

Supreme Court ruling allows Zardari to contest polls

The Supreme Court of Pakistan Monday waived the minimum eligibility criteria that a candidate needed to be a graduate to contest the national and provincial parliaments, paving the way for Asif Ali Zardari, the head of the ruling Pakistan Peoples Party (PPP), to contest the June 18 by-polls.

The apex court, headed by Chief Justice Abdul Hameed Dogar, ruled that the graduation condition was discriminatory and was being waived for future polls.

The military government of President Pervez Musharraf in 2002 stipulated that the minimum educational qualification for a contesting candidate was graduation, a measure that was validated by the subsequent parliament the same year.

Zardari, husband of the late Benazir Bhutto, is an undergraduate and did a diploma from a British university after his grade 12.

In his arguments Aslam Khaki, attorney pleading in favour of the condition, argued that the graduation condition for contesting candidates has been given protection under the 17th Amendment of the constitution. He said the court was not entitled to declare the constitutional amendment invalid.

Chief Justice Dogar observed, however, that the apex court could interpret the constitution.

Attorney General Malik Qayyum, at the April 18 hearing, had argued against the graduation condition, describing it as discriminatory, disallowing 97 per cent of the population from contesting elections as there were only 2.5 million graduates in Pakistan.

'Democracy comes with votes but if voters are to elect only three per cent of their population, it will be discriminatory,' Attorney General Malik Mohammad Qayyum said, adding that a great statesman like Winston Churchill was not a graduate, but he was a great leader.

A seven-judge bench of the Supreme Court comprising Chief Justice Abdul Hameed Dogar, Justice Faqir Mohammad Khokhar, Justice Ijaz-ul-Hassan, Justice Mohammad Moosa K. Leghari, Justice Chaudhry Ejaz Yousaf, Justice Syed Sakhi Hussain Bukhari and Justice Syed Zawwar Hussain Jaffery took up a joint petition challenging the graduation condition moved by citizens Mohammad Nasir Mehmood and Shameer Ahmed. Justice Khokhar described the law as 'hostile discrimination'.

At the outset, the court impleaded Aslam Khaki, an Islamic jurist, as a party in the case and he, through an application, supported the graduation condition by highlighting the need for competence to hold high public offices.

'My fundamental right as a citizen will be infringed if I am not represented by capable people in the assemblies,' said Khaki who had previously challenged Riba (usury) and a pending case against Sanad (certificates issued by madrassas).

Presenting data on the number of graduates in the country, the attorney general said that only 1.4 per cent people (over 2.5 million) of the total population of 160 million were graduates, although they constituted a little over 3.2 per cent of the total number of registered voters (68.1 million).

The province-wise break-up suggests that Punjab has the highest number of graduates with over 1.2 million, while the NWFP has over 200,000 graduates, Fata 10,000, Sindh 800,000, Balochistan 58,000, Islamabad over 73,000 and Azad Jammu and Kashmir 52,000.

'It is the basic right of every citizen to be educated but it will be highly unreasonable to disenfranchise 97 per cent of its people, especially when the state is not providing equal opportunity of education to everyone,' the attorney general said.

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