ELECTION COMMISSION OF PAKISTAN

MR. SIKANDAR SULTAN RAJA, CHAIRMAN MR. NISAR AHMED DURRANI, MEMBER MR. SHAH MUHAMMAD JATOI, MEMBER MR. BABAR HASSAN BHARWANA, MEMBER MR. JUSTICE (R) IKRAM ULLAH KHAN, MEMBER

Case No. 6(2)/2023-Confd.

Subject: SHOW CAUSE NOTICE UNDER SECTION-208 (5) ON FAILURE TO THE CONDUCT INTRA PARTY ELECTION 12 POLITICAL PARTIES.

ON COMMISSION'S NOTICE:

- 1. Dr. Paul Jacob Bhatti, President/ Chair person, All Pakistan Minorities Alliance.
- 2. Haji Amanullah, Chairman, All Pakistan Tehreek.
- 3. Mr. Shafaat Ali Khan, President, Awami Party Pakistan-S.
- 4. Mr. Nawab Salahuddin Abbasi, Chairman, Bahawalpur National Party.
- 5. Dr. Muhammad Munir, President, Sub Ka Pakistan.
- 6. Ch. Ghulam Mustafa Ansari, Central Chairman, National Peace Council Party
- 7. Mrs. Farkhanda Amjad Ali Warraich, Chair person, Pakistan National Muslim League.
- 8. Mr. Muhammad Ahsan Gulzar, Chairman, Pakistan Aman Party.
- 09. Maj (R) Syed Muhammad Asghar Hussain Shah, Chairman, Pakistan Barabri Party.
- 10. Mr. Emmanuel Zafar, Qauid, Masihi Awami party.
- 11. Mr.Khizer Hayat Wattoo, President, Pakistan Qaumi Yakjehti Party.
- 12. Mr. Ahmed Bilal Qadri, Markazi Ameer, Sunni Tehreek.

Date of hearing:

04.01.2024

ORDER

Sikandar Sultan Raja, Chairman- Brief background of the instant matter is that all the above mentioned Political Parties were enlisted with the Commission under Section 202 of the Elections Act, 2017. It is the requirement of Section 208 of the Elections Act, 2017 that every



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Political Party has to conduct its intra party elections in accordance with their constitution and further to provide the details to the Election Commission of Pakistan. The Political Parties mentioned above remained fail to comply with the above mentioned provisions of Elections Act, 2017, therefore, the matter is fixed for hearing with notice to all the above Political Parties for 04-01-2023.

DETAILED HISTORY OF ALL THE ABOVE MENTIONED POLITICAL PARTIES

i. ALL PAKISTAN MINORITY ALLIANCE

The above mentioned political party was enlisted by the Chairman Dr. Paul Jacob Bhatti with the Commission under Section 202 of the Elections Act, 2017 in the year 2012 and the first intra party election was conducted by the party on 11.12.2011. The tenure for conduct of next intra party election of the above mentioned political party is four years and the next intra party elections was due on 11.12.2015.

ii. ALL PAKISTAN TEHREEK

This party was enlisted with the Commission in the year 2015 and the last intra party election was conducted on 20.05.2018. The term of the intra party election of the said political party is for four years and next intra party election was due on 20.05.2022. Symbol boat was allocated to the said political party in the year 2018 but due to the non-submission of party accounts the Commission vide order dated 03.10.2022 withheld its symbol.

iii. AWAMI PARTY PAKISTAN-S

The political party Awami Party Pakistan-S was enlisted in the year 2018 and conducted its last intra party elections on 03.05.2018. The term of the conduct of next intra party election is five years and the elections were due on 03.05.2023. Symbol Aero-plane was allocated to the said political party in the year 2018 which was withheld by the Commission vide order dated 06.12.2022 due to non-submission of party accounts.

iv. BAHAWALPUR NATIONAL AWAMI PARTY

Bahawalpur National Awami Party was enlisted on 29.12.2011 by the Commission. The first intra party election of the political party was held on 24.07.2011 which was due for next four years and the due date was 27.07.2015. Bullock Cart symbol was allocated to the political party in the year 2012. The Commission vide order dated 06.12.2022 issued directions that the said political party may not be allocated election symbol due to non-compliance of Section 210 of the Elections Act, 2017 read with Rule 159 of the Election Rules, 2017 for failure to submit consolidated statement of accounts for the financial year 2021-2022.



