ORDER SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

Objection Case No. 6580/2025
IN
Writ Petition No. 1053/2025

MUDASSIR MALIK
Versus
FEDERATION OF PAKISTAN & ANOTHER

S. No. of order/ proceedings	Date of order/ proceedings	Order with signature of Judge and that of parties or counsel where necessary.
	10.04.2025.	Mr. Muhammad Umer Khan Vardag, Advocate for the applicant (petitioner in the writ petition).

INAAM AMEEN MINHAS, J.- This is an application for appropriate orders, upon which the office has raised objection that how this application regarding bench fixation can be entertainable and placed it before this bench as an objection case.

2. The applicant has filed this application to secure transfer of the main writ petition directly to another bench of this Court. The grounds raised by the applicant and the arguments by the learned counsel of the applicant primarily revolve around the premise that an earlier writ petition on the same subject matter is pending before another bench of this Court, hence comity and propriety demand that the instant writ be also transferred to that bench.

3. The applicant seeks that irrespective of the objection, this case be transferred *inter-alia* on the following grounds:-

> "That under the "**Principles of Judicial Propriety & Comity**" the above titled case should have been entrusted to Bench No. 4 for the following reasons.
>
> i. The Applicant's Counsel had given a clear and unambiguous "Certificate" in the following terms:
>
> "Certified as per instructions of the

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Petitioner that this is the second Writ Petition on the subject matter and no other petition except for W.P. No. 2012/2024 was filed before this honorable Court or before any other Court including Supreme Court of Pakistan."

ii. Also, certified copies of the orders passed in WP No. 2012/2024 and stay orders passed in (CM No. 3432/2024) have been annexed with this writ petition and are available at pages 54 to 56A of the present writ petition No. 1053/2025.

iii. Also, the Counsel of the Applicant has put a note on the urgent form that the connected writ petition is WP No. 2012/2024.

That the ministerial staff of the High Court cannot ignore these notes and certificate of the Applicant's Counsel. An Advocate is an Officer of the Court and his certificate cannot be ignored.

That the ministerial staff of the High Court cannot ignore the factum of the earlier WP No. 2012 of 2024 and the orders available at pages 54-56A of the present writ petition No. 1053/2025.

That "Principles of Judicial Propriety and Comity" are to be upheld at all times otherwise confidence in judicial process and dispensation of justice would be destroyed.

That it is a "Principle of Judicial Propriety and Comity" that bench earlier seized of a matter should be entrusted with the subsequent case on the same matter to avoid any conflict of judgments/decisions as both cases are quite connected. Some of the members appointed in the later process were also part and parcel of the earlier process subject matter of WP No. 2012 of 2024.

That the second process subject matter of WP No. 1053/2025 is a maneuvering of Respondent No.1 and the beneficiaries of the second process to bypass the writ petition No. 2012/2024 and avoid the consequences of the stay order dated 05.12.2024 in CM No. 3432/2024.

That ministerial staff cannot ignore the "Principles of Judicial Propriety and Comity" and has to put the file before the Administrative Judge with the right notes

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> and briefs. Otherwise the legal system would regress and fall to the lows of imperialism and imperialistic courts. It seems in this case a proper note/brief has not been put up before the Administrative Judge."

4. In order to appreciate the contention of the learned counsel in its proper perspective a report was called from the office in support of the objection raised. Pursuant to the direction, Additional Registrar Judicial has furnished a detailed report.

5. Heard. Record Perused.

6. The application under objection cannot be proceeded upon merits till the time objection is alive. For consideration upon merits of the contents of the application, it is necessary that a decision on the objection raised by office is passed first.

