JUDGMENT SHEET
ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

WRIT PETITION NO. 3139 OF 2015

Dr. Fowzia Siddiqui
VERSUS
The Federation of Pakistan, Ministry of Foreign Affairs and others

Petitioner by:	Mr. Imran Shafique, Advocate along with petitioner (on video link).
Respondents by:	Mr. Rashid Hafeez, Additional Attorney General and Mr. Assad Burki, Legal Advisor, M/o Foreign Affairs.
Date of Hearing:	**03.12.2025**

INAAM AMEEN MINHAS, J.- The matter before the Court arises from an extraordinary chain of events in which judicial power was asserted outside the framework through which the Constitution permits it to operate. To reach a principled determination, it is necessary to trace the factual sequence that gave rise to the impugned proceedings and to examine the circumstances under which a Judge, shown on leave and absent from the approved roster, proceeded to hold court, call cases, and issue directions of considerable consequence. Such a departure from established constitutional structure requires careful scrutiny, for the legitimacy of judicial acts depends not merely on the authority of the individual Judge but on the lawful existence of the Bench through which judicial power is exercised. This Court considers the matter with full awareness that the strength and credibility of the judicial system depend upon strict observance of the Constitution and the settled procedural safeguards laid down by law. Judicial power cannot be exercised casually or arbitrarily; rather, it can only be invoked in the manner prescribed by law, at the proper stage, and by a person who is legally entitled to seek such relief. These safeguards are not mere technicalities but are fundamental principles meant to ensure fairness, legality, and public confidence in the justice system. Any departure from these constitutional and procedural requirements would undermine the rule of law and weaken the very foundation of judicial authority. Accordingly, this Court is

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bound to examine the matter within these legal limits before exercising its jurisdiction.

Factual Background

2. It is appropriate, at the outset; to extract the factual background of the present issue from the order dated 21.07.2025, authored by the Honorable Mr. Justice Sardar Ejaz Ishaq Khan. The legal effect and operative status of that order will be examined at a later stage; for present purposes, the Court refers to it solely to delineate the relevant chronology and factual setting. For convenience, the order dated July 21, 2025 is reproduced below: -

> **"Ever since the demolition squad was catapulted into this High Court after the 26th Constitutional Amendment, we have seen one heresy after another hurled at the edifice of justice, maiming it repeatedly, and bringing it almost to its last breaths. This is yet another instance. The heresy I speak of now is besieging the dispensation of Justice by a Judge of the High Court by the device of the 'weekly roster' controlled by the office of the Chief Justice. It is both heart-rending and amusing at the same time, a blend of paradox that this High Court has become.**
>
> **2 I had passed the previous order giving the Government time to revert with its decision, while cautioning the learned AAG that inaction would leave me no choice but to proceed in contempt. The Government filed an appeal before the Supreme Court against my earlier decision permitting amendments to the petition for continuation of this case. For whatever reason, the Government's case had not been taken up by the Supreme Court. The machinations of the executive appeared elsewhere, in the form of controlling the proceedings of this Court through its roster. The legal historians would write that now, even if he wishes to by reason of imperatives of urgent justice, a Judge is now not allowed to hold Court by the High Court establishment when he is on leave.**
>
> **3 My leave was meant to start today. The roster of Judges sitting for this week therefore did not include my name. The leave schedule was announced much earlier to the date on which I had ordered to list this case today, given its importance and the need**

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for swift dispensation of justice in this and the other ***cases that I ordered for listing today. On Thursday or perhaps Friday, I was informed through my PS by the Office that the cause list will not be issued unless the roster of the sitting Judges for this week was amended with the leave of the Chief Justice. That seemed to me a trivial matter and I asked my PS to move an application accordingly. I was informed on Saturday that the application was duly moved but the file remained on the table of the Chief Justice, who did not find even 30 seconds to sign it. Whether that was by design or oversight, I cannot say for sure, but given the manner in which the roster of Judges has been used as a tool for the desired outcome in specific cases, and given the Government's stiff opposition to do what is right and to stand by the daughter of the nation at the critical juncture of the Motion before a US Court, I may be forgiven for thinking that it was the former. The correct legal position is that the Office cannot use the shoulder of the Chief Justice in the exercise of administrative powers to obstruct judicial proceedings ordered by a Judge in an ongoing case.***

4 ***The motivation of a Judge to hold Court on a day on which he is 'officially' on leave would spell out whether the reason to hold Court was any ulterior motive or the dispensation of justice. I trust that all right-thinking men and women would agree with me that today my decision to hold Court was solely and exclusively for the purposes of dispensation of justice. Gone are the days when a Judge could pass an order even while playing Golf or dining with his family if the exigency so required. The ceremony of robes and a Courtroom — or the menial triviality of a cause list as in this case — were never the indispensable prerequisites for him to carry out judicial business.***

5 ***This is yet another instance of the reproachable use of the administrative power to shackle the exercise of independent judicial authority, with the likely motivation to pend (until my leave ends) the Government's response with reasons as to why it would not sign the amicus brief. However, the imperatives of justice shall not be defeated by such petty means. To the extent I can, I will exercise my judicial authority to the end of upholding the dignity of the High Court and the justice it dispenses.***

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> **6** ***Therefore, as the Government has not reverted with the reasons despite being directed to do so, it is in contempt, leaving me with no option but to issue a notice of contempt to the Federal Government.***
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> **7** ***Office is directed to initiate a contempt petition accordingly, in which all the members of the Federal Government will be respondents. The replies of all the Ministers, including the Prime Minister, shall be filed within two weeks from today.***
>
> **8** ***Relist on 01.09.2025.*****"**

3. Paragraph 3 of the referenced order makes clear that the leave schedule of the Honourable Judge had been publicly announced well in advance. **In pursuance of that schedule, the name of the Honourable Judge was accordingly excluded from the roster for the week commencing July 21, 2025**, which roster was prepared by the Deputy Registrar (Judicial) in accordance with established administrative practice and subsequently approved by the Honourable Chief Justice. Additionally, the previously notified roster governing the summer recess expressly designated July 21, 2025, as a vacation day for the said Judge. The order further reflects that a note was later transmitted by the Private Secretary to the Honourable Judge, indicating the Judge's potential availability on July 21; nevertheless, the formal roster, excluding the Judge in conformity with the announced leave schedule, was duly issued under the authority of the Honourable Chief Justice. The expression "who did not find even 30 seconds to sign it" unmistakably indicates that the Honourable Judge was fully aware that the note transmitted to the Chief Justice was still under consideration and had not received approval. It also reflects his awareness that, in accordance with the previously announced leave schedule, his name had not been included in the roster issued by the Chief Justice. Notwithstanding this clear state of affairs and despite knowing that no administrative order had been issued to alter or override the approved roster, the Honourable Judge proceeded to hold court, hear cases, and issue orders. Furthermore, paragraph 7 of the said order records that the Honourable Judge directed the Office to prepare a contempt petition, to implead all members of the Federal Government as respondents therein, and to relist the matter for hearing on 01.09.2025. Thereafter, the matter was placed before the Hon'ble Chief Justice, whereupon his Lordship was pleased to assign the case to our learned brother Hon'ble Mr Justice Inaam Ameen Minhas (Bench-IX), which on the succeeding date i.e. 01.09.2025 pass the following order:-

