

Form No: HCJD/C-121.

ORDER SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD.
JUDICIAL DEPARTMENT

W.P No.2215 of 2024

Shafqat Mehmood Chauhan, etc.

Vs

Federation of Pakistan, etc.

S. No. of order/ proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
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12.07.2024. M/s Abid S. Zuberi and Shafqat Mehmood Chauhan, Advocates/petitioners Nos.1 and 2 in person.

Through the instant petition, the petitioners have challenged notification dated 08.07.2024 bearing S.R.No.1005(I)/2024, whereby under section 54 of the Pakistan Telecommunication (Re-Organization) Act, 1996 (**Act**), authority has been given to the Inter Services Intelligence (ISI) to intercept calls and messages through telecommunication system in the interest of national security or apprehension of any offence as well as of section 54 of the Act.

2. Learned counsel/petitioner No.2, in person, *inter-alia*, contended that the notification is *ultra vires* the Constitution and the Act. It was further contended that under section 54(1), the Federal Government can intercept calls, however, the referred provision of law now stands impliedly repealed by the Fair Trial Act, 2013. Learned counsel/petitioner No.2, in person, took the

Court through the Act of 2013 to show that wiretapping or intercepting calls can only be made after a due process has been followed as prescribed under the said Act and issuance of warrants by the concerned High Court. It submitted that even otherwise under the Act of 1996, the rules were to be made which included rules for interception and wiretapping calls which till todate have not been framed and the same stands admitted by the Federal Government and is reflected in the order of this Court dated 25.06.2024 in case of "Bushra Imran Khan Vs. Federation of Pakistan, etc. (W.P No.2758-2023). It was further submitted that a similar situation arose way back in 1998, which led to the judgment of the Supreme Court of Pakistan in case reported as "Mohtarama Benzair Bhutto and others Vs. President of Pakistan and others (PLD 1998 SC 388), wherein certain principles and guidelines were propounded by the Supreme Court of Pakistan for the interception of calls or wiretapping. It was further contended that the impugned notification as well as section 54 *ibid* is *ultra vires* the provisions of the Constitution, hence need to be struck down.

3. Points raised need consideration. Admit. Notice.

4. The respondents shall file report and parawise comments/reply, so as to reach this Court before the next date of hearing. Since *vires* of Federal Statute as well as notification is under question, notice to the learned Attorney General for Pakistan shall also be issued under Order 27-A CPC.

CM No.01 of 2024

Notice.

CM No.02 of 2024

The exemption sought for is allowed subject to all just and legal exceptions.

CM No.03 of 2024

Notice.

(CHIEF JUSTICE)