Samuel Samuel

v. SUB KA PAKISTAN

This party was enlisted with the Commission on 02.07.2018 and the last intra party election was conducted by the political party on 16.05.2018. The term of conduct of next intra party elections was five years and the intra party election was due on 16.05.2023. No election symbol was allocated to the political party due to non-compliance of the provisions of Section 208, 209 and 210, the Commission vide order dated 01.08.2023 declared the said political party in-eligible to obtain the election symbol.

vi. NATIONAL PEACE COUNCIL PARTY

The said political party was enlisted with the Commission on 02.11.2015 and conducted its intra party elections on 03.06.2019. The term of the said intra party elections was four years and the next intra party elections were due on 03.06.2023 the symbol swallow was allocated to the political party in the year 2018. The said political party was declared in-eligible to obtain the election symbol vide order dated 20.09.2023 by the Commission due to non-compliance of provisions of Section 208, 209 of the Elections Act, 2017 read with Rule 158 of the Election Rules, 2017.

vii. PAKISTAN NATIONAL MUSLIM LEAGUE

Pakistan National Muslim League party was enlisted with the Commission on 04.02.2010. The last intra party elections was conducted by the political party on 06.06.2018 for the term of four years and the next intra party elections was due on 06.06.2022. Symbol Huqqa was allocated to the said political party in the year 2010 and 2018 which was withheld by the Commission vide order dated 12.09.2022 due to failure to conduct intra party elections within time.

viii. PAKISTAN AMAN PARTY

This party was enlisted with the Commission on 01.11.2006. The last intra party election was conducted by the party on 21.05.2018 for the term of four years and next intra party elections was due to be conducted on 21.05.2022. Symbol Dove was allocated to the said political party in the years 2013 and 2018 which was withheld by the Commission vide order dated 03.10.2022 due to non-compliance of provisions of Section 208 and 209.

ix. PAKISTAN BARABARI PARTY

Pakistan Barabari Party was enlisted with the Commission on 23.04.2015 and conducted first intra party election on 08.06.2016. The term of next intra party election was three



years and it was due on 08.06.2019. No symbol has been allocated and the party has never applied for allocation of symbol.

x. MASIHI AWAMI PARTY

This party was enlisted with the Commission on 05.07.2008 and conducted its first intra party elections on 04.09.2007 for the term of three years. The next intra party elections were due on 04.09.2010 no election symbol was allocated nor the party had ever applied for the symbol.

xi. PAKISTAN QAUMI YAKJEHTI PARTY

The party was enlisted on 09.05.2018 and conducted its first intra party election on 02.04.2018. The term for the conduct of next intra party election is four years which was due on 02.04.2022. Symbol Peacock was allocated in the year 2018 which was withheld by the Commission vide order dated 03.10.2022 due to non-compliance of Section 208 and 209 of the Elections Act, 2017.

xi. SUNNI TEHREEK

Sunni Tehreek was enlisted with the Commission on 10.06. 2014 and the last intra party elections was conducted by this party on 19.05.2018 which was for the term of four years. Next intra party election was due on 19.05.2022. Symbol Clock was allocated to this party in the year 2018 which was withheld by the Commission on 03.10.2022 due to non-compliance of provisions of Sections 208 and 209 of the Elections Act, 2017.

- 2. The matter was placed before the Commission for appropriate orders. Notices were issued to all the parties mentioned above for 29.12.2023.
- 3. The respondent No. 2, 3, 4, 6, and 7 did not appear despite service of notice. Respondent No. 9 refused to accept the notice and respondent No. 5 is passed away. No one appeared on behalf of respondent No. 1, 8, 10, 11 and 12.
- 4. DG-Political Finance appeared and briefed the Commission in detail. The party wise submission of DG-Political Finance has been taken on record. He submitted that all the above mentioned political parties have been issued several notices, reminders and show cause notices but they did not fulfilled the requirement of Section 208 and 209 of the Elections Act, 2017. He further



requested the Commission that the allocation of symbol for General Election 2024 will be concluded on 13.01.2024 therefore appropriate orders may be passed in this matter.