7. As the office objection pertains to the maintainability of this application through which transfer of a case from one bench of the High Court to another has been sought. A decision on this objection would not merely procedural but substantially would impact the legal acceptability of such applications. If the objection is overruled, it would amount to a judicial endorsement of the maintainability to transfer a case from one bench of the High Court to another, potentially opening the door for similar applications. Conversely, if the objection is upheld, it would establish a precedent declaring such applications inherently non-maintainable, effectively barring parties from seeking such relief. Given the significance of the matter and its implications on the jurisdictional architecture of the High Court, it becomes imperative to undertake a comprehensive analysis of the relevant statutory provisions, procedural rules, and binding judicial precedents. Only after an in-depth and reasoned exposition of the legal framework and prior authoritative rulings can a just and informed determination be arrived at.

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8. The core question that arises and which is essential for understanding why doubts about the maintainability of a transfer application are raised at the very outset can be systematically framed and analyzed for clarity. This question stems from the inherent structural and jurisdictional complexities within the functioning of High Courts that operate through multiple benches. The doubt regarding maintainability is not arbitrary, rather it is rooted in the absence of express statutory provisions authorizing the transfer of cases from one bench of the High Court to another, coupled with the judicial principle that jurisdiction is conferred by law and cannot be assumed by implication. These foundational queries, therefore, must be thoughtfully identified and addressed to resolve the objection to maintainability with sound legal reasoning and by established principles of jurisdiction, judicial discipline. The following points need consideration:-

i. Is there any enabling rule for filing of transfer application for bench transfer before high court?

ii. Who has the power to entrust cases to benches?

iii. Whether transfer and bench entrustment is a judicial power or an executive function?

9. To proceed in order, each moot point is discussed separately hereunder:-

i. <u>Is there any enabling rule for filing of transfer application for bench transfer before high court?</u>

10. In the realm of judicial proceedings, whether involving petitions, applications, appeals, or revisions, it is a foundational principle that if such proceedings are instituted under the authority of a statutory provision, their maintainability stands

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protected, provided they are filed before the proper forum. The statutory origin of a filing inherently validates its maintainability, as different statutes confer varying substantive and procedural rights upon litigants. Once such a right is conferred by law, invoking it through the appropriate legal mechanism becomes a matter of entitlement for the party concerned. Consequently, once statutory provisions make a filing, the Court vested with jurisdiction must examine and decide the matter on merits without questioning its maintainability. A pertinent illustration of this principle can be drawn from Section 24 of the Code of Civil Procedure **("CPC")**, which empowers the High Court to transfer pending cases from one subordinate Court to another. Applications made under Section 24 of CPC are statutory in nature and thus constitute a legally vested right in favor of the applicant; accordingly, once filed, the Court is bound to adjudicate such applications on their merits. However, a fundamental distinction arises when transferring cases between different benches of a High Court. This Court has thoroughly examined the entire scheme of CPC, which is particularly relevant here since the main matter in which the current miscellaneous application has been filed is a writ petition governed by CPC and other related statutory instruments. Despite this extensive inquiry, no provision of law, rule, or procedural code has been identified that expressly permits the transfer of cases between benches of a High Court as a matter of legal right. This notable absence underscores a significant limitation: unlike statutory transfers under Section 24 of CPC, inter-bench transfers within a High Court lack statutory backing and cannot be claimed as an enforceable right by any party.

11. In the absence of any express statutory provision enabling the transfer of cases between benches of a High Court, it becomes evident that

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such a petition for transfer rests within the realm of the Court's inherent jurisdiction. This jurisdiction, however, is not unbridled and it operates within the broader framework of judicial propriety. While an important principle in the administration of justice, propriety is not a standalone or overriding rule of law. Rather, it serves as a guiding norm that encourages judicial discretion to be exercised to uphold fairness, impartiality, and the dignity of the judicial process. Nonetheless, propriety must always function within the boundaries set by statutory provisions, procedural rules, and the structural organization of the judiciary. It cannot be elevated to a source of independent power that overrides or circumvents legal and institutional constraints. Propriety is inherently contextual, shaped by the subjective assessment of the bench seized with a matter. It is often invoked to justify procedural or administrative steps necessary to advance justice's cause. However, before delving further into whether considerations of propriety can justify or support a transfer between benches, it is first essential to examine the legal framework governing the allocation of jurisdiction and bench assignment powers within the High Court, only upon evaluating the statutory and procedural foundation concerning how matter.

ii. Who has the power to entrust cases to benches?