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> **"Before entrustment of the instant case to this bench, on the last date of hearing, the earlier bench vide order dated 21.07.2025 raised the issue of roster of the sitting of the Judges by the Hon'ble Chief Justice. This bench vides reported order dated 10.04.2025 (citation awaited) passed in Objection case No.6580/2025 in Writ Petition No.1053/2025 has already given its view that according to the Rules, the Deputy Registrar (Judicial) prepares a roster for sitting of judges singly or the benches, which is to be approved by the Chief Justice, who is the Master of the Roster.**
>
> **2. In view of the above, propriety demands that the instant matter may be heard by a larger bench of this Court. The office is directed to place the file before the Hon'ble Chief Justice for appropriate orders."**

4. Pursuant thereto, the Hon'ble Chief Justice was pleased to constitute the present Larger Bench to hear and decide the matter. The foundational questions arising from the situation created by the order dated 21.07.2025 require comprehensive examination and determination so that the issues occasioned thereby may be conclusively resolved. Accordingly, the following questions merit consideration:

1. **Whether a Bench exists in law by virtue of its Judges or only upon approval of the roster by the Chief Justice? and**
2. **Whether a Judge can self-assign a case?**
3. **And whether the Chief Justice is legally obliged to obtain the consent of any Bench before consolidating identical petitions and reallocating them for hearing?**

5. Each question requires separate and considered analysis, to which we now turn.

Whether a Bench exists in law by virtue of its Judges or only upon approval of the roster by the Chief Justice?

6. In examining the issue presented, it becomes necessary to consider the combined operation of Articles 175(2) and 202 of the Constitution. Read together, these provisions define both the source and the structural limits of the High Court's judicial authority.

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Article 175 (2)

7. Article 175(2) articulates the foundational rule that no court may exercise any jurisdiction except such as is conferred by the Constitution or by or under law. This clause cannot be interpreted through a narrow or literal lens. Its true import becomes evident when its language is effectively inverted: "**a court possesses only such jurisdiction as the Constitution or law affirmatively confers**". This principle governs not only the allocation of subject-matter jurisdiction among various courts, but also the internal distribution and activation of jurisdiction within a particular court. Judicial authority within the High Court, therefore, does not attach to a Judge as an individual. It attaches to the institution itself and becomes exercisable only when the Judge sits as part of a Bench that has been validly constituted in accordance with law.

8. Article 175(2) imposes an absolute constitutional limitation: no court and no Judge may exercise judicial authority unless the law has unmistakably vested that jurisdiction in the forum that purports to act. Jurisdiction cannot be presumed, inferred from convenience, or assumed at will; it must exist as a matter of legal conferment. Where a Bench has not been lawfully conferred jurisdiction through the procedure prescribed by the Constitution and the relevant statutes, it cannot be regarded as a valid forum for the exercise of judicial power. Such a Bench exists outside the constitutional scheme governing the administration of justice. Consequently, any act on its part, whether to assemble, take up cases, hear parties, or pass orders, amounts to an assumption of authority that the Constitution does not permit. Acts performed in the absence of lawful jurisdiction are not curable defects or mere procedural irregularities; rather, they strike at the root of the matter. Any orders so passed have no legal force or effect, as they originate from a body that never acquired lawful seisin of the case and, therefore, lacked the competence to adjudicate upon it in the first place.

9. Before moving forward, we understand that it is necessary to examine the word "Jurisdiction" used in article 175(2).

10. **"Jurisdiction"** is one of the most fundamental concepts in judicial power and legal adjudication. In its classical sense, jurisdiction refers to *a court's or judicial forum's authority to hear, entertain, and decide a case*. It is not an abstract or moral quality; it is a *legal condition precedent* to the validity of any judicial act. At this juncture, it becomes necessary to state with precision what the law means when it

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refers to "jurisdiction" and to distinguish it from the broader and more abstract notion of "judicial power." Although the Constitution establishes the judicial organs of the State, its function extends far beyond their mere creation. The Constitution and the laws validly made under it may prescribe the categories of matters upon which the judicial power may be exercised; the manner, form, and stages of its exercise; the territorial limits within which a Court shall function and to which its writs shall run; and the persons or classes of persons over whom the Court's adjudicatory authority shall extend. It may confer appellate, revisional, or original jurisdiction, or restrict a particular Court to a narrow field such as cassation, constitutional adjudication, or administrative review.

11. These structural prescriptions collectively constitute what, in legal parlance, is termed the jurisdiction of a Court. Jurisdiction is not an abstract idea; it is a *juridical configuration* that defines the precise subject-matter, the geographical sphere, the persons, and the procedural modes in respect of which a Court is authorised to exercise the judicial power vested in it. It is therefore the legal authority of a Court to entertain, hear, and determine a given lis; and it also embodies the conditions under which that authority may be invoked and the manner in which it may be exercised.

12. Judicial power, by contrast, denotes the inherent authority of the judicial branch as one of the coordinate organs of the State, the power to ascertain facts, interpret law, apply legal norms, resolve disputes, and render binding judgments. But this judicial power, however expansive in the abstract, cannot be exercised in the absence of jurisdiction. Jurisdiction is the *operational gateway* through which judicial power passes before it may be exerted in any concrete case. It is thus jurisdiction, not the mere existence of judicial power that transforms a Judge or a Bench from a constitutional office-holder into a legally empowered adjudicatory forum in a particular matter.

13. In doctrinal terms, then, jurisdiction is the right and authority to adjudicate a specific subject-matter in a particular case, as well as the authority to deploy the judicial power of the State in the mode and manner prescribed by law. Without jurisdiction, judicial power remains dormant and cannot be validly invoked. Any act undertaken without jurisdiction, regardless of the qualifications of the Judge or the apparent justice of the outcome, is a legal nullity, a decision rendered *coram non judice*. Hon'ble Supreme Court in its Judgment passed in SMC 4/2021, held that, on the constitutional plane, "Jurisdiction" as used in Article 175(2) refers to or indicates

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that part of the judicial power that is allocated to a particular court. The operative part of the order is reproduced as under: -

> **"18.** ***While the Constitution does not, as such, use the term "judicial power" it does say something, in Article 175, of the judicial branch in general terms. Clause (1) provides that there shall be a Supreme Court, a High Court for each Province and for the Islamabad Capital Territory and "such other courts as may be established by law". Clause (2) provides as follows: "No court shall have any jurisdiction save as is or may be conferred on it by the Constitution or by or under any law." Cast though it is in negative terms, this provision ought not, in our view, be read in minimalist and literalist terms notwithstanding, with respect, some observations in the case law that might suggest otherwise. For one thing, this may seriously jeopardize or compromise the independence of the judiciary and result in a substantial erosion (and even denial) of access to justice. Further, such an approach would, among other consequences, divest the courts of jurisdiction that is recognized as inherent. To take but one example, it is well established that s. 151 CPC does not invest the court with any powers but only saves its inherent powers. A literal and minimalist reading of Article 175(2) may cast doubt on this (and equivalent) provisions, which would clearly be incorrect. In our view, the conferring of jurisdiction on courts by the Constitution and the law (and since the law must ultimately find repose in the Constitution, the former in particular) does not mean only such as is expressly so conferred. It includes also, but is not limited to, all such jurisdiction as by intendment or necessary implication (especially including, on the constitutional plane, such as may be required to give full expression to constitutional provisions and principles) must be held to vest or inhere in courts of law. Perhaps a better appreciation of Article 175(2) can be obtained by inverting its language: "all courts shall have only such jurisdiction as is or may be conferred on them by the Constitution or by or under any law". When so viewed, it becomes clearer that Article 175 does tell us, albeit indirectly, something about the "judicial power" of the State. On a combined reading of clauses (1) and (2) it can be concluded that, by application of the doctrine of separation of powers, the judicial power does vest in the judiciary but that the actual allocation of this power among the various components of the judicial branch (i.e., the jurisdiction of a particular court) is to be as is conferred (either directly or otherwise) by the***

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Constitution or law. Clause (3), in requiring the separation of the judiciary from the executive, provides further confirmation that the judicial power vests in the judicial branch. We pause here to note the Constitution also recognizes, in addition to Courts of law, the existence and jurisdiction of what are called Administrative Courts and Tribunals. This is not only under Articles 212 and 225 but also in terms of entry No. 14 of the Federal Legislative List (and corresponding legislative competence that, though not enumerated, is available also to the Provinces). Quite how the Constitution seeks to establish and balance the interaction and interplay between Court on the one hand and Tribunals on the other in relation to judicial power is a matter not before us and hence outside the scope of what is said here.

