A burden on judiciary’s shoulders

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July 23, 2019

The audio-video scandal wherein Accountability Court (AC) Judge Arshad Malik was allegedly found to be involved in discussing the case of Mian Nawaz Sharif has created headlines in the news and provided oxygen to the opposition parties, particularly PML (N) whose leadership is facing corruption charges. The allegations and revelations from both sides have cast doubts on the tainted accountability process. Once again the involvement of political and non-political forces to pressurise judges who hear high-profile cases of the politicians surfaced.

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Whatever the result would be, one thing is sure that the AC judge has grossly violated the code of conduct. The step of the IHC to separate AC Judge him from AC and repatriate him to LHC is good but insufficient one. It is pertinent to mention here that the superior/supervisor court immediately should check all other AC judges who are hearing high profile cases whether they are facing any undue influence and attempts of blackmailing from forces that work behind the doors.

The judiciary, a constitutional setup that ensures carrying out of justice, should be streamlined so that the confidence of people is restored in its impartiality. Churchill was so confident of his judiciary that if it was dispensing justice, then they would win the war. Unfortunately, our judiciary, since the inception of Pakistan has been marred due to some ambitious characters in the institution. Mr Monir’s submission to the then powerful set a precedent. The judge introduced the theory of necessity and followed by many other judges when a few adventurists Generals imposed martial law in the country. Unfortunately, our judiciary has been instrumental in legitimising the military takeovers every time.

In the wake of Panama fiasco, the then prime minister, Mian Nawaz Sharif was forced to resign on the directions of Supreme Court and his trial was started in the result of JIT report, constituted by the Supreme Court and members of the JIT were included on suspicious WhatsApp Call.

The trials started under the supervision of a Supreme Court Judge; an unprecedented step in the judicial history of Pakistan because traditionally ACs are under the supervision of respective High Courts. Shouldn’t we call it manipulation? The majority of the legal community rejected this alien supervision. But unfortunately, judiciary under the former Chief Justice Saqib Nisar was working beyond judicial norms. The AC Judge, Malik Arshad, had pronounced judgment against, former prime minister, Maryam Nawaz Sharif and Capt Muhammad Safdar. Maryam and her husband Capt Safdar are on bail. The day when this judgment was pronounced, delay in pronouncing judgment was witnessed and raised the voices as to who is the author of the decision.

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Almost, a year later, an audio-video scandal surfaced wherein the AC Judge who pronounced verdict was admitted the friendship with Nasir Butt a UK PML (N) office-bearer; the press release and affidavit by of AC Judge confirm this friendship. In the same, documents he also admitted that he was approached, offered bribery and coercion during the trial. He, even after the verdict, visited Jati-Umra and met with the ‘convicted’ who was on bail for one and half months. The politicians who are considered and being projected by the corrupt mafia will go any extent for saving their skins, but Accountability Court Judge whiling indulging himself with these politicians and violated his code of conduct.

Through press release and affidavit, it is established beyond any doubts that judge enjoyed friendship with high-ups of PML (N). This, only, the association is a solid reason to bar him from hearing the case of PML (N), but he did hear and decided the case. Now he is blaming of being blackmailed if so happened then why he concealed this important information from supervising Judge or at least Islamabad High Court under which jurisdiction, he discharge his duties. Indeed, he had violated his code of conduct. Consequently, he was asked to relinquish the charge forthwith.

Here one question arises in one’s mind as to how it is possible that in such a vigilant situation, his movement and activities remained unnoticed by “everyone”? And why supervisor judge failed to keep an eye on him? One answer could be that he is not spymaster, but then he should not accept this alien responsibility. Another aspect might be that the pressure which is being discussed was not only from NS but seems to be from any other influential quarter as well. It is also likely. Because if it were only from NS, then there is a high likelihood of raising this point during the trial.

Anyway, whatever the case is; the AC Judge Malik Arshad has earned a bad name for the judiciary. It can further shake the confidence of the peoples on the courts and justice system in Pakistan. Our current Chief Justice is trying his best to keep himself away from political-inflicted cases; his untiring efforts are lauded for clearing backlog from the Supreme Court and also from lower courts by establishing model courts.

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In this complexed and confusing situation, Chief Justice of Pakistan has to play a historic role to erase this blot from the face of judiciary done by AC Judge. The Islamabad High Court should set aside the judgment pronounced by AC judge and hand over this case to another judge of impeccable integrity to decide the matter afresh. On the other hand, the Supreme Court has already taken up video case to decide this without indulging any controversial institution. These two cases should be tackled separately so that one cannot affect the other. The corrupt mafia, as projected by Prime Minister Imran Khan, must be punished following the law. Only by punishing the AC judge can the judiciary learn the lessons of not succumbing to the unseen pressures and influencers. Doing so is necessary; otherwise, people will lose confidence in the impartiality of the justice system of the country.

The superior courts have to decide such issue once for all, otherwise, such blackmailing from any quarter will continue to surface. The so-called Sicilian Mafia will continue to plunder Pakistani money. Let us see how superior courts ensure dispensation of justice while protecting the sanctity of their institution that is far more important, for the confidence of the people of Pakistan. Let us hope best for the country.