



28th June 2013

Honorable Justice Justice Qazi Faiz Esa i ,
Chief Justice,
Balochistan High Court,
Quetta.

Sub: Complaint on appointment of Balochistan Ombudsman by Caretaker Chief
Minister

May it please your Lordship,

My Lord, Transparency International Pakistan has received a complaint on the appointment of Mr. Wasey Tareen as Balochistan Ombudsman on the recommendations of Caretaker Chief Minister vide D.O. Letter No PS-CM/1-3/858 dated 20th May 2013, appointed on 3rd June 2013. Copy of the Order issued by the Governors Secretariat, Balochistan

The complainant has made following allegations.

1. Appointment of Mr. Wasey Tareen as Balochistan Ombudsman by Caretaker Chief Minister is illegal as such appointments were not allowed under the mandate of caretaker Government.
2. The appointment is in violation of Supreme Court Orders passed in Constitution Petition No. 30 of 2013 6th June 2013.

The honourable Supreme Court Order dated 6/6/2013, para 26 is quoted below;

28. In light of discussion made hereinabove, we hold that: -

(a) The Caretaker Cabinet/Prime Minister appointed under Article 224(1)(2) or 224A, as the case may be, is empowered to carry out only day-to-day affairs of the State with the help of the available machinery/resources/ manpower and also to watch national interest against war or national calamity or disaster faced by the nation, including terrorism, etc.

(b) The civil servants who have already been appointed in accordance with the rules/regulations on the subject ought not to be posted/transferred, etc., except in extraordinary circumstances, that too, temporarily.

(c) Major policy decisions including making of appointments, transfers and postings of the Government servants should be left to be made by the incoming government in view of the provisions of Constitution that the affairs of the State are to be run by the chosen representatives of the people.

(d) As newly elected Government is mandated to perform its functions of achieving the object and purpose of welfare of the people for which it has been duly appointed, therefore, caretaker Cabinet/government/Prime Minister, having no mandate of public support, is only caretaker set up and due to this connotation should detach itself from making permanent policies having impact on future of the country.



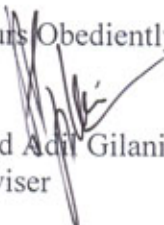
An indulgence of the Honorable Court in the matter is prayed for, and the appointment of Balochistan Ombudsman may be examined in light of the judgment of the Supreme Court CP No. 30 of 2013 dated 6th June 2013.

This is also to point out that in the same CP No. 30 of 2013, on 22nd May 2013, the Supreme Court Order contains following;

Paragraph No. 7. We do allow the learned Attorney General for Pakistan to take instructions from the Government but in view of the importance of the issue involved in the petition, we direct that; all the appointments, transfers and postings, which have been made by the Caretaker Government, referred to hereinabove, shall stand suspended and till pendency of this petition no further appointment, transfer and posting shall be made by the Caretaker Government including the appointment of Federal Ombudsman, Tax Ombudsman and Anti-Dumping Tribunal, except the postings and transfers, which relate to day-to-day business of the government and are required to be made in the interest of State and also to watch the interest of public, strictly following the rules and regulations on the subject, and in a transparent manner

Transparency International Pakistan is striving for across the board application of Rule of Law, which is the only way to stop corruption.

Yours Obediently,


Syed Adil Gilani,
Adviser

Ecnl; Annex A

Copy forwarded for the information of;

1. Secretary to the Chief Minister, Balochistan, Quetta
2. Registrar Supreme Court of Pakistan, Islamabad.



Dated Quetta the 3rd June 2013.

ORDER:

No.SGB/2013/PS/522-26. In exercise of powers conferred under Sub Clause 1 of Section 3 of "The Establishment of the Office of the Provincial Ombudsman for the Province of Balochistan 2001", the Hon'able Governor Balochistan, is pleased to appoint Mr. Wasey Tareen, as Provincial Ombudsman with immediate effect.

The term and conditions of the service will be issued at joining of the office.

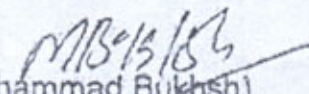
By the order of the
Hon'able Governor Balochistan.

(Abdul Jabbar)
Principal Secretary.

Copy to:

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1. The Provincial Ombudsman.
2. The Officer concerned _____.
3. The Principal Secretary to the Hon'able Chief Minister Balochistan with reference to D.O letter No. PS-CM/1-3/658 dated 20th May 2013.
4. The Deputy Secretary (G) to the Chief Secretary, Balochistan.
5. The PS to Secretary Law and Parliamentary Affairs Dept. Quetta.


(Muhammad Bukhsh)
Deputy Secretary.