- 5. We have gone through the available record and perused the details of the political parties given by DG-Political Finance.
- 6. Before going through the details of the case the relevant provisions of the law are reproduced under:-
 - 208. Elections within a political party.— (1) The office-bearers of a political party at the Federal, Provincial and local levels, wherever applicable, shall be elected periodically in accordance with the constitution of the political party: Provided that a period, not exceeding five years, shall intervene between any two elections.
 - (2) A member of a political party shall, subject to the provisions of the constitution of the political party, be provided with an equal opportunity of contesting election for any political party office.

(3) All members of the political party at the Federal, Provincial and local levels shall constitute the electoral-college for election of the party general council at the respective levels.

(4) The political party shall publish the updated list of its central office-bearers and Executive Committee members, by whatever name called, on its website and send the list, and any subsequent change in it, to the Commission.

- 209. Certification by the political party.— (1) A political party shall, within seven days from completion of the intra-party elections, submit a certificate signed by an office-bearer authorized by the Party Head, to the Commission to the effect that the elections were held in accordance with the constitution of the political party and this Act to elect the office-bearers at the Federal, Provincial and local levels, wherever applicable, 68
- (2) The certificate under sub-section (1) shall contain the following information—
 - (a) the date of the last intra-party elections;
- (b) the names, designations and addresses of office-bearers elected at the Federal, Provincial and local levels, wherever applicable;
- (c) the election results; and
- (d) copy of the political party's notifications declaring the results of the election.
- (3) The Commission shall, within seven days from the receipt of the certificate of a political party under sub-section (1), publish the certificate on its website.
- 210. Information about the sources of funds.—(1) A political party shall, in such manner as may be prescribed, submit to the Commission within sixty days from the close of a financial year, a consolidated statement of its accounts audited by a Chartered Accountant on Form D containing—
- (a) annual income and expenses;
- (b) sources of its funds;







(c) Assets and liabilities.

(2) The statement under sub-section (1) shall be accompanied by the report of a Chartered Accountant with regard to the audit of accounts of the political party and a certificate signed by an office-bearer authorized by the Party Head stating that—

(a) no funds from any source prohibited under this Act were received by the political party; and

portiteat party, and

- (b) the statement contains an accurate financial position of the political party.
- 215. Eligibility of party to obtain election symbol.—(1) Notwithstanding anything contained in any other law, a political party enlisted under this Act shall be eligible to obtain an election symbol for contesting elections for Majlise-Shoora (Parliament), Provincial Assemblies or local government on submission of certificates and statements referred to in sections 202, 206, 209 and 210.
- (2) A combination of enlisted political parties shall be entitled to obtain one election symbol for an election only if each party constituting such combination submits the certificates and statements referred to in sections 202, 206, 209 and 210.

3) An election symbol already allocated to a political party shall not be allocated to any other political party or combination of political parties.

- (4) Where a political party or combination of political parties, severally or collectively, fails to comply with the provision of section 209 or section 210, the Commission shall issue to such political party or parties a notice to show cause as to why it or they may not be declared ineligible to obtain an election symbol.

 (5) If a political party or parties to whom show cause notice has been issued under sub-section (4) fails to comply with the provision of section 209 or section 210, the Commission may after affording it or them an opportunity of being heard, declare it or them ineligible to obtain an election symbol for election to Majlis-e-Shoora (Parliament), Provincial Assembly or a local government, and the Commission shall not allocate an election symbol to such political party or combination of political parties in subsequent elections.
- The corresponding Rules of the above sections contained in the Election Rules, 2017, provide the following:-
 - 158. Submission of certificate to the Commission regarding intra-party elections.— (1) The Party Leader of each political party under his signature shall, within seven days of the completion of intra-party elections, submit a certificate to the Commission in Form-65 specifying that the intra-party elections have been held in accordance with the constitution of the party and the provisions of the Act.
 - (2) The Commission shall, after satisfying itself that the certificate fulfills the requirements of sections 208 and 209, publish the certificate including the details of election in the official Gazette."

