



Women's Action Forum

Press Release

WAF's Responds to SJC's Dismissal of its Reference Against Former CJP Saqib Nisar

June 4, 2019: Members of the Women's Action Forum (WAF) have strongly objected to the Supreme Judicial Council's (SJC) dismissal of their Reference dated 10.10.2018 against then Chief Justice of Pakistan Saqib Nisar and demanded reconsideration. As per letter dated 22.5.2018 sent to WAF by the Deputy Registrar Supreme Court, the Reference was earlier dismissed by the Supreme Judicial Council (SJC) as having become infructuous upon retirement of former CJP Saqib Nisar.

In its reply to the SJC through the Registrar Supreme Court, WAF questioned why the Reference filed by them on 10.10.2018 was only taken up after the former CJP's retirement and not during the three months he remained CJP after filing of the Reference.

WAF also pointed out that, in any event, the SJC has two separate duties to perform in relation to References filed against a judge. Firstly, to determine whether he had committed misconduct and, secondly, to determine whether he should be removed from office. While the earlier retirement of the former CJP may preclude his removal, that is no reason for the SJC not to perform their prior duty which is to inquire and determine whether the former CJP misconducted himself in office.

This is no empty academic exercise. WAF is of the view that the former CJP Saqib Nisar enjoys perks and benefits from the public exchequer amounting to several lacs of rupees every month by virtue of his former office. If he misconducted himself in that office, these must be withdrawn. Moreover, the public at large (as well as present and future judges) must be able to ascertain whether the various acts of the former CJP actually constituted misconduct or not. This will guide the future behavior of judges. Additionally, judges who are guilty of misconduct should not be able to escape all consequences merely because they retire first.

WAF also pointed out the allegations of misconduct against former CJP Saqib Nisar were of a very serious nature and based entirely on his own public statements, judgments, orders and publicly reported actions both in the media and the Supreme Court website. As such, there is no need to maintain any confidentiality in respect of the proceedings against him. The former CJP's breaches of the Code of Conduct for Judges included:

A) Denigration of minorities (Hindus) and women in his public speeches in



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violation of Article III of the Code.

B) Inappropriate courting of publicity through media interviews and public speeches/statements and repeated engagements in public controversies with politicians, trade unions, media personnel *etcetera* in violation of Article V of the Code;

C) Despite his repeatedly emphasized strong personal interest and conviction in the construction of dams – continuing to hear dam-related cases, fund-raising and personally soliciting donations from litigants and advocates for this cause and meeting them in chambers to accept donations and nevertheless failing to recuse himself in cases involving such donors in violation of Article IV, VI, VII and VIII of the Code;

C) Discriminatory treatment of lawyers in violation of Article II of the Code;

D) Failure to maintain harmony within the judicial institution and showing disrespect to other judges, whether by reconstituting Supreme Court benches mid-hearing against the will of his companion judges or through public statements against judges of the Sindh High Court and Islamabad High Court or through televised acts like tossing mobile phones of junior judges around, in violation of Article IX of the Code.

E) Assumption of extra-judicial roles and responsibilities by fund-raising for dams and making raids and inspections of hospitals and educational institutes even during court hours and thereby failing to maintain punctuality in court timings and failing to expeditiously dispose off cases in violation of Article VII of the Code;

F) Exercise of undue influence and unlawful interference with the independence and judicial discretion of other judges by publicly directing subordinate judges to facilitate CPEC and Chinese companies in violation of Article VIII of the Code

(Copy of reference attached to this letter)

WAF has therefore requested that its reply be placed before the Hon'ble CJP and other members of the SJC with the request to reconsider its decision to declare reference No. SJC-398 as infructuous and to take up and decide the reference on merit.

Women's Action Forum, Pakistan
(Karachi, Hyderabad, Lahore, Peshawar, Quetta)