12. Article 202 of the Constitution of Islamic Republic of Pakistan, 1973 empowers a High Court to make rules in order to regulate its practice & procedure. Pursuant to this Article, Islamabad High Court has framed its Rules. According to the provision of these Rules the Deputy Registrar (Judicial) prepare a roster for sitting of judges singly or the benches which is to be approved by the Chief Justice alone, who is the Master of the Roster.

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13. Relevant rules and orders along with case law on the subject have been perused. A compilation of relevant rules of High Court Rules Volume V is reproduced hereunder:-

> **High Court Rules, Volume V, Chapter 3, Part B, Rules 1, 4, 4A & 5:**
>
> "1.Save as provided by law or by these rules or by **a special order of the Chief Justice,** all cases shall be heard and disposed by a Judge sitting alone.
>
> 4. A Full Bench shall ordinarily be constituted of three Judges, but may be constituted of more than three Judges in pursuance of an order in **writing by the Chief Justice.**
>
> 4A. (i) A Judge, may, if he thinks fit, refer any matter with the permission of the Chief Justice to a bench of two Judges.
>
> (ii) A Division Bench, if it thinks fit, may refer any matter with the **permission of the Chief Justice** to a Full Bench.
>
> 5. The **Chief Justice** shall nominate the Judges constituting a Division Bench or Full Bench."
>
> **High Court Rules, Volume V, Chapter 10, Part A, Rule 1:**
>
> "Provided that those matters which are **exclusive and sole power of the Chief Justice,** Namely, **the constitution of benches** and the appointment and control of the High Court Establishment shall be dealt with in accordance with such instructions as may from time to time be issued by the Chief Justice."

14. It appears appropriate to note that High Court Rules & Orders are designed to lay down manner in which a Court proposes to exercise its jurisdiction. However it could not confer a right upon a litigant to claim that his petition or appeal should be heard by a bench constituted in particular manner or by a bench consisting of particular number of judges, or any bench could self-select any cause or petition for

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hearing except any cause, which is entrusted to him by the Chief Justice. A party has a right to appeal to the High Court and not to any particular bench of the High Court. For example **section 410 of the Criminal Procedure Code** gave jurisdiction to the High Court to hear appeal against convictions to sentence of death or imprisonment of life. This section does not provide whether the appeal is to be heard by a Division Bench or a judge sitting alone. Likewise **section 96 of CPC** speaks filing of an appeal to High Court. Similarly writ petitions under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973 **("Constitution")** are filed before High Court. The High Court Rules are framed for convenience of Business. If any petition or appeal is disposed of by a single judge instead of a Division Bench it would not make the proceeding void. Therefore, preparation of roster, fixation of cases of identical nature before any bench/benches or consolidation of petition in order to avoid conflict of decision by different Single Benches of a High Court is a matter of procedure than that of a rule.

15. The aforementioned rules also sufficiently clarify two fundamental principles: first, that the determination of benches and their respective rosters lies exclusively within the administrative prerogative of the Chief Justice; and second, that any question relating to the entrustment of a particular matter to a specific bench must also be decided solely by the Chief Justice. It is crucial to appreciate the distinct legal connotation of the term "***constitution of a bench***," which is often misunderstood or conflated with terms such as "registry sitting" or "***sitting roster***." In judicial parlance, the "constitution of a bench" refers to the formal and authoritative process by which the Chief Justice assigns judicial business to designated judges or benches, thereby determining their jurisdiction and scope of matters to be adjudicated.