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- 7. We have gone through the record and observed that all the above mentioned political parties have failed to conduct their intra party elections as provided under Section 208 and 209 of the Election Act, 2017. It is further observed that the parties have also not submitted their party accounts which is the requirement under Section 210 of the Elections Act, 2017. Section 215 of the Act Ibid requires that the Symbol for elections shall be allocated to the political party subject to the compliance of Section 208, 209 and 210 of the Act *ibid*. In this respect various notices, reminders and show cause notices have been issued to the political parties mentioned above, even the matters were fixed for hearing before the Commission with notices to the parties. Despite, all efforts to contact the parties all the above mentioned political parties are not appearing in any matter before the Commission. The details of the notices, show cause notices and notices for hearings are given below for just decision in the matter.
- 08. All Pakistan Minorities Alliance, show cause notices were issued to the said political party every year on account of non-submission of consolidated party accounts i.e (from 2014-15 and 2022-23), besides a show cause notice dated 07.12.2020 under Section 208(5) & 215(4) of the Act *ibid* and no response has been received for not conducting intra party elections.
- 09. The second party namely All Pakistan Tehreek, has been issued show cause notice dated 09-09-2023 on account of non-submission of consolidated party accounts for financial year 2022-23. The party was reminded vide letter dated 13.04.2020-22 by the Confidential Branch to conduct its intra party election within due date i.e. 20.05.2022, followed by a show cause notice dated 21.05.2022. In addition to it another show cause notice dated 07.12.2023 under Section 208(5) & 215(4) of the Act *ibid* for not conducting intra party elections was also issued. The symbol of the party had already been withheld by the Commission *vide* orders dated 12.05.2022 & 03.10.2022 on non-compliance of Section 210 and 208/209 of the Act respectively. It is also mentioned here that while hearing the matter dated 03.10.2022 notices were issued to the said political party for appearance. However, despite service of the notices the party did not appear before the Commission nor provided details of their intra party elections.
- 10. The third party namely Awami Party Pakistan-S, failed to file party accounts for the financial years 2021-22 to 2022-23. The intra party election of the party was due on 03.05.2023 for which it was reminded *vide* letter dated 09.02.2023, followed by a show cause notice dated 07.12.2023. Furthermore the matter was previously fixed for hearing on 01.08.2023, notices were issued to the political party for appearance before the Commission but despite service of notices no



one appeared on behalf of the said political party nor any detail in respect of Section 208, 209 and 210 of the Act is provided.

- 11. The fourth political party is Bahawalpur National Party. Show cause notices were issued to the said political party each year on account of non-submission of consolidated party accounts (2014-15 to 2022-23), show cause notice dated 07.12.2023 was also issued to the political party for failure to conduct intra party election which was due on 24.07.2015. Moreover, matter in respect of non-submission of consolidated statement of accounts was fixed for hearing before the Commission in which despite service of notice no one appeared on behalf of the said political party and the Commission vide order dated 06.12.2022 directed that the election symbol may not be allocated to this party due to failure to comply with the provisions of Section 210 of the Elections Act, 2017 and till no response has been received.
- 12. The fifth political party is Sub Ka Pakistan. The due date for conduct of intra party election was 16.05.2023 in which reminder dated 21.03.2023 was issued with regard to conduct of intra party election within time. Show cause notice dated 07.06.2023 was also issued under Section 215(4) of the Elections Act, 2017. Another show cause notice dated 07.12.2023 was also issued to the political party under Section 208(5) and 215(4) of the Act *ibid*. Furthermore, the matter was also fixed for hearing before the Commission on 01.08.2023 in which despite service of notice no one appeared on behalf of the said political party. Therefore, due to non-compliance of Section 208, 209 and 210 of the Act *ibid* the party was declared in-eligible to obtain the election symbol.
- 13. The political party namely National Peace Council Party has been issued reminder dated 21.03.2023 to conduct their intra party election within due time i.e 03.06.2023. Show cause notice under Section 215(4) of the Elections Act, 2017 was issued on 26.06.2023. Another show cause notice dated 07.12.2023 has also been issued to the said political party under Section 208(5) and 215(4) of the Elections Act, 2017 and no response has been received. Furthermore, the matter for non-conduct of intra party election was also fixed before the Commission on 20.09.2023 in which notices were issued on 12.09.2023, however, no one appeared on behalf of the said political party. Therefore, the Commission vide order dated 20.09.2023 directed not to allocate an election symbol to said political party in sub-sequent elections as the party failed to comply with the provisions of Sections 208 and 209 of the Act *ibid*.
- 14. Another political party at Sr. No. 7, Pakistan National Muslim League has been issued reminders dated 13.04.2022 and 21.05.2022 to conduct their intra party election within due time i.e.



