held by the Pakistan Army (*the Indian post in the area is Indra Kol*).

There have been a number of rounds of negotiations between the two sides to resolve this issue. The Pakistan point of view had been that we need to revert to the pre-1984 positions while India insisted that we first authenticate these positions and then withdraw. This means that Pakistan would cede this area to India.

This, however, was against international law, from the Westphalia agreement of 1648 to UN resolutions in more recent years. When, in any conflict, a country occupies the territory of its enemy, it must vacate it after an agreement is reached. This was the case after the 1965 and 1971 wars between India and Pakistan, and internationally such as the Israeli occupation of Sinai and other areas. But India stated that in the script of the Simla Agreement, "northwards" means 90 degrees north and ignores the dotted line drawn on the map.

Brig Mehmood Shah has been part of those negotiations. Pakistan's foreign and defence secretaries were proceeding for talks with their Indian counterparts and they asked whether Pakistan could provide any concessions that could provide India with a face-saving exit. Referring to the '**Express Tribune**' dated **13<sup>th</sup> April 2012**, Brig Shah said that:

*'I suggested that certain small glaciers in the vicinity of the Nubra River, which issues out of the Siachen glacier, could be granted to them. Both the sides had come close to an agreement on a number of occasions. Consistently, though, agreement had been prevented by some last minute hitches on the Indian side.'*

Since the inception of the Siachen Conflict in 1984, the Pakistan Army has lost 3000 men, while the Indian military has suffered 5000 casualties, not in battle, but due to the severe winter. Of late, and particularly after the Kargil debacle, India accused Pakistan of being untrustworthy. In terms of Siachen, though, this was a lame excuse.

This high-altitude glacial area cannot be used for large-scale manoeuvres or large troop deployment. The status quo is detrimental for both sides. Perhaps it is time for international guarantors to step in to convince both the countries to call off this madness.

### **ROYAL PALM CLUB CASE:**

**Background:** Once, a nine year old Rs:25 billion scam of Gen Musharraf regime took U-turn to haunt his three favourite ex-Army Generals, who administered the Pakistan Railways in 2001.

**On 22<sup>nd</sup> April 2008**, a 20-member special Parliamentary Committee [PC] of the National Assembly was formed to investigate the lease of Pakistan Railways' land of Royal Palm Golf and Country Club Lahore, to a private party. After about 30 months deliberations, the Committee recommended to the government to register criminal cases against those ex-Generals

named former ISI Chief Javed Ashraf Qazi, Saeeduz Zafar and Hamid Hassan Butt and to investigate further.

The three Generals had appeared before the PC to explain the real facts but failed to convince the members of their innocence. The PC also recommended immediate termination of the contract signed in 2001 and for fresh leasing of the Royal Palm Golf Course in an open auction.

The said scam had surfaced in 2001 when it landed in the Public Accounts Committee but they were unable to access the complete file of the deal because, allegedly, the father in law of Gen Musharraf's son used to work with that 'party' as consultant. The parliamentary inquiry team headed by MNA Nadeem Afzal Chann had revealed in their 25 page inquiry report that the contract was achieved through misrepresentation.

The PC members had held that the said contract was faulty; allegedly caused Rs:40 billion loss to the national exchequer. The inquiry report said that the inclusion of Phase-II in the deal was also illegal, not based on any expression of interest and was not mentioned in the advertisement published for the said lease. The lessee had been occupying the land meant for Phase-II and III without paying any rent.

The PC was referring to an additional facility - that within three months of inking the deal, the same executive committee had enhanced the total area of land from 103 acres to 141 acres, brought down annual land usage charges to Rs:4 per square yard, and had also enhanced the lease period from 33 to 49 years.

The two Generals Saeeduz Zafar and Hamid Hassan Butt, however, told the media that:

*'The said contract was awarded after doing proper homework and following the laws of the land. The deal was also put before the Public Accounts Committee in 2006 and its members did not find anything wrong in it. Later a Senate body too had probed the deal and it too failed to find any flaws in it.'*

The Railways land was given on lease to a Malaysian firm titled Royal Palm & Golf Club.