19. ***The distinction between judicial power on the one hand and jurisdiction on the other was also noted in Ziaur Rehman in the following terms by the learned Chief Justice, who gave the judgment of the Court (pp. 69–70, emphasis in original):***

> ***"……I should make it clear that I am making a distinction between 'judicial power' and 'jurisdiction'. In a system where there is a trichotomy of sovereign powers, then ex necessitate rei from the very nature of things the judicial power must be vested in the judiciary. But what is this judicial power. 'Judicial Power' has been defined in the Corpus Juris Secundum, Vol. XVI, Paragraph 144, as follows:***
>
> > ***'The judiciary or judicial department is an independent branch of Government, and in that branch thereof which is intended to interpret, construe, and apply the law, or that department of Government which is charged with the declaration of what the law is, and its construction, so far as it is written law.'***
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> ***This power, it is said, is inherent in the judiciary by reason of the system of division of powers itself under which, as Chief Justice Marshall put it, "the Legislature makes, the executive executes, and the judiciary construes, the law." Thus, the determination of what the existing law is in relation to something already done or happened is the function of the judiciary while the pre-determination of what the law shall be for the regulation of all future cases falling under its provisions is the function of the Legislature."***

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> ***It may well be asked at this stage as to what is meant by "jurisdiction"? How does it differ from "judicial power"? Apart from setting up the organs the Constitution may well provide for a great many other things, such as, the subjects in respect of which that power may be exercised and the manner of the exercise of that power. Thus it may provide that the Courts set up will exercise revisional or appellate powers or only act as a Court of [Cassation] or only decide constitutional issues. It may demarcate the territories in which a particular Court shall function and over which its Writs shall run. It may specify the persons in respect of whom the judicial power to hear and determine will be exercisable. These are all matters which are commonly comprised in what is called the jurisdiction of the Court. It expresses the concept of the particular res or subject matter over which the judicial power is to be exercised and the manner of its exercise. Jurisdiction is, therefore, a right to adjudicate concerning a particular subject-matter in a given case, as also the authority to exercise in a particular manner the judicial power vested in the Court.***
>
> **20.** ***Thus, on the constitutional plane, "jurisdiction" as used in Article 175(2) refers to or indicates that part of the judicial power that is allocated to a particular court.***

14. In the context of the present case, the term "jurisdiction" assumes a significance far beyond its ordinary meaning. Jurisdiction here does not merely refer to the High Court's general authority under Article 199 or its subject-matter competence to entertain constitutional or criminal original matters. Rather, it refers to the *activation* of judicial power in a particular lis through the lawful constitution of the Bench that purports to exercise it. For purposes of this case, jurisdiction requires three essential elements:

i. a court of competent legal existence;
ii. a Bench constituted in accordance with law, and
iii. a lis properly placed before that Bench through the prescribed judicial process.

15. Where a Bench is not included in the roster duly approved for a particular period, it cannot be treated as a legally constituted judicial forum

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during that time. The Bench's absence from the approved roster means that the Court, as an institution, has not conferred jurisdiction on it to hear or decide any matter. In such a situation, the mere fact that the Judges forming that Bench are otherwise competent and constitutionally qualified does not cure the defect. Judicial authority does not flow from the personal capacity of the Judges but from the lawful constitution of the Bench in accordance with the approved roster; such a Bench is not a "court" for the purpose of that dispute.

16. In the facts of the present case, jurisdiction operates as the constitutional line that separates the lawful exercise of judicial power from an authority that the law does not permit. When a Bench is not validly constituted in accordance with the law and the approved roster, it cannot lawfully exercise judicial functions, and orders passed in these circumstances are not mere procedural defects or curable irregularities, because they originate from a forum that lacked jurisdiction from the very beginning and, therefore, had no authority to entertain the matter or pass any order.

Article 202

17. Now turning to Article 202 of the Constitution, it is the provision that empowers each High Court to frame rules governing the practice and procedure of the Court itself as well as of any Court subordinate to it. For ease of reference, Article 202 is reproduced below: -

> **"202. Subject to the Constitution and law, a High Court may make rules regulating the practice and procedure of this Court of any court subordinate to it."**

18. The opening words of Article 202 "**Subject to the Constitution and law**" are not a mere formal preface; they define the constitutional hierarchy within which the High Court's rule-making and internal regulatory powers must operate. They impose, at the very threshold, a substantive limitation: whatever rules the High Court frames, and whatever internal arrangements it adopts under those rules, cannot transgress the constitutional text, structure, or any validly enacted law. In other words, the High Court's power to regulate its own practice and procedure is derivative and conditional; it exists within a constitutional ceiling and a statutory framework, not above or alongside them.

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19. In the present case, these principles lead to two clear and immediate consequences. First, the roster system and the Chief Justice's exclusive authority to constitute Benches derive their legal validity from their complete harmony with the Constitution. In particular, Article 175(2) permits the exercise of jurisdiction only when it is conferred by or under law, while Article 175(3) requires the independence of the judiciary and necessarily implies an orderly and disciplined internal framework for the exercise of judicial power. The rules contained in Volume V, Chapter 10 of High Court Rules, do not establish any separate or personal system of justice; rather, they give practical effect to these constitutional commands by laying down how the High Court is to function, namely, through properly constituted Benches, formed by a defined authority and through a prescribed process. Secondly, and more importantly for the present dispute, these principles make it clear that no internal practice, personal discretion, or individual initiative can override this rule-based structure once it has been validly framed under Article 202. A Judge cannot step outside the approved roster on grounds of convenience, urgency, or personal notions of fairness and still claim to be exercising jurisdiction in accordance with law. When these rules expressly place the constitution of Benches within the exclusive domain of the Chief Justice, they draw a firm constitutional line: within that line, judicial power is lawfully exercised; beyond it, any claimed exercise of authority falls outside the constitutional framework and has no legal foundation.

20. Seen in this light, a Judge who knowingly holds court, calls cases, and passes orders despite being excluded from the roster, especially where the exclusion is grounded in an earlier notified leave schedule, does not merely commit an internal irregularity. The defect is not that the Judge lacks status under Article 193 or that the High Court lacks subject-matter competence under Article 199; the defect is that the forum through which that power must be exercised has not been brought into lawful existence in the manner the Constitution itself contemplates. The High Court’s rules, framed “subject to the Constitution and law,” are the only legitimate vehicle for converting abstract judicial power into concrete jurisdiction. To disregard them is to ignore the very condition upon which the Constitution allows that power to be exercised.