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This process directly expresses the Chief Justice's administrative control over the High Court under constitutional and procedural norms. In contrast, a "registry sitting" pertains merely to the clerical or procedural categorization of cases, while a "sitting roster" typically denotes the scheduled availability or timing of a judge's sittings. These latter two are operational tools and lack the substantive authority or determinative force that the constitution of a bench carries. Confusion often arises when the term "constitution of a bench" is erroneously interpreted to mean a routine or clerical matter, undermining the Chief Justice's exclusive and non-delegable authority in matters of bench formation. This misinterpretation can have significant procedural implications and may result in jurisdictional impropriety, if matters are heard by benches not duly constituted under the proper authority.

16. It is essential to clarify that the "***constitution of a bench***" does not refer to a singular or static administrative act carried out once for a defined period, whereby all subsequently instituted cases are automatically routed to that bench for hearing. Rather, the constitution of a bench is a dynamic and case-specific administrative function that must be distinguished from the concept of "***roster sitting***." While "***roster sitting***" merely indicates the schedule or availability of judges for hearing cases during a particular period, the "constitution of a bench" is a deliberate and recurring act through which each individual case, whether at the time of institution or even at a later stage is formally entrusted to a particular judge or bench. Through this process, a definitive and lawful connection is established between a specific case and a judicial forum competent to adjudicate it. In other words, the constitution of a bench is the final procedural mechanism that assigns a judicial officer to a case, thereby transforming a mere institutional entry into

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an actionable matter before a competent bench. Each case, upon institution in the High Court, exists as an independent judicial entity, while each judge available on the Court's roster is a separate adjudicatory unit. It is only through the act of bench constitution carried out under the authority of the Chief Justice that these two entities are linked, creating a legally recognized relationship of adjudication. This process ensures judicial propriety, prevents forum shopping and preserves the sanctity of bench assignment by the established rules and administrative hierarchy of the High Court.

17. Turning now to the well-established doctrine of the "***Master of the Roster***," authoritative clarity and jurisprudential guidance can be drawn from Indian judicial precedent, which has developed a comprehensive framework on the subject. The principle has been unequivocally affirmed by Justice Dipak Misra, the 45th Chief Justice of India, who emphatically stated that *"The Chief Justice is the master of the roster and he alone has the prerogative to constitute the benches of the court and allocate cases to the benches so constituted."* This doctrine reflects not merely a tradition but a foundational aspect of judicial administration, ensuring consistency, discipline and avoidance of forum shopping.

18. The legal underpinnings of this doctrine are firmly embedded in several landmark decisions of the Supreme Court of India. In ***Shanti Bhushan vs. Supreme Court of India, (2018) 8 SCC 396***, the Apex Court reaffirmed the exclusive authority of the Chief Justice in matters of bench constitution and case allocation by holding that such administrative control is a manifestation of the Chief Justice's institutional leadership. Similarly, in ***State of Rajasthan vs. Prakash Chand, (1998) 1 SCC 1: AIR 1998 SC 1344***, the Court laid down that no judge, however senior, can assign cases to himself or

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to any other bench; that authority solely vests in the Chief Justice. Further reinforcement is found in ***Campaign for Judicial Accountability & Reforms vs. Union of India & Another, (2018) 1 SCC 589***, where the Court once again underscored that the Chief Justice, as the head of the High Court or Supreme Court, is the sole repository of the power to constitute benches and allocate judicial business.

19. This theoretical position has been practically enforced, as seen in a notable case from the Allahabad High Court. In that matter, commonly referred to as the "***Arun Mishra case***," a Division Bench imposed a cost of 20,000/- on a petitioner appearing in person, who had sought a direction that his writ petitions not be listed before a particular judge. The petitioner requested that the Registry be directed not to allocate his matters to the said judge. The Court, in dismissing the petition as misconceived, reaffirmed that the power to allocate judicial work vests exclusively with the Chief Justice and that no direction can be issued either to the Registry or to any other administrative functionary of the Court in derogation of that prerogative. The judgment held that the doctrine of "Master of the Roster" precludes such interference, reinforcing the Chief Justice's exclusive role in the constitution of benches and case allocation.