06.06.2022. Show cause notices dated 15.06.2022 and 07.12.2023 have been issued to the political party and no response has been received. The matter for failure to conduct intra party election under Section 208 and 209 of the Elections Act, 2017 was taken up by the Commission for hearing and notice was issued to the said political party. On the date of hearing i.e 12.09.2022 no one appeared on behalf of Pakistan National Muslim League and the Commission withheld the symbol already allotted to the said political party under Section 215(5) of the Act, *Ibid*.

- 15. The intra party election of political party namely Pakistan Aman Party was due on 21.05.2022 for which reminder dated 16.03.2022 was issued with sub-sequent show cause notice dated 21.05.2022 under Section 215(4) of the Elections Act, 2017. Another show cause notice dated 07.12.2023 was also issued under Section 208(5) and 215(4) of the Act, *Ibid*. Two hearings dated 12.05.2022 and 03.10.2022 have been conducted by the Commission in which despite service of notice no one appeared on behalf of the political party and the political party was declared ineligible to obtain the election symbol for the elections.
- 16. The intra party election of political party namely Pakistan Barabari Party was due on 08.06.2019 for which the party failed to conduct its intra party election. Show cause notice dated 07.12.2023 was issued to the said political party, however, the respondent party refused to accept the notice which was affixed on the gate. No one appeared before the Commission on 04.01.2024 despite the knowledge of hearing.
- 17. The Masihi Awami Party was enlisted with the Commission on 05.07 2008 and conducted their last intra party election on 04.09.2007. Since 2007 till date the party did not conduct its intra party election and has no contact with the Commission. Show cause notice dated 07.12.2023 was issued to the said political party under Section 208(5) and 215(4) of the Elections Act, 2017. Furthermore, the matter was fixed for hearing before the Commission on 06.12.2022. Due to non-submission of consolidated statements of accounts and failure to conduct intra party election by the political party in which no one appeared on behalf of Masihi Awami Party despite service of notice and the party was declared in-eligible to obtain the election symbol. Furthermore, during this hearing notice was issued which was conveyed to Mr. Khizer Hayat Watto president of the party, however, despite knowledge of the hearing no one appeared on behalf of the said political party.
- 18. The Pakistan Qaumi Yakjehti Party at Sr. No. 11 conducted its last intra party election on 02.04.2018 for the term of four years which was next due on 02.04.2022. Reminder dated



16.03.2022 was issued with subsequent show cause notice dated 21.05.2022 under Section 215(4) of the Elections Act, 2017. Another show cause notice dated 07.12.2023 was issued to the said political party under Section 208(5) and 215(4) of the Act, *ibid*. The matter was also fixed for hearing before the Commission on 03.10.2022 in which notices were issued on 11.08.2022 and 15.09.2022. No one appeared before the Commission despite services of the notices. Therefore, the Commission vide order dated 03.10.2022 declared the political party in-eligible to obtain an election symbol for the election of Majlis-e-Shoora, Provincial Assembly or Local Government.

- 19. The political party at Sr. No. 12, Sunni Tehreek was enlisted with the Commission on 10.06.2014 and intra party election was conducted in the year 2018. Since, 2018 the party did not conduct intra party election and failed to comply with the provisions of Elections Act and Election Rules, 2017. Reminder dated 16.03.2022 was issued to the political party with show cause notice dated 21.05.2022. Another show cause notice dated 07.12.2023 has been issued to the said political party. Furthermore, the matter was also fixed before the Commission for hearing on 03.10.2022 and despite repeated service of notices dated 12.08.2022 and 15.09.2022 no one appeared on behalf of the political party and the Commission vide order dated 03.10.2022 declared the political party ineligible to obtain an election symbol for election to Majlis-e-Shoora, Provincial Assembly or Local Government.
- 20. The importance of submission of sources of funds by the political parties in terms of Article 17(3) of the Constitution has been highlighted by the august Supreme Court in its judgment. The apex court has also discussed the non-disclosure of sources of party funds. The Honourable Supreme Court in the case titled "Ms Benazir Bhutto versus Federation of Pakistan and others" reported in PLD 1988 SC 416 while dilating upon the importance of Article 17(3) has held as under:

"---Art.17(3)--Words "account for the source of its funds"—Connotation --Direction for every political party to account for the sources of its funds is mandatory--Purpose of direction--Rendition of accounts for audit cannot be regarded as unreasonable restriction or outside the ambit of Art.17(3).