21. It is, therefore, clear that any deviation from these binding rules, especially where a Bench assumes authority and sits without being reflected in the roster approved by the Chief Justice, cannot be brushed aside as a minor procedural defect or an internal administrative matter. Such a departure directly undermines the Constitution's supremacy. The Constitution unequivocally requires that jurisdiction

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may be exercised only when it is conferred by or under law, and the rules framed under Article 202 make it explicit that jurisdiction comes into effect only through the lawful constitution of a Bench in accordance with the approved roster. When a Bench disregards or bypasses this mandatory process, it acts contrary to the fundamental principle that all judicial power is subject to the Constitution and the law. In these circumstances, the proceedings cannot be saved by labels or treated as matters of mere form or convenience; rather, they represent actions taken in the absence of lawful jurisdiction and are the direct legal result of failing to comply with the constitutional and legal conditions that are essential before judicial authority can be validly exercised.

22. The words **"a High Court may make rules"** carry a meaning and importance far greater than their brief wording suggests. They grant the High Court a constitutional authority to frame rules, not as a matter of routine administration or convenience, but as an institutional power that flows directly from the Constitution itself. Through this authority, the High Court is empowered to lay down, organize, and control the procedural system by which its judicial functions are to be invoked and exercised. In constitutional terms, these rules provide the means through which the Court gives practical shape to its judicial power, converting it from a general constitutional mandate into a functioning and lawful jurisdiction capable of being exercised in specific cases.

23. In the present matter, the significance of this authority becomes immediately apparent. The Lahore High Court Rules and Orders, Volume V, formally adopted by the Islamabad High Court with necessary modifications, are a direct exercise of this constitutional power. These Rules include:

- **Chapter 10**, which vests the constitution of Benches exclusively in the Chief Justice;
- The chapters governing institution, scrutiny, objection-removal, classification, fixation, and cause-list preparation;
- The procedural scheme through which cases flow from filing to judicial hearing.

24. These provisions are not to be understood as mere administrative directions, informal guidelines, or internal arrangements of convenience. They are constitutional instruments framed in the exercise of authority expressly delegated by Article 202 of the Constitution. As such, they carry the same binding force as statutory law and are

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obligatory upon the Court as an institution, as well as upon its officers and Judges. Consequently, the rule which declares that the constitution of Benches is the exclusive function of the Chief Justice is not a matter of custom, courtesy, or internal tradition. It is a direct constitutional application of the High Court's rule-making power. This rule determines whether a Bench legally exists at all for the purpose of exercising judicial authority. While judicial power is vested in the High Court as an institution, it can be exercised only through lawfully constituted Benches under the procedural framework established by Article 202. A Bench that does not appear on the roster approved by the Chief Justice, therefore, suffers from a fundamental legal defect.

25. The phrase **"regulating the practice and procedure of the Court"** in Article 202 confers upon the High Court a broad yet constitutionally disciplined authority to design the entire procedural framework through which judicial business is to be conducted. This authority encompasses every stage of a case's life within the Court, including the mode of filing, the scrutiny and removal of defects, the classification and marking of subject categories, the preparation and publication of cause lists, and critically, the constitution and assignment of Benches. Together, these elements form the **procedural skeleton of judicial power,** the architecture through which the High Court transforms its institutional authority into case-specific jurisdiction. In this constitutional setting, the **roster** is not a convenience or a managerial tool; it is one of the core procedural instruments that Article 202 empowers the High Court to create. The roster is the formal mechanism by which judicial power is allocated among the Judges, and by which the Court determines which Bench shall hear which class of cases at which time. It is, conceptually and legally, the channel through which jurisdiction flows. Without the roster, judicial power remains undirected and unallocated. From this follows a series of necessary consequences. Rules established under the authority of Article 202 dictate that:

- Judges **cannot constitute themselves** as a Bench;
- Judges **cannot select** or call cases that have not been assigned to them;
- The **Chief Justice alone** possesses the authority to allocate judicial work and constitute Benches;
- A Bench exists in the eyes of law **only because it has been constituted under these rules**.

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26. In light of these principles, when a Judge holds court despite being excluded from the approved roster, the defect is not merely one of internal discipline or administrative impropriety. It is a **constitutional defect** that strikes at the very foundation of jurisdiction. A Judge who sits outside the roster does not merely violate an internal rule; he operates **outside the procedural architecture that the Constitution mandates as a prerequisite for the exercise of judicial power.**

High Court Practice & Procedure Rules

27. The question whether a Bench exists merely because certain Judges are present in a courtroom, or whether it comes into juridical existence only upon approval of the roster by the Hon'ble Chief Justice, goes to the root of how judicial power is structured and exercised in a High Court. The constitutional and rules-based scheme does not treat a Bench as an informal gathering of Judges who choose to sit together; it treats a Bench as an institutional organ of the Court which must be brought into existence in the manner prescribed by law. The Judge's personal status is a necessary condition; the constitution of a Bench in accordance with the rules and roster is a sufficient condition that activates jurisdiction. Without that second element, there is only a group of Judges; there is no Bench in the eyes of the law.

28. It is important to recognize that, as a matter of established High Court practice under Volume V of the High Court Rules and Orders, the preparation of the weekly roster is an administrative task initially undertaken by the Deputy Registrar (Judicial), who drafts the proposed sitting schedule, subject classifications, and bench compositions for the upcoming week. This preparatory function, however, does not by itself confer any legal status upon the draft roster; it is purely ministerial. The roster acquires legal force only upon its approval by the Hon'ble Chief Justice. It is this approval an act falling squarely within the "exclusive concern" of the Chief Justice under Chapter 10 that transforms the draft into an authoritative judicial work plan binding on all Benches, officers, and branches of the Court.

29. The distinction between preparation and approval is constitutionally significant. The Deputy Registrar's role is confined to facilitating the administrative workflow of the Court. His preparation of the roster is done in aid of the Chief Justice's prerogative, not as an exercise of independent authority. The Rules do not envisage, nor permit, any officer of the Court to constitute Benches or allocate judicial business by their own initiative. That function remains inseparably linked to the Chief Justice's institutional position as the administrative head of the Court.

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Therefore, even though the initial schedule is physically drafted by the Deputy Registrar, the roster in its enforceable form remains the legal manifestation of the Chief Justice's will.

30. Once the roster is approved by the Chief Justice, it assumes a binding and authoritative character and becomes the sole lawful means through which jurisdiction is assigned to different Benches for the relevant period. The approved roster clearly specifies which Judges will constitute a Bench, the nature and categories of cases that each Bench is authorized to hear, as well as the dates and courtrooms in which those cases will be taken up. The requirement of approval by the Chief Justice is central to this process, as it ensures that the distribution of judicial work is not governed by chance, personal preference, or individual discretion. Instead, case allocation takes place through a structured, transparent, and institutionally regulated mechanism that safeguards fairness, order, and public confidence in the administration of justice.

31. This distinction becomes clearer when understood through an analogy. A statute may provide that a tribunal shall consist of certain named members, but until the formal notification establishing that tribunal is issued in the manner prescribed by law, those individuals, despite being otherwise qualified, do not legally constitute a tribunal. Any orders passed by them in the absence of such a lawful establishment would be open to challenge as being coram non judice. In the same manner, while the High Court is a single constitutional institution, it functions through Benches that are constituted strictly in accordance with its rules and the directions of the Chief Justice. Although Judges acquire their constitutional status upon appointment, a particular Bench comes into legal existence only when those Judges are grouped together in a composition expressly approved by the Chief Justice, whether through the approved roster or by a specific order, to exercise defined jurisdictions. In the absence of such a lawful constitution, the necessary legal link between the individual Judges and the Court's institutional authority remains incomplete, and the exercise of judicial power cannot validly take place.