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**On 23<sup>rd</sup> May 2012**, the Supreme Court took a *suo motu* notice of the deal and completed its hearing on the case in March 2013 but had not released the judgment.

The Public Accounts Committee (PAC) of the National Assembly once decided to get the names of Supreme Court judges who were having membership of Lahore's that controversial Royal Palm Club. The committee suspected that judges might have withheld a judgment for over a year on a case relating to illegal lease of land and construction of the club because they were given the club membership for a token fee. Allegedly, the nation was deprived of billions of rupees whereas PML(N) had to move the court for early announcement of the judgment.

*[Near the Mayo Road (now called Shahrah e Allama Iqbal) Level Crossing Lahore, Mr S N Nulty, Permanent Way Inspector of the then North Western Railway had conceived and then made into reality '**Railway Golf Club**' in 1912 (4 holes only) on a piece of land owned by Railways.*

*By 1914, the golf course had been further cleared of jungle and the track was extended to nine holes; in 1928 it further expanded to a standard full length 18 holes course.*

*After 1947, the course was redesigned and its sand 'browns' were converted into 'greens' for which a pipe-line was laid all over the course. In addition, a large number of saplings were planted on both sides of the fairways and at strategic points; its length too was also increased.*

*In 1955 a new club-house was constructed at a new site in the centre of the course. A number of additions and alterations were carried out to the Clubhouse in order to provide requisite facilities to the golfers. The Club also boasted of a swimming pool for its members and their families.*

*In 1987, major reconstruction of the club house and the course was undertaken by the Railways department and hosted some of the major tournaments in the country until 2000 when Lt Gen Ashraf Qazi, the then Railways Minister decided in 2001 to hand it over to a consortium called Mainland Husnain Pakistan Ltd. (MHPL) and the club was renamed as the Royal Palm Golf & Country Club.*

*With those changes, the Railways land measuring 141 acres was given to a private party on a 49-year lease for specific use at a price. The initial understanding was for 103 acres, for 33 years and then lease of additional land was also awarded in addition, according to the audit report; subsequent enquiries held that huge financial losses had been caused to the Railways department.*

*On that Audit Report, the Speaker National Assembly had formed a 22-member parliamentary special committee to probe this case.]*

A federal audit carried out in 2007 found that the government had lost Rs:10 billion by leasing out 103 acres of land to the club refurbished during 1999-2000 on Pakistan Railways' land in Lahore. A special National Assembly committee headed by Mr Gondal was set up in 2008 to investigate the matter. In a report submitted to the house in October 2010, the committee said the government had lost Rs:40 billion not Rs;10b. [*How those figures were arrived at – the report was silent*]

The Parliamentary Committee [PC] recommended that the contract be cancelled and disciplinary action taken against the then federal minister for railways Lt Gen (retd) Javed Ashraf Qazi, Secretary Lt Gen (retd) Saeeduz Zafar and GM Railways Major Gen (retd) Hamid Hassan Butt.

The National Assembly had unanimously approved the recommendations but ***the fact remained that the land has been lying there since decades, how much revenue the Railways Department had been generating from it – not even in thousands.*** The irony of fate that Pakistan's legislators were equally impotent on such counts. They were seen proactive and often roaring on the parliamentary floor calling shots for opposite party's corruption but never opted to formulate needed legislation to use such precious lands in better way in the national interest.