20. In sum, the doctrine of the Chief Justice as the ***"Master of the Roster***" is supported by consistent judicial pronouncements and is vital for maintaining judicial discipline, preserving the hierarchical integrity of the Court's administrative structure and ensuring impartial and efficient dispensation of justice.

21. Having settled that the sole power of marking remains with the Chief Justice as he alone is the Master of the Roster, it is imperative to highlight the consequence or status of any order issued by any bench other than that of the Chief Justice that

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intends or directs the transfer of a case *inter se* among the benches of the Court.

22. When a power is designated as exclusive to a specific office or pedestal, any other authority's exercise of that power, regardless of whether that authority holds a higher or equivalent status, constitutes an infringement upon and disregard for the authority's designated powers. In the present context, this pertains to the powers vested in the office of the Chief Justice. The Chief Justice holds the exclusive authority to constitute a bench for the adjudication of a case. This process is initiated by entrusting the case to a particular bench. At the time of such entrustment, the Chief Justice is provided with all relevant information concerning the pendency of similar cases or any other cases under the Court's jurisdiction. After a careful and deliberate review of these details, the Chief Justice issues orders regarding the constitution of the bench, thereby finalizing the matter. At this point, the decision becomes a closed transaction that cannot be revisited or interfered with by any other authority. If, following the Chief Justice's entrustment, another order is issued regarding the same case, it amounts to an unauthorized exercise of appellate authority. Such an action is not supported by the prevailing legal framework or institutional arrangements, as it undermines the authority of the Chief Justice's decision-making power's, effectively disregarding the entrustment decision's procedural finality. This would thus constitute an overreach, violating established norms regarding allocating and exercising judicial powers.

23. The concept of a direct transfer of a case differs fundamentally from instances where a judge may recuse himself from hearing a matter. A recusal typically arises from specific grounds, such as personal bias or conflict of interest, or new

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developments or information that render a judge unsuitable to continue presiding over a case. This is distinct from the procedural step where, upon receiving relevant information, a judge may decide to forward a reference to the Chief Justice for consideration, particularly in circumstances that might warrant a subsequent entrustment of the case to another bench. The power of recusal is an inherent and necessary part of each hearing, allowing for the proper functioning of the judicial process by ensuring impartiality. However, it is critical to distinguish that the act of recusal or referral cannot be conflated with the authority to directly transfer a case to another bench. The power to transfer a case is a separate judicial function, which requires deliberate decision-making and cannot be used interchangeably with the recusal process. The direct transfer of a case from one bench to another requires proper procedural justification and cannot be executed solely based on the recusal mechanism. This distinction upholds the integrity of the judicial process and prevents undue interference with the established procedures for case handling. No doubt the powers of the Chief Justice to mark, entrust or transfer a case from a bench to another, is equally available at a subsequent stage of a pending case. Fresh information qua similarity, consolidation or to club identical cases, need for a bigger bench, or demands of propriety are amongst the many factors, which espouse the Chief Justice to determine the course or destination of a pending or continuing case, in terms of bench.

24. The Apex Court has very unambiguously clarified in its detailed judgment in *suo moto* Case No. 04 of 2021 that no bench has the power to proceed and mark any case to itself and for a case to proceed entrustment orders by Chief justice are necessary.

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iii. <u>Whether transfer and bench entrustment is a judicial power or an executive function?</u>