32. Once this position is accepted, it inevitably follows that a Bench cannot be regarded as legally existing merely because the Judges who may form it are present, available, or even seated in a courtroom, unless constituted by the Hon'ble Chief Justice through duly approved roster. Legal or juridical existence does not depend on physical presence or personal willingness, but on strict compliance with the instrument that lawfully brings the Bench into being, namely, the roster approved by the Chief Justice. It is this approval that connects the individual authority of a Judge

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with the Court's institutional authority. In the absence of such approval, this essential link remains missing, and what appears to be a Bench is, in law, nothing more than a group of Judges acting without a legally recognized forum. Any orders passed in such circumstances are not merely affected by procedural defects; they suffer from a far more serious infirmity, namely that the forum itself was never validly constituted in accordance with law.

33. This interpretation also safeguards the internal order and institutional balance of the Court. If it were accepted that a Bench comes into existence whenever Judges decide to sit together, the role assigned by the rules to the Chief Justice in constituting Benches would be reduced to a mere formality. Such an approach would seriously weaken the structured system of neutral and predictable case allocation that the roster is meant to ensure, and the roster would lose its binding and authoritative character. This is clearly not the intention of the rules, which expressly declare that the constitution of Benches is the exclusive responsibility of the Chief Justice. The more sound and lawful view, therefore, is that while Judges continue to hold office and remain Judges by virtue of their appointment, a Bench, as a legally recognized forum capable of exercising jurisdiction, comes into existence only when and to the extent that it is constituted by the Chief Justice through an approved roster or a specific order.

34. At the core of the constitutional architecture of the High Court lies the principle recognized across jurisdictions and repeatedly reaffirmed in our jurisprudence that the **Chief Justice is the Master of the Roster**. This expression, though not expressly found in the Constitution, encapsulates a legally indispensable idea: the **exclusive authority of the Chief Justice to determine the composition of Benches and the allocation of judicial business** within the Court. Lahore High Court rules & Orders; Chapter 10, Part-A categorically states that: -

> **"The administrative and executive work of the High Court shall be controlled by a Committee of Judges to be known as the Administration Committee:**
>
> **Provided that those matters which are the exclusive concern 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."**

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35. The constitution of Benches, as referred to here, is neither a distribution of shared responsibility nor a partial delegation of authority; it is an authority conferred exclusively upon the Chief Justice. The expression "exclusive concern of the Chief Justice" has been consciously and deliberately used to eliminate any possible ambiguity. In legal interpretation, an exclusive power means that no other body or person may exercise that power unless such authority is expressly granted by the holder of that power. Accordingly, neither the Administration Committee, nor individual Judges, nor even a collective judicial forum can constitute Benches on their own initiative. Rule 1 of Chapter 10 clearly excludes even the Administration Committee from constituting Benches independently. While the Administration Committee does exercise broad control over various internal affairs of the High Court, the Rules intentionally reserve certain core functions, such as the constitution of Benches and control over the establishment, solely for the Chief Justice. If the Administration Committee were nevertheless permitted to constitute Benches, the word "exclusive" would lose all legal meaning and effect. A settled principle of interpretation requires that every word used by the rule-making authority must be given due meaning and cannot be treated as surplusage. The only interpretation that aligns with the language of the Rules and preserves institutional coherence is that the constitution of all Benches must originate from the Chief Justice, whether through a specific order, an approved roster, a standing instruction, or any rule-based mechanism authorized by him. In case *SMC 04 of 2021,* the Hon'ble Supreme Court held that: -

> **"33. In order to consider whether a Bench of the Court, when acting judicially as such, can invoke the suo motu jurisdiction, we need to consider the constitution of Benches and the allocation of work whereby the Benches exercise the jurisdiction of the Court. This is indeed the fourth "element" which was alluded to in para 14 above, which serves as the link or bridge between the second and third categories of the tripartite formulation. For, as is well known, in the ordinary course this Court does not sit en banc (as does, e.g., the US Supreme Court) but in Benches. And the Benches do not, and cannot, self-constitute or, once constituted, self-propagate or self-perpetuate. Rather, it is settled law that it is the Chief Justice alone who is the master of the roster and who, from time to time, constitutes Benches for the exercise of the various jurisdictions of the Court. This applies (to take the language of Order XI of the**

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1980 Rules) to "every cause, appeal or matter" to be heard and disposed of by the Court. Now, the Benches constituted by the Chief Justice are, each of them, the Court when they are so exercising the various jurisdictions that inhere in the Court. However, even here there are limitations and qualifications. The most important for present purposes is that a Bench cannot self-select the causes, appeals or matters that are to be taken up and decided by it. It cannot pick and choose whichever case it wants from those on the docket. That too, ultimately, is within the power of the Chief Justice. In everyday terms, as per current practice, the Chief Justice constitutes two- and three-member Benches on a weekly basis and a cause list is issued which earmarks the cases which are to go before each Bench. Special benches (including those comprising of a larger number of Judges than just indicated) may also be constituted from time to time for a variety of different reasons, for whom, again, a cause list is issued. Now, what are those cases? They are the ones in which the jurisdiction of the Court has already been invoked. The exercise of the jurisdictions that inhere in the Court is therefore controlled and regulated by (among others) the following factors, as relevant for present purposes. Firstly, it can only be exercised by Benches duly constituted by the Chief Justice. Secondly, the Benches can only take up such cases as are listed before them and cannot self-select. Thirdly, the cases that are listed before the Benches are those where the jurisdiction of the Court has already been invoked. In other words, the constitution (and existence) of Benches presupposes the existence of causes, appeals or matters in relation to which the Benches will exercise the jurisdictions of the Court. Conceptually, the two are distinct, separate and independent one from the other. These two aspects of course relate to nothing other than the third and second categories, respectively, of the tripartite formulation.

34. It follows from the foregoing that the Benches are constituted only for the purposes of exercising the jurisdictions of the Court in relation to what is already on the docket. Can such a Bench invoke suo motu the jurisdiction of the Court under Article 184(3)? In our view the answer has to be in the negative. For a Bench, constituted as

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> ***above, to be able to do so would mean that a Bench can both self-constitute and self-propagate. But that is neither possible nor permissible. In such a situation, the second and third categories of the tripartite formulation would collapse, and merge to become one. That would be absolutely counter to the essence of the judicial power. Furthermore, the invoking of the jurisdiction suo motu, i.e., the calling upon the Court to take action, brings forth a fresh or new "controversy" (i.e., cause or matter) to be decided by the Court. Can a Bench, that cannot self-select cases for its consideration even from the existing docket, add a fresh cause thereto? The question, surely, answers itself. Put differently, if a Bench constituted as above suo motu invokes the jurisdiction of the Court in relation to any matter, then in respect thereof it would have self-constituted. And if it requires that the matter be fixed before it (and, explicitly or implicitly, before it alone), then in respect thereof the Bench would have self-propagated and self-perpetuated."***

36. The Court held that Benches cannot invoke suo motu jurisdiction because a Bench has no authority to self-constitute, self-select cases, or self-propagate its own proceedings. Under the roster system, only the Chief Justice, acting as the master of the roster, may constitute Benches and assign matters to them; a Bench exists solely to adjudicate cases already placed on the docket. Since a Bench cannot choose even from existing cases, it certainly cannot add a new controversy by initiating a suo motu action. Allowing such power would collapse the constitutional distinction between creating a Bench and invoking jurisdiction, thereby permitting a Bench to perform functions reserved exclusively for the Chief Justice. Therefore, any attempt by a Bench to initiate suo motu proceedings is constitutionally impermissible. The Hon'ble Apex Court further held in the case *supra* that: -