***The parliamentarians*** used to call for action against some corrupt hands in that Golf Club but ***never bothered to call for the accounts of that club from 1947 till 2001; virtually negligible;*** could not provide the maintenance expenditure even. Ironically *Pakistan Railways was spending about half a million annually from its revenue to run and manage its affairs.* It was only to provide recreation to some elite secretary level families for their club dinners nothing else. Here in the said case; Gen Qazi had given the land on lease for 49 years – had not sold it as has been the practice in Sindh during PPP regimes; ***commonly known as China Cutting.***

The matter was also registered with the National Accountability Bureau [NAB] and an enquiry was also held into the scam but the report never came to lime light. NAB had reportedly re-



covered Rs:6 billion from the club owners; enough as compared to other corruption cases with NAB offices. In normal course of investigations the 'recovery by NAB' from the politicians remains around zero. However, just for change of taste, see few lines from an article published in **'the New York Times' of 18<sup>th</sup> May 2013:**

*'The Royal Palm Golf and Country Club, a lavish facility with an 18-hole golf course, gyms, 3-D cinemas and cigar rooms, opened in 2002 at the height of the military rule of Gen Pervez Musharraf. The club, which costs \$8,000 to join, has become a showcase for new money: families that made their fortunes from property and industry, contacts and corruption.*

*The Royal Palm's glittering social functions, attended by men in expensive suits and women in ornate gowns, are a staple of local society magazines. The opening of a local Porsche dealership was celebrated here in 2005 with a gala dinner featuring exotic dancers flown in from Europe. Some events even offer alcohol, although guests are encouraged to drop their wine glasses when the cameras show up.*

*The rail minister at the time was Lt Gen Javed Ashraf Qazi, an ally of Gen Musharraf's and a former spy chief who leased the railway's land to a consortium of businessmen. Critics accused him of giving the land away at a sweetheart rate. The National Accountability Bureau, which investigates official corruption, concluded last year that the Royal Palm deal had cost the government millions of dollars in lost revenue.'*

But what the politicians have been doing with the country – comparison is needed. Referring to **'the News' dated 3<sup>rd</sup> November 2012:**

*'Pakistan Railways was wasting big amount of money annually in running and managing the Golf Course Lahore, which was in use of some elite class members who would pay Rs:12 per annum for 103 acres of land while after the new deal this course was earning Rs:40 million annually while the land and newly constructed building were the ownership of the department - documents submitted in the Supreme Court explained.'*

A perception was purposefully propagated at the whims of the mighty elite who had been using this club for decades that **"Lahore's prime land was converted into a gold club"**, whereas the fact remained that the same land was used by a select few. After the 2000 deal through Gen Qazi it was privatised and now being used by hundreds of members, bringing millions for the money-less railway. **A careful analysis of the record would reveal that this was a normal business deal at least much better than Privatization Commission deals done by politicians during their respective regimes.**

According to the documents submitted in the SC, in year 2000 the Railways was on the verge of collapse with Rs:20 billion debt of the State Bank and was facing an annual loss of Rs:2.5 billion. The lease of this Railway land started generating revenue of more than Rs:40 million per annum, the only profit generating unit of Pakistan Railways so far, with construction of mega buildings and a golf course of international standard with everything owned by none else but the Pakistan Railways itself.

However, after this lease was signed the members of the old golf club, headed by former Railway Minister Ishaq Khakwani, who played golf at the expense of poor railway passengers, started maligning the railways authorities. Print media record shows that only one sided viewpoint has been appearing without the versions of other side.

Those old members had challenged the deal in Lahore High Court [LHC] where Justice Khalilur Rehman Ramday was the judge, who after hearing the initial arguments, addressed the petitioners with following observation;

*"You should be ashamed before invoking the jurisdiction of this court. You were paying Rs:12 per annum and now Pakistan Railways will earn Rs:40 million per annum after this lease agreement."*

The result was evident; the petitions were thrown out. Those members of the old club never turned up at the LHC again and Justice Ramday dismissed the petition **on 4<sup>th</sup> May 2001**.

The only major point used to mislead the public was that the total per annum income was much lower whereas the land was very precious and its market value was four to five times the amount agreed upon. This could be correct as if the land was allowed to be leased on commercial basis for best possible commercial purposes the income would have been in billions **but this land was marked and categorised as 'golf course land'** and it was supposed to be used as a golf course in any case and was not to be 'sold'; it was 'leased' so the ownership could remain with Pakistan Railways for ever. However, this very point was never explained in the media in detail and people were misled.

