

*[Published in the Gazette of Pakistan, Extraordinary,
Part-I, dated the 4th April, 2015]*

ORDINANCE NO. VII OF 2015

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ORDINANCE

to constitute a Commission to inquire into the conduct of the General Elections 2013 and for vesting such Commission with certain powers

WHEREAS it is expedient to constitute a judicial commission to inquire into the organization and conduct of the General Elections 2013 held on May 11, 2013;

AND WHEREAS the Senate and the National Assembly are not in session and the President is satisfied that circumstances exist which render it necessary to take immediate action:

NOW THEREFORE, in exercise of the powers conferred by clause (1) of Article 89 of the Constitution of the Islamic Republic of Pakistan, the President is pleased to make and promulgate the following Ordinance, namely:—

1. **Short title, extent and commencement.**—(1) This Ordinance may be called the General Elections 2013 Inquiry Commission Ordinance, 2015.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

2. **Constitution of Commission.**—(1) There shall be constituted a Commission to be called the General Elections 2013 Inquiry Commission, hereinafter referred to as the Commission, for carrying out the purposes of this Ordinance.

(2) The Commission shall comprise three Judges of the Supreme Court of Pakistan, which shall be constituted by the Chief Justice of Pakistan, on the request of the Federal Government.

(3) The Federal Government shall submit such request under sub-section (2) not later than three days after the commencement of this Ordinance.

(4) There shall be a Chairman of the Commission, to be nominated by the Chief Justice of Pakistan from amongst the three members of the Commission:

Provided that if the Chief Justice of Pakistan is a member of the Commission he shall act as the Chairman.

3. **Scope of Inquiry.**—The Commission shall inquire into and determine whether or not,—

- (a) the General Elections 2013 were organised and conducted impartially, honestly, fairly, justly and in accordance with law;
- (b) the General Elections 2013 were manipulated or influenced pursuant to a systematic effort by design by anyone; and
- (c) the results of the General Elections 2013, on an overall basis, are a true and fair reflection of the mandate given by the electorate.

4. **Powers of Commission.**—(1) The Commission shall have all the powers of a criminal court under the Code of Criminal Procedure, 1898 (V of 1898) and that of a civil court under the Code of Civil Procedure, 1908 (VI of 1908) for carrying out the purposes of this Ordinance.

(2) Without prejudice to the generality of sub-section (1), the Commission shall have power to require any person or authority to furnish information or documents on such points or matters as, in the opinion of the Commission, may be useful for, or relevant to, the subject-matter of the inquiry.

(3) The Commission shall have the same power as the Supreme Court of Pakistan to punish any person who.—

- (a) abuses, interferes with or obstructs the process of the Commission in any way or disobeys any order or direction of the Commission;
- (b) scandalizes the Commission or any member thereof or otherwise does anything which tends to bring the Commission or a member of the Commission in relation to his office into hatred, ridicule or contempt;
- (c) does anything which tends to prejudice the inquiry or determination of any matter pending before the Commission; or
- (d) does any other act, deed or thing which, under any other law, constitutes contempt of court:

Provided that fair comment made in good faith and in public interest on the final report after the completion of the inquiry shall not constitute contempt of the Commission.

(4) Subject to the Constitution, in the performance of its functions the Commission may if it considers appropriate, examine and consider any document, material or evidence relating to the General Elections 2013.

5. Procedure to be followed by the Commission and rights of political parties to representation before the Commission.—(1) The Commission shall have the power to regulate its own procedure, including the fixing of place and time of its sittings.

(2) Subject to the Constitution, in the exercise of its functions under this Ordinance, the Commission shall follow such procedure, including summary procedure where necessary, as it deems fit and proper in the interest of justice so as to enable the Commission to complete its inquiry and give its determination pursuant to sub-section (1) of section 7.

(3) For the purposes of Section 3, any political party which participated in the General Elections 2013 shall, and such other persons as the Commission may permit in the interest of justice may, have the right and opportunity to submit evidence or material and make submissions thereon for consideration by the Commission.

6. Federation and Provinces to assist the Commission and Special Investigation Team.—(1) It shall be the duty of all executive authorities in the Federation and in the Provinces to assist the Commission in the discharge of its functions and to comply with any of its directions and the Federal Government shall provide all necessary funds and facilities to enable the Commission to perform its functions under this Ordinance.

(2) Without limiting the generality of sub-section (1), the Commission shall have the power to form one or more special investigation teams consisting of officers from the relevant executive authorities, including but not limited to, the Federal Investigation Agency, the National Database and Registration Authority, the Directorate for Inter Services Intelligence, the Directorate for Military Intelligence, and the Intelligence Bureau for the purpose of assisting it in its inquiry.

Explanation.-- For the purpose of this Ordinance, any public servant who was appointed by or assisted the Election Commission in respect of the organization or conduct of the General Elections 2013 shall be deemed to be an executive authority.

7. Final Report of Commission.—(1) The Commission shall submit its final report, on the matters set out in section 3, to the Federal Government as expeditiously as possible and, preferably, within forty-five days of its first meeting.

(2) The final report shall be a public document.

8. Dissolution of Commission.—On the submission of its final report the Commission shall stand dissolved.

9. Ordinance to override other laws.—(1) Subject to sub-section (2), the provisions of this Ordinance shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

(2) The conduct of the inquiry, submission of its report and the exercise of its functions under this Ordinance by the Commission shall not prejudice in any manner whatsoever, any pending election petition relating to the General Elections 2013 or appeal arising therefrom or any orders passed in such petition or appeal or any proceedings thereof before any election tribunal or court, which shall all continue and be decided in accordance with the applicable law.

10. **Application of laws etc. to General Elections 2013.**—Notwithstanding anything contained in this Ordinance, the relevant laws, the provisions of the Constitution and rules under which the General Elections 2013 were conducted shall continue to determine, interpret and govern the said Elections.

11. **Power to make rules.**—The Federal Government in consultation with the Commission may, if necessary, make rules to carry out the purposes of this Ordinance.

STATEMENT OF OBJECTS AND REASONS

Pursuant to allegation of rigging in the General Elections 2013 in particular by Pakistan Tehreek-e-Insaf, a political party and denied by Pakistan Muslim League (Nawaz), a political party and a party in power, an accord was arrived at between them to setup a Commission to inquire into the allegation of rigging in the General Elections 2013. The Commission to be known as the General Elections 2013 Inquiry Commission shall comprise three Judges of the Supreme Court of Pakistan to be constituted by the Chief Justice of Pakistan on the request of the Federal Government. The Commission shall inquire into and determine whether or not, the General Elections 2013 were organised and conducted impartially, honestly, fairly, justly and in accordance with law; the General Elections 2013 were manipulated or influenced pursuant to a systematic effort by design by anyone; and the results of the General Elections 2013, on an overall basis, are a true and fair reflection of the mandate given by the electorate.

The Bill is designed to achieve the aforesaid object.

SHEIKH AFTAB AHMED,
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Parliamentary Affairs,
Minister-in-charge