> **"51. This brings us to the order dated 20.08.2021 (2021 SCMR 1602) made by the learned Bench-II, for its consideration and examination in light of the foregoing discussion and analysis. The attendant facts relating to the making of the order have already been set out above. In our view, there can be no doubt that, with respect, the learned Bench erred materially in law in making the order. The learned Bench suo motu invoked the jurisdiction of the Court under Article 184(3). This is absolutely clear from a perusal of the order as a whole and, in particular, para 11 thereof where**

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the learned Bench clearly stated that "*We have decided to treat this application as one under Article 184(3) of the Constitution…*" (emphasis supplied) read with para 13, where a direction was given to the office "*to number this petition*", with parties arrayed as ordered. In this para also it was specifically asserted that "…this Bench of the Supreme Court has taken notice pursuant to Article 184(3) of the Constitution…". This, with respect, it could not do. There was a failure to properly abide by, and to apply, the judicial power as explained above. This failure was, with respect, the result of a lack of conceptual clarity. In respect of the subject matter of the Application not only did the learned Bench self-constitute but, in directing that notices be issued to named functionaries (and directing that replies be furnished before the next date of hearing) and that the matter be listed before it, the learned Bench also self-perpetuated and self-propagated. As explained above, this simply could not be done. With respect, the learned Bench acted in a constitutionally impermissible manner. The office quite correctly sought orders from the HACJ and it was well within the relevant powers (and, in our respectful view, duty in the facts and circumstances of the present case) of the Chief Justice (which for the time being vested in, and fell upon, the HACJ) for an authoritative pronouncement to be sought on the question posed in the order of 23.08.2021. That question stood answered in the short order of 26.08.2021, as explained and amplified in terms of what has been set out in this judgment. We are, with respect, unable to subscribe to the action taken by the learned Bench-II. The order of 20.08.2020 could not be allowed to stand. Attendant consequences necessarily had to follow, as set out in para 3 of the order dated 26.08.2021."

37. From the reasoning contained judgment supra, several controlling principles emerge that bear directly upon the matter presently before this Court. First, the Supreme Court emphasized that judicial power cannot be exercised unless jurisdiction has properly vested in the Bench through the constitutionally sanctioned mechanism. As held in the above judgment, without prior approval and constitution of Bench by the Hon'ble Chief Justice, one of the Benches of the Supreme Court, could not have invoked Article 184(3) *suo motu* and proceeded to treat an application

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as a petition without being clothed with the authority to do so. The same principle applies to this case. A Judge cannot unilaterally sit, call cases, or pass orders when the approved roster does not constitute him as a Bench for that day or session. In both situations, the defect is the same: the Bench purports to act without first satisfying the *conditions precedent* for the valid exercise of jurisdiction.

38. Secondly, the Supreme Court characterized the act of assuming jurisdiction under Article 184(3) without prior approval and constitution of Bench by the Hon'ble Chief Justice as self-constitution, self-propagation, and self-perpetuation, expressions that accurately describe the unlawful assumption of judicial authority outside the established institutional framework. The same situation arises in the present case. When a Judge, despite being fully aware that he is not included in the approved roster due to a pre-declared leave schedule, nevertheless proceeds to sit in court, take up cases, and pass orders, he does not merely commit a procedural misunderstanding. Rather, he brings into existence a Bench that the law itself has not constituted and, in doing so, unlawfully continues proceedings over which he never lawfully acquired jurisdiction. Judicial authority or jurisdiction can be exercised by a Judge only when a specific case is assigned for hearing through a duly approved roster issued by the Chief Justice. The roster is the lawful mechanism through which jurisdiction is activated, and judicial power is brought into operation. If Judges of the High Court were permitted to sit and assume jurisdiction without being part of an approved Bench or without a sanctioned roster, it would lead to serious institutional disorder. Such a practice would undermine the orderly functioning of the judiciary, disrupt the administration of justice, and defeat the very purpose of the constitutional framework. In that situation, each Judge would effectively become the master of his own roster, a result wholly inconsistent with the Constitution and the rule of law, and one that would inevitably give rise to legal uncertainty and judicial anarchy.

39. Thirdly, the Supreme Court criticized the said act not merely for passing an incorrect order, but for failing to properly understand and exercise judicial power itself. This failure was traced to a lack of conceptual clarity between the role of an individual Judge and the legal existence of a Bench. The same fundamental misunderstanding lies at the core of the present case. A Judge does not become a Bench simply by occupying a courtroom, nor does judicial authority attach to a Judge in his personal capacity. Judicial power comes into existence only when a Bench is lawfully constituted through the process prescribed by law, namely, by the Chief Justice through an approved roster framed under Article 202. When this institutional limitation is ignored or misunderstood, as has occurred here, the result is not a mere

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procedural lapse but an unlawful assumption of jurisdiction, rendering the exercise of judicial power legally unsustainable.

40. Fourthly, the Supreme Court made it clear that when a defect of jurisdiction of this nature arises, the matter must be placed before the Chief Justice, as it falls within his constitutional authority and responsibility to resolve such institutional issues through an authoritative decision. The same situation has arisen in the present case. Once it became apparent that a Judge had held court and exercised judicial functions in the absence of an approved roster, the Office rightly placed the matter before the Chief Justice for appropriate directions. The intervention of the Chief Justice in these circumstances reflects his corrective and supervisory role and serves to reaffirm the settled principle that jurisdiction cannot be founded upon the unilateral actions of an individual Judge, but must flow from lawful institutional authorization.

41. Finally, just as the Supreme Court held that the order whereby jurisdiction under Article 184(3) was assumed without prior approval and constitution of Bench by the Hon'ble Chief Justice, *"could not be allowed to stand,"* the same conclusion necessarily follows in the present case. A Bench that has not been lawfully constituted in accordance with the prescribed constitutional and procedural framework has no authority to exercise judicial power. Any orders passed by such a Bench suffer from the same constitutional defect that led to the invalidation of the order in SMC No. 04 of 2021. The Supreme Court's reasoning makes it clear that where jurisdiction is absent from the very beginning, the consequences are unavoidable: the orders issued are void from their inception, have no legal effect, and the judicial process must be corrected and restored to its proper constitutional course.

42. The cumulative effect of the foregoing analysis leaves no room for doubt that where a High Court Judge, with knowledge of the approved roster, nonetheless proceeds to hold court, call cases, or pass orders. The exercise of judicial power by a forum not brought into legal existence through the constitutionally prescribed mechanism is not a mere procedural irregularity; it is an act incapable of legal recognition and a threat to institutional discipline. The Supreme Court's consistent holdings, particularly in PLD 2016 SC 409 and PLD 2016 SC 121, compel the conclusion that any order emanating from such an unlawfully constituted Bench is a nullity, non-est in the eyes of law, and must be treated as if it never existed. Courts are constitutionally bound to deny legitimacy to such exercises of power, for to do otherwise would be to sanction an unconstitutional assumption of authority and to erode the foundational principle that judicial power can only be exercised by forums

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lawfully constituted in accordance with the Constitution and the rules framed thereunder.

Whether a Judge can self-assign a case?

43. The second question requires careful constitutional examination, for it concerns not merely administrative propriety but the foundational architecture of judicial power. The inquiry *whether a Judge may self-assign a case* must be viewed through the prism of the principle that judicial authority vests in the Court as an institution, and not in its individual members acting independently. A Judge, however eminent, does not carry the Court's jurisdiction with him personally; he exercises judicial power only when he forms part of a Bench constituted in accordance with law. This institutional conception is essential to the separation of powers and is embedded in both the Constitution and the rules governing the High Court's internal functioning.