Gen Qazi's Railways management hired marketing professionals who got published an advertisement, requiring documents with previous experience. Following which four big companies had submitted their expression of interest **but only one Malaysian firm, Maxcorp, qualified** as it had relevant work experience and had offered the highest bid.

The firm had demanded at least 66 years instead of the announced 33 years and at least 140 acres of land instead of 103 acres be given to them so as to enable the firm to construct an international standard course. Thus with mutual agreement it was decided that Maxcorp would pay 10 percent of gross annual revenue (10% of gross revenue and not merely of profit) and total time period was agreed on 49 years.

The firm made huge investments and erected international standard buildings along with a golf course comparable to any golf course of the world and which is owned by Pakistan Railways. There was also a second phase of this, which was agreed upon in the same agreement. The company was to construct a five-star hotel and was to pay 500,000 US dollars as commitment fee, Rs:40 million per year minimum guarantee with an escalation of 15 percent every three years.

A Senate standing committee however did visit the site and declared it a good deal. Public Accounts Committee also took up the matter in 2005 and all issues were settled after detailed briefing by the then Secretary Railways. However, vested interests continued to raise baseless objections, which halted the initiation of second phase of the project and thus deprived the railways of big revenues.

The foreign company after successful completion of this mega project completed golf course of DHA Karachi, Mangla Cantonment, Jacaranda Club Islamabad and also landed many big projects of international standard in Pakistan.

### **FRESH EFFORTS TO TAME ISI:**

**On 16<sup>th</sup> July 2012**, to bring an end to the interference of the intelligence agencies in national politics, the Supreme Court of Pakistan declared illegal and 'void *ab initio*' the political cell of the ISI which had been frequently accused of 'engineering' the successive general elections in Pakistan – a symbolic decision it was. The Attorney General could not produce the notification under which the political wing of the ISI was established in May 1975 by the then PM Z A Bhutto; in fact there was nothing on file.

The decision was taken by a 3-judges bench headed by CJP Iftikhar M Chaudhry in an off - shoot petition launched in the back drop of AM Asghar Khan Case which had been with the SC since 1996. The details of Asghar Khan Case is available in Vol-I of this book and SC's judgment on that petition have been given in the previous pages of this volume.

The court order mentioned the disqualification of former PM Gilani, the apex court's judgment of 31<sup>st</sup> July 2009, followed by subsequent judgments, making it abundantly clear that the affairs of the country would only be governed strictly under the constitution, with no interference from institutions other than those given powers under the constitution. Interestingly, a week earlier the President Zardari had urged his government to clip the wings of the ISI through parliamentary legislation.

A 19-page draft bill prepared by Senator Farhatullah Babar, the official spokesman of President Zardari, titled as **Inter Services Intelligence Agency (Functions, Powers and Regulation) Act 2012**, was not only aimed at disbanding the political wing of the ISI but also to make it fully accountable to the elected parliament and the prime minister. The bill was placed before the Senate **on 9<sup>th</sup> July 2012** and was withdrawn **on 12<sup>th</sup> July 2012** without any discussion or progress on it – reasons unknown.

Senator Babar had not obtained approval of the Special Committee of the PPP headed by Federal Minister for Law and Justice Farook H Naek. The four member committee also included Leader of the House Jehangir Badar and chief whip Senator Islamuddin Shaikh – Committee was there to wet and approve submission of the private drafts of the party members.

However, the proposed bill had evoked a fair amount of interest in the diplomatic community of western countries especially some important capitals across the Atlantic. Giving background of the proposed legislation, the bill stated:

*"The absence of appropriate legislation regulating functioning, duties, powers and responsibilities of the agency is not consistent with the principles of the natural justice and accountability of authority and power, and has given rise to resentment against the premier national agency."*

It stated the ISI's DG should be a serving or retired civil servant or an armed forces official who would be appointed by the President on the recommendation of the Prime Minister. The ISI chief would hold office for four years. **"The agency shall be directly under the Prime Minister and not under any ministry,"** it stated.

