

ORDER SHEETIN THE LAHORE HIGH COURT LAHORE
JUDICIAL DEPARTMENTCase No: W. P. No. 5459/2013.

Khawaja Saad Saleem.

Versus

Federation of Pakistan etc.

No. of order/ Proceeding	Date of order/ Proceeding	Order with signature of Judge, and that of parties of counsel, where necessary.
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07. 11.03.2014. Mr. Babar Sattar, Advocate for the petitioner.
M/s Mian Irfan Akram and Javed Kasuri, Deputy
Attorney Generals for Pakistan.
Mr. Iftikhar Ahmad Bashir, Advocate for the Ministry of
Information Technology, Government of Pakistan,
Islamabad.

Through this petition the vires of impugned Rule 4 (2) (b) of the Pakistan Telecommunication Authority's Chairman and Member (Appointment and Qualifications) Rules, 2013 ("Rules") has been challenged on the ground that it is *ultra vires* Section 3 of the Pakistan Telecommunication Authority (Re-organization) Act, 1996 ("Act"), as well as, opposed to the ratio of an earlier judgment of this Court reported as Barrister Sardar Muhammad v. Federation of Pakistan and others (PLD 2013 Lahore 343) (Reference paragraph 49).

2. Learned Deputy Attorney Generals, as well as, learned counsel for the concerned Ministry submit that the instant petition has practically become infructuous as the said Rule has already been struck down vide judgment of the Islamabad High Court, Islamabad dated 24.04.2013 passed in W. P. No.800/2013. He further submits that there is no objection if a declaration to this effect is once again issued by this Court and the prayer made by the petitioner is allowed.

3. In view of the categorical position taken by the learned Deputy Attorney Generals for Pakistan, as well


as, the learned counsel for the concerned Ministry that the impugned Rule has already been struck down by Islamabad High Court, there is no need to issue another declaration to this effect as the relief prayed for has already been granted to the petitioner. Hence this petition to this extent has become infructuous.

4. It is contended by the learned counsel for the petitioner that inspite of the fact that the said Rule has been struck down, one Barrister Zafar Ullah Khan, Secretary Law, Government of Pakistan has been appointed temporarily as Member (Compliance and Enforcement) on the basis of the said Rule and prays that the said appointment may also be struck down.

5. Learned counsel for the concerned Ministry submits that the above named officer is holding additional charge as Member (Compliance and Enforcement) on temporary basis and has not been appointed under the impugned Rule. He further contends that the said post has been re-advertised and will be filled in due course of time.

6. In view of the above submission, it would be sufficient if the concerned Ministry is directed to ensure that the said post is filled strictly in accordance with law at the earliest. Order accordingly.

7. This writ petition is disposed of in the above terms.


(Syed Mansoor Ali Shah)