44. The Constitution itself imposes a clear and fundamental limitation on the exercise of judicial power. Article 175(2) categorically provides that no court may exercise jurisdiction unless such jurisdiction is conferred by the Constitution or by or under law. This requirement has two essential aspects: first, judicial authority must be lawfully granted, and second, it must be exercised only through a lawfully constituted forum. When a Judge takes up a case that has not been assigned to him, he does not merely depart from an administrative arrangement; rather, he bypasses the constitutional process through which jurisdiction is validly activated. Jurisdiction attaches to a Bench constituted and assigned by the Chief Justice, not to an individual Judge acting on his own initiative. This constitutional command is given concrete procedural form through the High Court Rules framed under Article 202. Those rules, particularly Chapter 10 of Volume V, expressly place the power to constitute Benches and distribute judicial work within the exclusive domain of the Chief Justice. The Chief Justice acts as the "master of the roster", not as a matter of personal discretion, but by constitutional design. This centralized authority ensures fairness, prevents selective or arbitrary assumption of cases, and preserves the neutrality and integrity of judicial administration. Accordingly, when a Judge calls up a case without lawful assignment, he does more than breach procedural protocol; he assumes a function that the Constitution and the rules reserve exclusively for the Chief Justice, thereby disturbing the institutional balance that underpins the legitimacy of judicial decision-making.

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Whether the Chief Justice is legally obliged to obtain the consent of any Bench before consolidating identical petitions and reallocating them for hearing?

45. For a proper and lawful determination of the issue before the Court, it is essential to draw a clear line between two judicial-administrative actions that may appear similar but are, in fact, fundamentally different in nature. The first is the transfer of a case from one Bench to another, and the second is the consolidation of several identical or related cases before a single Bench. A transfer concerns only one specific matter and involves shifting that matter from one Bench to another, usually to meet administrative, logistical, or case-management needs. It is a limited, matter-specific adjustment within the Court's docket. Consolidation, on the other hand, brings together multiple cases that involve common or overlapping questions of law or fact and places them before one Bench. Its purpose is not merely administrative convenience but the preservation of consistency and coherence in the Court's jurisprudence. Consolidation is therefore a structural measure aimed at avoiding conflicting decisions, ensuring uniform interpretation of the law, and promoting orderly and consistent adjudication of similar disputes.

46. Importantly, consolidation does not depend on the consent of the Benches currently hearing the individual cases. If such consent were required, the very objective of achieving uniformity could be defeated by the refusal or delay of a single Bench. A system that permits individual Benches to control or obstruct consolidation would undermine judicial coherence, invite parallel and potentially conflicting decisions, and create uncertainty for litigants and the public alike. The constitutional role of the Chief Justice is designed to prevent such institutional imbalance. Consolidation, therefore, functions as a court-wide corrective measure to preserve consistency, stability, and coherence in the Court's jurisprudence.

47. The issue before the Court is whether, when two or more identical or substantially similar petitions are pending before different Benches, the Hon'ble Chief Justice is legally required to obtain the consent of those Benches before ordering their consolidation and reallocating them for hearing in order to avoid conflicting decisions. When examined in the light of the constitutional scheme and the procedural structure of the High Court, only one conclusion is possible. There is no provision in the Constitution, the High Court Rules, or any established practice that requires the Chief Justice to seek the consent of a Bench before withdrawing a case, particularly for the purpose of consolidation. A clear and essential distinction exists between judicial functions and judicial administration. While a Bench has full

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authority to adjudicate matters that are lawfully assigned to it, it does not possess administrative control over the organization and management of the Court's docket. Requiring the Chief Justice to obtain the consent of individual Benches before exercising his constitutionally conferred power of case allocation would upset this balance, elevate adjudicatory Benches over the Chief Justice's administrative authority, and undermine the institutional hierarchy established by law. Such an approach would be inconsistent with the Constitution and the Rules, and would reintroduce the very uncertainty, inconsistency, and internal discord that the roster and consolidation mechanisms are intended to prevent.

48. Furthermore, the very object of consolidation is to secure consistency in judicial decisions, prevent conflicting rulings, ensure uniform application of the law, and make efficient use of judicial time and resources. These aims are institutional in character and relate to the proper and orderly functioning of the Court as a whole, rather than to the individual preferences or authority of particular Benches. If the Chief Justice were obliged to obtain the consent of the concerned Benches before ordering consolidation, a single Bench could effectively block that process, thereby allowing identical matters to be decided differently. Such a result would directly undermine the integrity and credibility of judicial decision-making. A constitutional or final court cannot permit its Benches to operate as isolated and independent units, free from institutional coordination, as this would weaken the Court's role as a unified judicial body responsible for delivering clear, consistent, and authoritative pronouncements of law.

49. It is equally important to maintain a clear distinction between the adjudicatory and administrative functions of the judiciary. Judges, when sitting as a Bench, are entrusted with the adjudicatory role of deciding the rights and liabilities of parties in matters that have been lawfully assigned to them. Their authority is confined to the adjudication of those cases and does not extend to the administrative control of the Court's docket. The management of case flow, including the listing, consolidation, or reassignment of matters, is an administrative function that belongs to the Court as an institution and is exercised through the Chief Justice. The office of the Chief Justice is constitutionally designed to ensure judicial discipline, prevent bench-shopping, secure a fair and balanced distribution of work, and preserve the unified institutional voice of the Court. If individual Benches were permitted to decide whether cases should remain with them, they would effectively assume administrative control, a role that is fundamentally incompatible with their adjudicatory function and contrary to the constitutional structure governing judicial administration.

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50. The role assigned to a Bench does not in any way diminish its authority or dignity; rather, it operates as a structural safeguard intended to protect judicial impartiality and the integrity of the institution as a whole. Judges are tasked with deciding cases lawfully placed before them, not with selecting, retaining, or rejecting matters at their discretion. If a Bench were permitted to control its own docket, it could, even unintentionally, give rise to perceptions of preferential treatment, selective involvement, or strategic positioning in relation to sensitive or high-profile cases. Allowing such overlap between adjudicatory and administrative functions would undermine both the appearance and the substance of judicial neutrality, which are essential to maintaining public confidence in the fairness and independence of the judicial process.

51. It is also relevant to note that the National Judicial (Policy Making) Committee, in its 53rd meeting held on 11.07.2025, took a policy decision that specialized Division Benches should be established in all High Courts to deal with matters arising under the Income Tax Ordinance, 2001, as well as cases relating to Educational Institutions, including medical colleges and similar bodies. Acting upon this policy decision, and in the exercise of powers conferred under the Islamabad High Court Practice and Procedure Rules, 2025 (Volume V), the Hon'ble Chief Justice constituted a Special Division Bench to hear and decide cases filed under the Income Tax Ordinance, 2001, the Sales Tax Act, 1990, the Federal Excise Act, 2005, and the Customs Act, 1969. In the same manner, a separate Special Bench was constituted for matters relating to Educational Institutions. As a direct consequence of these lawful administrative steps, all pending cases of a similar nature that were previously before different Benches were consolidated and assigned to the respective Special Benches. This course was adopted to promote uniformity, consistency, and coherence in judicial decisions and to ensure that identical questions of law are adjudicated in an orderly and harmonized manner.