The bill envisaged an Intelligence and Security Committee comprising nine members drawn from both Houses of the Parliament, none of whom shall be a minister or minister of state, to examine matters related to the expenditure, administration and policy of the ISI. The committee would not be allowed to go into the intelligence sources of the ISI.

The Prime Minister shall lay before the Parliament a copy of the annual report of the committee together with a statement on whether any matter has been excluded from it and why.

In the case of missing persons, the draft bill stated - the government had informed the Supreme Court that operations of intelligence agencies were beyond the control of the federal administration. It suggested that:

*'The DG ISI may issue written orders for taking into preventive custody any person who is acting or has acted in furtherance of a terrorist act or in a manner prejudicial to the security of Pakistan.*

*The ISI chief should fix the period of custody, not exceeding [ ] days, in the order of preventive detention and this can be extended up to ninety days on special grounds.*

*If a person is required for over ninety days, the ISI chief shall place the matter before a review board.*

*Under the proposed act, any employee of the ISI found in any way working for the enemy, any terrorist or terrorist organisation, or for any criminal or organised criminal group, shall, on conviction, be punished with imprisonment for a term that may extend to twenty five (25) years.*

*The employees of the ISI shall not be regarded as civil servants and a separate mode of taking disciplinary action against them for misconduct has been prescribed in the draft.*

*The bill recommends the appointment of an ombudsman by the President to independently and impartially address service complaints of employees of the ISI and any complaints of misuse of authority.'*

The bill recommended internal accountability and a better discipline system within the ISI to put an end to enforced disappearances of civilians and victimisation of the political parties and their workers and leaders. It was a replica of **'State within State' speech of 22<sup>nd</sup> December 2011** delivered by PM Gilani in the Parliament.

The opening speech held that the ISI became a powerful arm of the military regime under Gen Ziaul Haq during the Afghan *jehad* against the Soviet forces in Afghanistan during 1980s. After the death of Gen Zia, the then DG ISI Lt Gen Hameed Gul had tried to stop Benazir Bhutto's PPP from sweeping into power through making of the IJI – it is on record.

In the past, the ISI used to act independently with its untied decisions but with the elevation Gen Kayani to the coveted slot of DG ISI and then to the army chief in 2008, opened the route for a complete merger of the ISI with GHQ of the Pak-Army. All the prime ministers in row had been aspiring to nominate the chief of the ISI but it remained a fruitless exercise.

Once Benazir Bhutto in her second stint during 1994-97 put her own choice, Gen (rtd) Shamas Kallu as ISI chief but was disappointed when the GHQ had withdrawn and shifted all operational files from the ISI to the MI, an intelligence body directly under GHQ. Since then no such exercise was put to practice.

DG ISI Gen Shuja Pasha [2009-2012], nominated by Gen Kayani, was given extensions in his tenure, allegedly making him to implicate the incumbent President Zardari in the infamous Memo-gate scam in 2011. In March 2012, Gen Pasha was not given extension because:

**'.....[allegedly] he signed a secret contract with Gen Patreaus, the CIA Chief then, in Qatar in January 2012, giving green signal for the unchecked US drone attacks, allegedly keeping Gen Kayani, the Army Chief, in dark; whereas, after November 2011's Salala event, Gen Kayani was coming harsh on Americans in all fields including drone attack strategies.'**

The PPP government once more tried to seize control of the ISI in their 3<sup>rd</sup> stint in 2008 by proposing its command and control in the interior ministry; notification was issued to that effect in ending July 2008, but the Interior Minister Rehman Malik had to withdraw that notification within three hours. However, the internal political wing of the ISI was 'officially' made non-effective and it is coming so on papers since then BUT practically it never ceased functioning.

Thus, despite being declared illegal by the Supreme Court, it is still there, doing its job as before – but just to keep record of persons and events.