Collectively the political parties are now expected to protect public morals in the same way as other legal institutions protect public truthfulness and public symbols of authority. To leave the political parties entirely free to do as they please is to suggest that morality does not matter. A situation like this might prove ultimately subversive to the fabric of the State in the maintenance of the law and order. Therefore, political parties should conform to stringent obligations of high ethical standard.

Article 17(3) as worded requires every political party to account for the sources of its funds in accordance with law. The direction is mandatory. The



purpose obviously is to seek out foreign aided parties or others whose activities are prejudicial to the interest of sovereignty or integrity of Pakistan as the source of funds provides a guideline amongst others, in determining the true character of a political party and the nature of its activities. The source of funds also gives a clue as to the manner in which the funds are collected and also identifies those who subscribe to it so as to assess not only the financial position of the political party but also that the funds are not collected in an unlawful manner.

The words "account for the source of its funds" would also include the expenditure as that provides a check for determining actual amounts received and disbursed in the context of the political activities carried on as to whether the funds are being utilized for lawful political activities or for promoting prejudicial activities against the sovereignty or integrity of Pakistan. The rendition of accounts for audit, therefore, cannot be regarded as an unreasonable restriction or outside the ambit of this sub-Article."

- 21. The August Supreme Court in another case SMC 07/2017 (Faizabad Dharna) reported in PLD 2019 SC 318 has also observed the
 - "53. For the reasons mentioned above this case is disposed of with the following declarations and directions:
 - (4) The Constitution earmarks the responsibilities of the Election Commission which it must fulfill. If a political party does not comply with the law governing political parties then the Election Commission must proceed against it in accordance with the law. The law is most certainly not cosmetic as contended on behalf of the Election Commission.
 - (5) All political parties have to account for the source of their funds in accordance with the law.
- 22. The Hon'ble Islamabad High Court in case reported in 2019 CLC 938 Islamabad titled Ms. Naheed Khan vs. Election Commission of Pakistan has held that:-

"The power to allot election symbols to the political parties vests in the Commission. The allotment of an election symbol is subject to the satisfaction of the Commission that a political party has fulfilled the requirements in this regard".

"the allocation of a symbol is in fact a form of certification by the Commission that the political party has completed its requirements and that its formation has taken effect. Before allotting a symbol, the learned Commission essentially has to satisfy itself regarding three fundamental characteristics; identify and determine an association of citizens or a combination or group of such associations formed with a view to propagate or influence political opinion and participate in elections for any elective public office or for membership of a legislative body; secondly, that such an association or conglomerate has a distinct name i.e. a separate, distinguishable and decidedly different name from the political parties already formed and granted symbols and, lastly, that such an entity has complied with the mandatory pre conditions".



23. The Hon'ble Supreme Court in case title Workers' Party Pakistan through Akhtar Hussain, Advocate, General Secretary and 6 others VS. Federation Of Pakistan and 2 others reported in PLD 2012 SC 681 has held that;-

"The Parliament has framed different laws to effectuate the above constitutional provision and to regulate elections to the National and Provincial Assemblies. ROPA reiterates and further vests the Election Commission with the responsibilities and powers to, inter alia, regulate and check intra-party affairs and actions taken by candidates and parties in anticipation of and on Election Day, resolve all election disputes, declare the election void and to award punishments for violating relevant election laws."

24. In view of the above discussion and scanning of record of all the political parties, the Commission holds and decides that all the above political parties have shown non-serious attitude and failed to comply with the mandatory requirements of Sections 208, 209 and 210 of the Elections Act, 2017 despite issuance of several reminders, notices, hearings and show cause notices by the Commission which are the pre-requisites for enlistment of a political party in terms of section 202 of the Act, *Ibid*. Therefore the Commission in exercise of powers conferred upon it under Article 218(3) read with section 202(5), 215 of the Act *ibid* cancel the enlistment of all the political parties at Sr. No. 1-12.

Office is directed to take follow up action accordingly.

Sikandar Sultan Raja Chairman

Nisar Ahmed Durrani Member

Shah Muhammad Jatoi Member

Babar Hassan Bharwana Member Justice (R) IkramUllah Khan Member

Announced on: 12.01.2024

