



PROVINCIAL ASSEMBLY OF KHYBER PAKHTUNKHWA

No.PA/Khyber Pakhtunkhwa/Legis-I(R)/2024/1003-04
Dated Peshawar, the 19 / 07/2024.

MOST IMMEDIATE
ASSEMBLY BUSINESS

To,

The Secretary to Government of Khyber Pakhtunkhwa,
Law, Parliamentary Affairs and Human Rights, Department

Subject: - **JOINT RESOLUTION No. 39 ADOPTED BY THE PROVINCIAL**
ASSEMBLY OF KHYBER PAKHTUNKHWA.

Dear Sir,

I am directed to say that the Provincial Assembly of Khyber Pakhtunkhwa in its sitting held on **19-07-2024** passed per-majority the following Resolution No. **39** moved by Mr. Aftab Alam, Minister for Law, Mr. Amjad Ali, Special Assistant for Housing Mr. Akhtar Khan, Mr. Hamid ur Rehman, Mr. Anwar Zeb Khan, Mr. Iftikhar Ali Mashwani, Mr. Muhammad Arif, and Mr. Fazle Elahi, Members Provincial Assembly Khyber Pakhtunkhwa as follows:-

1. We the elected members of Provincial Assembly of Khyber Pakhtunkhwa stand for upholding the independence of Judiciary, Rule of Law and Constitution of Pakistan, 1973. The political situation of Pakistan after the full Court majority decision of Supreme Court of Pakistan. In Civil Appeals No.333 and 334 of 2024 and CMA No.2920 of 2024 dated 09/07/2024 announced on 12/07/2024, in which Article 51 and Article 106 of the Constitution of Islamic Republic of Pakistan, 1973 has been interpreted and the impugned Order dated 01/03/2024 of Election Commission of Pakistan has been declared to be ultra vires the Constitution, without lawful authority and of no legal effect. Similarly the impugned Judgment dated 25/03/2024 of the Larger Bench of Peshawar High Court is set aside and the Supreme Court of Pakistan declared that denial of election symbol does not in any manner affect the constitutional and legal rights of a political party to participate in an election, so Pakistan Tehreek-e-Insaf (PTI) is a political party which secured on seat in National and Provincial Assemblies and after filing of the affidavits of being candidate of PTI and confirmation by the political party PTI that the candidate contested the General and Provincial Election as its candidates, the said seats be counted as seats of PTI and PTI shall within first of candidates for the reserved seats of women and minorities then the Election Commission of Pakistan would be bound to notify as per proportionate to the General Seats secured by PTI the reserved seats as their members.
2. In order to frustrate the said Judgment of Supreme Court of Pakistan any Act either in the shape of appointment of four Ad-hoc Judges would be construed as motivated to pack the Court and undermine the independence of judiciary. That for appointment of Ad-hoc Judges the law is provided under Article 182 of the Constitution of Islamic Republic of Pakistan, 1973 which is intended to be a temporary measure. The proposed Ad-hoc appointments will be seen as an attempt to pack the Court thereby affecting the judiciary's composition and decision rather than addressing the systematic issues as alleged case backlogs. There are lots of National and International crises in our country and the said appointments would create new crises in our country Pakistan. We the members of Provincial Assembly of Khyber Pakhtunkhwa thinks that if Supreme Court of Pakistan don't want to make other crises the senior Judges of High Courts can well be elevated to Supreme Court of Pakistan as already meeting of Judicial Commission of Pakistan is scheduled for 19/07/2024, when democracy and rule of law is seriously been undermined in Pakistan such appointments will have serious impact on Constitutional issues, as we the members of the Provincial Assembly of Khyber Pakhtunkhwa are seeing the matter with great concern as already Review Petition against the full Court majority Judgment of reserved seats have been filed and we apprehend that this could lead to attempt to undermine the judiciary's independence for political purposes and such actions might erode public trust in the judicial system which would have long-lasting detrimental effects on the rule of law in Pakistan. And such attempts would bring our beloved country Pakistan to extreme disasters.

3. That for the appointment of Ad-hoc Judges to Supreme Court, Article 182 starts with the sentence "if at any time it is not possible for want of quorum of Judges of the Supreme Court to hold or continue any sitting of the Court or for any other reason it is necessary to increase temporarily the number of Judges of the Supreme Court" which means that no such like situation is present, and we the elected members of Provincial Assembly of Khyber Pakhtunkhwa would construe the same to be done only for political purposes.
4. In light of the above, we the elected members of Provincial Assembly of Khyber Pakhtunkhwa call upon the judicial commission and parliamentary committee not to endorse these appointments. We the elected members of Provincial Assembly of Khyber Pakhtunkhwa also further call upon the Hon'ble (ret'd) Justices to reject their appointments of the Ad-hoc Judges of the Supreme Court of Pakistan.

I am further directed to say that under sub-rule (3) of rule 135 of the Provincial Assembly of Khyber Pakhtunkhwa Procedure and Conduct of Business Rules, 1988 the Department concerned of the Government shall report to the Assembly Secretariat about the action taken on the resolution within a period of two months from the date of its communication.

Your faithfully,



Assistant Secretary,
Provincial Assembly of Khyber Pakhtunkhwa