ADVOCATES AND COUNSELS.

# MONTHLY LEGAL UPDATE

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**This update provides a brief overview of the recent legal changes in Pakistan including legislative and judicial developments across Pakistan.**

## CIVIL SERVANTS (AMENDMENT) ACT 2025

### Introduction

*UN Convention against Corruption 2003* was ratified by Pakistan in 2007. Article 8 of the Convention inter alia provides that:

1. In order to fight corruption, each State Party shall promote, inter alia, integrity, honesty and responsibility among its public officials, in accordance with the fundamental principles of its legal system.
2. Each State Party shall endeavour, where appropriate and in accordance with the fundamental principles of its domestic law, to establish measures and systems requiring public officials to make declarations to appropriate authorities regarding, inter alia, their outside activities, employment, investments, assets and substantial gifts or benefits from which a conflict of interest may result with respect to their functions as public officials.

The law under consideration is enacted in compliance of Article 8 of the Convention and inserts a new provision (section 15A) in the Civil Servants Act 1973.

### The Amendment

The amendment provides that the declaration of assets of a Civil Servant of BS-17 and above, his spouse and dependent children, including domestic and foreign assets and liabilities, shall be digitally filed with the Federal Board of Revenue and the same shall be publically available through Federal Board of Revenue in accordance with the Rules as may be prescribed.

## 2025 CLD 1260

*SNGPL v Waseem Majid Malik & Others*

### Introduction

Article 199 of the Constitution of Pakistan authorises the High Courts to issue what were once called ‘prerogative writs’ (later merely ‘writs’). Prerogative writs (now called the power of ‘judicial review’ in England) originated in medieval England as extraordinary judicial remedies issued by the King's Bench under the royal prerogative (authority)—the monarch's inherent authority to administer justice and check abuse of public power. These writs allowed the Crown to ensure justice when common law remedies and procedures were inadequate.

Side by side with the system of prerogative writs, which concerned with the correction of exercise of **public** powers, the system of Equity also developed as a system to provide for deficiencies in common law procedures by providing such remedies as specific performance, declaration, injunctions etc. for enforcement of **private** rights.

The difference between the system of writs and equity related basically to providing the remedies for enforcement of **public** duties and **private** rights respectively. The case under consideration throws light on this distinction.

**Facts of the Case**

This is an intra-court appeal heard by two judges of the Lahore High Court. Federal Government has majority shares in the Appellant company—SNGPL—which was respondent in the writ (constitutional) petition. While respondent in the appeal was the petitioner in the writ petitioner.

SNGPL issued a notice for elections of board of directors in the general meeting. The writ was filed from restraining the Federal Government—a shareholder—to participate in the elections and further direction to nominate its directors as per law applicable. It was noted by the Court (DB) that under section 160 of the Companies Act 2017, the company bench of the High Court had somewhat similar powers to announce election of directors as void if it found that there had been material irregularity in the holding of the election.

The question before the Court was whether in view of the remedy provided under the Companies Act 2017, the exercise of jurisdiction under Article 199 of the Constitution would be a proper exercise of the Constitutional powers of the Court?

**Decision by the Court**

The Court noted that indubitably the Federal Government was a majority shareholder in SNGPL. However, Court observed that the Federal Government as a shareholder of SNGPL was not acting in 'public' or 'sovereign' capacity nor exercising any powers that could be called 'public' or 'sovereign' powers. The Federal Government, the Court observed, was acting as a commercial entity. By virtue of seeking to take part in the election of the directors, the Federal Government was availing a right conferred under the Companies Act 2017 to every shareholder and therefore not engaging in some public function. In paragraph 10 and 12 of the judgment, the Court held as under:

*As a shareholder of SNGPL the Federal Government has the same set of rights as other shareholders conferred by the provisions of the 2017 Act. The mere fact that the Federal Government has ventured into corporate enterprises and purchased shares of a company does not mean that in such capacity too the Federal Government is subject to the jurisdiction of a High Court. The reliance of the appellant in this regard on Pakistan International Airlines and others v. Tanveer ur Rehman and others (PLD 2010 SC 676) and Aown Abbas Bhatti v. Forman Christian College and 2 others (PLD 2018 Lahore 435) is proper and apt.*

*The meanings of the phrase 'performing function in connection with the affairs of the Federation', were considered at some length in Salahudin v. Frontier Sugar Mills (PLD 19973 SC 49). It was held that the phrase has reference to governmental or State functions involving, in one form or another, an element of exercise of public power.*

The writ petition in the circumstances was held to be not maintainable.

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**Please do not hesitate to reach out to us or any member of our team for further clarity.**

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