25. At its core, judicial power refers to the authority exercised by a Court that directly impacts the parties' rights, particularly concerning resolving disputes and determining legal consequences. A critical question arises as to whether the entrustment of a case to a specific bench, or the assignment of a particular bench to hear a matter, constitutes an injury to any party, and whether the right to have a case heard by a particular bench can be claimed as a matter of right. The Supreme Court in its decision in ***Muhammad Wasay Tareen vs. Chief Justice of Balochistan***, **(2005 SCMR 464)** provided valuable guidance on this issue. The Court clarified that the assignment of a case to a particular bench does not, in and of itself, result in any injury to the parties involved. The Apex Court further established that while the right to access the Court as a forum is inherent, the specific bench that hears the case is not a matter of right and consequently cannot be enforced through judicial power. This conclusion underscores the distinction between the general right to be heard and the administrative decision regarding which bench will handle a case. As such, it is evident that the process of entrusting a case to a particular bench and any decision regarding its transfer falls within the executive and administrative powers of the Chief Justice. These actions are not judicial in nature but rather part of the administrative framework that ensures the efficient functioning of the judiciary. Therefore, bench entrustment and transfer decisions are executive actions entirely within the domain of the Chief Justice's authority and not subject to judicial review as a matter of right.

26. To further clarify, it is explained that for

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purpose of judicial power and jurisdiction all judges are equal and enjoy similar powers but the very catalyst or igniter, which initiates that very judicial power of a judge over a subject is an executive authority, which vests solely in the office of Chief justice. All judges enjoy similar constitutional jurisdiction within the territorial bounds of that Court but for them to exercise *judicial power* within *that jurisdiction certain* preceding occurrences and procedures are mandatory, which enable the judicial power to flow from the Court of the judge. Few among the processes being, case filing and case entrustment to the bench by the Chief Justice. Once entrustment is done, the bench becomes enabled to exercise judicial power over the subject brought through the lis.

27. The executive authority vested in the office of the Chief Justice by the Constitution and applicable rules is an integral aspect of the judicial system and cannot be diminished or disregarded. This authority, particularly in relation to the entrustment or transfer of cases to specific benches, is essential for maintaining the efficiency and orderliness of judicial proceedings. If the power to assign cases or transfer them were to become equally exercisable by different offices or authorities, it would undermine the centralized and organized structure of the judiciary. Such a fragmentation of authority could lead to confusion, chaos, and potential conflicts, as litigants and parties might seek to influence or manipulate the assignment of cases to benches of their preference, thereby disrupting the procedural integrity of the Court system. This would result in a state of disorder where the orderly functioning of the judiciary could be compromised, leading to inefficiencies and delays. Consolidating this power within the office of the Chief Justice ensures a structured and impartial approach to case management, preventing arbitrary or biased

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decisions regarding bench assignments and preserving the public's trust in the judicial process. Therefore, preserving the Chief Justice's executive authority in this regard is crucial for the effective and fair operation of the judicial system.

28. A crucial factor that necessitates the regulation of the procedure for invoking judicial jurisdiction is the potential chaos that would arise if individual litigants were allowed to select benches according to their preference. Such a practice could lead to a breakdown in the orderly functioning of the judicial system, as parties may seek to manipulate case assignments in their favour, thereby disrupting the fairness and impartiality of the process. Moreover, permitting the selection of benches could foster allegations of nepotism, favoritism, or bias. While these accusations might often be baseless and without merit, their very presence could undermine the public's trust in the judiciary, eroding confidence in its ability to dispense justice impartially. The risk of chaos is particularly significant in a system where multiple offices or authorities could be involved in bench entrustment, as this pluralistic approach would lead to confusion, inefficiency and an overall weakening of the judicial institution. To prevent the practice of "forum shopping," where litigants attempt to influence the assignment of their case to a particular bench, it is imperative that the authority to make such decisions remains centralized. This centralization ensures that the principles of justice and equality are upheld, as it prevents the selection of benches based on personal or tactical preferences. Therefore, the power to assign cases to benches must remain solely with the Chief Justice, whose authority in this matter serves to protect the integrity of the judiciary and ensure the fair and impartial administration of justice. This centralized decision

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making is essential to maintaining the credibility and functionality of the judicial system as a whole.

29. Needless to add that the role of the Chief Justice as the Master of the Roster has also been a subject of discussion in the Supreme Court of Pakistan as well as in the Supreme Court of India.