52. The decision of the National Judicial (Policy Making) Committee directing the constitution of specialized Division Benches for tax-related matters created a clear institutional necessity. Cases involving the same statutory framework and raising similar legal questions were required to be heard by a designated forum so as to ensure consistency, predictability, and the benefit of specialized judicial expertise. In compliance with this policy decision, and in exercise of the powers conferred by the Islamabad High Court Practice and Procedure Rules (Volume V), the Hon'ble Chief Justice constituted a Special Division Bench to adjudicate cases arising under various federal fiscal laws. As a natural and unavoidable consequence of this step, all similar

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matters that were pending before different Benches were consolidated and assigned to the newly constituted Special Division Bench. This example is instructive in two important respects. First, it demonstrates that consolidation is a systemic and institutional measure intended to prevent the fragmentation of judicial decisions where identical or closely related issues are involved, thereby avoiding inconsistent or conflicting judgments and preserving coherence in the Court's jurisprudence. Second, and more significantly, this consolidation did not, and could not, depend upon the consent of the Benches from which the cases were withdrawn. If such consent had been required, the implementation of the NJPMC's policy would have been subject to the approval of multiple Benches, each capable of blocking the process. Such a situation would defeat the purpose of specialization, undermine uniformity in the law, and allow individual Benches to obstruct an institutional reform lawfully undertaken in the interest of effective judicial administration.

53. This discussion, therefore, firmly reinforces the principle that consolidation is an institutional measure adopted to secure overall coherence and consistency in the administration of justice, and not a matter to be negotiated with individual Benches. The power of the Chief Justice to consolidate cases is exercised in furtherance of the Court's institutional objectives, whether arising from judicial policy decisions, statutory schemes, or the Court's procedural rules. Such authority is inherent in the constitutional and administrative role of the Chief Justice, and neither requires nor can be made dependent upon the approval or consent of the Benches before which the matters were originally pending. Any contrary view would weaken the Court's institutional framework and undermine the very purpose for which consolidation is envisaged.

54. Consolidation is not a right or advantage claimed by a litigant, but an institutional requirement aimed at preserving the consistency, uniformity, and integrity of the Court's decisions. Its objective is not to serve the strategic interests of any party, but to ensure that the law is applied in a coherent and predictable manner. The Chief Justice cannot reasonably be expected to address the risk of conflicting judgments unless such risks are brought to his notice through the Court's established administrative processes. When the Office of the Court, acting honestly and within the scope of its institutional responsibilities, identifies that identical or substantially similar legal issues are pending before different Benches, it is not only entitled but obligated to inform the Chief Justice. Such an administrative note does not constitute a judicial decision; rather, it activates the Chief Justice's constitutional and rule-

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based authority to determine whether consolidation is necessary in the interest of proper judicial administration.

55. For the sake of clarity, it must be emphasized that a note prepared by the Office for consolidation purposes does not amount to the initiation of any judicial proceedings, nor does it encroach upon the adjudicatory function of any Bench, and it in no way replaces or restricts the right of a party to seek appropriate relief through proper legal means. Such a note serves purely as an institutional support to judicial administration and is rooted in the Office's unique role as the only branch of the Court with complete and comprehensive oversight of the entire docket. Requiring that consolidation be considered only upon a formal application by a party would risk dividing judicial authority, allow identical legal questions to be decided inconsistently, and weaken the Court's duty to deliver clear, uniform, and authoritative rulings.

56. We accordingly declare, as a matter of binding institutional principle, and hold that the Office is fully competent and, where circumstances so demand, obliged to place before the Hon'ble Chief Justice a note identifying the pendency of identical or overlapping matters before different Benches, so that appropriate orders may be passed to avoid conflicting judgments and to preserve the unity of the Court's voice.

57. The jurisprudential foundation of these principles was further and lucidly expounded in *2003 PLC (C.S.) 1508*, where the Court articulated the concept of the administration of justice in the following terms: -

> **"---- Authority who had framed regulations, was bound to follow said regulations and a departure therefrom, would amount to exercise of the power in an arbitrary and unregulated manner defeating the very purpose for which regulations were framed."**

58. An authority that promulgates regulations under constitutional or statutory power is bound by those regulations with the same force as any other law. Such rules are not aspirational guidelines or matters of administrative preference; they are binding constraints that define the lawful exercise of power. When the rule-making authority itself departs from the rules it has established, it does not merely err it acts without law. Deviation from self-imposed regulations converts the governed authority into unguided discretion. That transformation is constitutionally intolerable. Regulations exist precisely to prevent arbitrary action, to channel power through defined procedures, and to ensure that authority is exercised according to law rather

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than personal judgment. To disregard them is to defeat the very purpose for which they were framed. In the judicial context, the consequence is especially grave. Rules governing bench constitution, case assignment, and the exercise of judicial power are structural safeguards of institutional integrity. Their violation is not a technical defect but a failure of lawful authority. Actions taken in disregard of binding rules cannot be validated by convenience, necessity, or good faith. They lack legal foundation and are therefore void.

59. The rule of law permits no exception: power exercised outside the framework of governing regulations is arbitrary, unregulated, and without constitutional sanction.

60. At the threshold of our final determination, we are guided by a principle, settled beyond debate, must be reaffirmed: a principle of enduring authority articulated by the Hon'ble Supreme Court of Pakistan in *PLD 1973 SC 368*, wherein it was unequivocally held: -

> **"Rules framed by High Court, no doubt, have the force of law and have ordinarily to be followed."**

61. In view of the foregoing constitutional, statutory and jurisprudential analysis, all three foundational questions stand answered in the terms that; first, that a Bench of the High Court does not come into juridical existence merely by virtue of the status or physical presence of its constituent Judges, but only upon its constitution and allocation of work through a roster duly approved by the Hon'ble Chief Justice in exercise of powers under Article 202 of the Constitution and the applicable High Court Rules; second, that no Judge or Bench may self-assign, initiate, retain, transfer, or otherwise assume seisin of any lis except through the institutional mechanism of case allocation controlled exclusively by the Chief Justice as "master of the roster," and any attempt to do so constitutes an impermissible assumption of jurisdiction; and third, that the Hon'ble Chief Justice, while consolidating identical or substantially similar petitions and reallocating them at any stage for hearing to secure coherence, avoid conflicting judgments and promote judicial efficiency, is under no legal obligation to obtain the consent of any Bench before which such matters may previously have been pending. These conclusions have direct consequences for the orders under review. Because the order dated 21.07.2025 in Writ Petition No. 3139 of 2015 (Dr. Fowzia Siddiqui v. Federation of Pakistan, etc.) was made by a bench

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that never came into lawful existence under the approved roster, it was entered without jurisdiction and is hereby **recalled**. We, therefore, hold as follows.-

(i). Under the Rules, the Chief Justice of the Islamabad High Court is the Master of the Roster and holds exclusive authority to constitute Benches.

(ii). Judicial power to hear a case arises only upon lawful constitution of a Bench under the authority of the Chief Justice; a Judge cannot unilaterally assume jurisdiction outside this framework.

(iii). Any challenge to the roster or bench constitution must be addressed through internal administrative processes; it cannot be resolved by a self-directed action.

62. Before we close, we recall the weighty words of Justice Felix Frankfurter, who observed that "***the history of liberty has largely been the history of the observance of procedural safeguards.***" The constitutional architecture that regulates the exercise of judicial power is itself one such safeguard. Fidelity to that structure is not a matter of ceremonial form; it is an affirmation of the rule of law. Only through steadfast adherence to these procedural foundations does a court speak with legitimate authority, and only through such fidelity can justice, in its truest sense, be secured.

(Arbab Muhamad Tahir)
Judge

(Inaam Ameen Minhas)
Judge

(Muhammad Azam Khan)
Judge

(Khadim Hussain Soomro)
Judge

Announced in the open Court on _____

Judge

Judge

Judge

Judge

APPROVED FOR REPORTING.

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