30. In the Supreme Court an Act was promulgated to create a collegium system so that every case, appeal or a matter before the Supreme Court be heard and dispose of by a bench constituted by the three judges committee headed by the Chief Justice of Pakistan. In the Supreme Court of India there is no collegium system like provincial High Courts in Pakistan. While discussing the role of the Chief Justice in the case of ***Shanti Bushan vs. Supreme Court of India and others, (2018 SCC 396).*** *The Supreme Court of India held as under:-*

> "12. *There is no dispute, as mentioned above, that 'Chief Justice' is the Master of Roster and has the authority to allocate the cases to different benches/judges of the Supreme Court*. The Petitioner has been candid in conceding to this legal position. He himself has gone to the extent of stating in the petition that this principle that 'Chief Justice' is the Master of the Roster is essential to maintain judicial discipline and decorum and also for the proper and efficient functioning of the court. Notwithstanding this concession, it should be imperative to explain this legal position with little elaborations, also by referring to some of the judgments of this court, which spell out the scope and ambit of such a power."
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> 13. The petitioner has himself, in the petition, referred to a three-Judge bench in state of Rajasthan v. Prakash Chand and Ors. [(1998) 1 SCC 1] held that the Chief Justice of the High Court is the Master of Roster and he alone has the prerogative to constitute the Benches of the Court and allocate cases to the Benches so constituted. The Court stated thus:
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> > "59. From the preceding discussion the following broad conclusions emerge. This, of course, is not to be treated as a

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summary of our judgment and the conclusions should be read with the text of the judgment:
(1) That the administrative control of the High Court vests in the Chief Justice alone. On the judicial side, however, he is only the first amongst the equals.
(2) That the Chief Justice is the master of the roster. He alone has the prerogative to constitute benches of the Court and allocate cases to the benches so constituted.
(3) That the puisne Judges can only do that work as is allotted to them by the Chief Justice or under his directions.
(4) That till any determination made by the Chief Justice lasts, no Judge who is to sit singly can sit in a Division Bench and no Division Bench can be split up by the Judges constituting the bench themselves and one or both the Judges constituting such bench sit singly and take up any other kind of judicial business not otherwise assigned to them by or under the directions of the Chief Justice.
(5) That the Chief Justice can take cognizance of an application laid before him under Rule 55 (supra) and refer a case to the larger bench for its disposal and he can exercise this jurisdiction even in relation to a part-heard case.
(6) That the puisne Judges cannot "pick and choose" any case pending in the High Court and assign the same to himself or themselves for disposal without appropriate orders of the Chief Justice.
(7) That no Judge or Judges can give directions to the Registry for listing any case before him or them which runs counter to the direction given by the Chief Justice."

31. After discussing the moot points, it becomes clear that transfer application filed to change the bench is essentially, though indirectly, against the judge currently hearing the case. Even if such application is worded respectfully and avoid overtly scandalous allegations, that often carry a subtle implication that the judge has failed to exercise judicial propriety or impartiality. This underlying suggestion casts doubt on the judge's integrity, transforming the application into a challenge against the judge's competence or conduct. As a

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result, all such transfer requests, regardless of the language used, fall within the same category: they function as a veiled objection to the judge rather than a neutral procedural request. This legal position is firmly supported by the precedents, particularly the judgments reported as ***M. H. Khondkar vs. State***, **(PLD 1966 SC 140)** and ***Ms. Benazir Bhutto vs. The President of Pakistan and another***, (**1992 SCMR 140)**, wherein the Supreme Court unequivocally held that any application aimed at questioning or undermining a judge's role is inadmissible. These rulings emphasize the importance of preventing litigants from indirectly pressurizing or discrediting judges through procedural manoeuvres.

32. For what has been discussed above, the office objection is **sustained** and it is held that any petition or application seeking transfer of a case from one bench to other is not maintainable. This objection case be made part of the main file.

(INAAM AMEEN MINHAS)
JUDGE

APPROVED FOR REPORTING

R.Anjam.

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