

**BEFORE THE ANTI-CORRUPTION TRIBUNAL  
(THE PAKISTAN CRICKET BOARD)**

***In the matter of***

***Pakistan Cricket Board Vs. Mr. Sharjeel Khan***

**For the Pakistan Cricket Board.**

Mr. Taffazul Haider Rizvi, ASC.  
Mr. Haider Ali Khan, Advocate.

**For the Participant**

Barrister Shaigan Ijaz Chadhar.  
Mr. Ijaz Chadhar, Advocate.  
Barrister Danyal Ijaz Chadhar, Advocate.  
Mr. Imran Akram Bitu, Advocate.

**D E C I S I O N**

This decision is being made under Article 5.2 of the Pakistan Cricket Board's, Anti-Corruption Code for Participants, 2015, in consonance with and terms and conditions enumerated therein.




1. The instant cause arises from charges brought against Mr. Sharjeel Khan, by the PCB in relation to a match of Pakistan Super League played between Islamabad United and Peshawar Zalmi, on 9<sup>th</sup> February, 2017.

2. The Pakistan Super League, is a domestic tournament of Pakistan Cricket Board, its second edition (PSL-2) was played at UAE in February, 2017. Five teams namely, Islamabad United, Peshawar Zalmi, Quetta Gladiators, Karachi Kings and Lahore Qalandars, comprising both Pakistani and Foreign Cricketers, participated in PSL-2. Mr. Sharjeel Khan was a member of Islamabad United.

3. Mr. Sharjeel Khan is a Cricketer who made his international debut for Pakistan in 2013. He has represented Pakistan in 25 One Day

Internationals and Fifteen Twenty/Twenty Internationals. By virtue



of his selection to participate in matches played under the jurisdiction of Pakistan Cricket Board, he is a Participant within the meaning of Article 1.4 of the Code, Mr. Sharjeel Khan is thus bound by Pakistan Cricket Board's, Anti-Corruption Code for Participants, 2015.

4. Mr. Sharjeel Khan attended various Anti-Corruption, education sessions and lectures, and is fully aware of the Participants obligations under the Code. Mr. Sharjeel Khan attended one such lecture on 9<sup>th</sup> February, 2017, the day of the opening match of PSL-2, between Islamabad United and Peshawar Zalmi, that contained a reminder not to engage in any corrupt activity. After the lecture, on 9<sup>th</sup> February 2017, Sharjeel Khan, Cricketer allegedly knowingly met with <sup>a</sup>Bookie / Fixer called Yousaf Anwar at a Café near Conrad Hotel, situated at Sheikh Zayed Road,



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Dubai, alongwith Khalid Latif (also a Cricketer of Islamabad United). The said Bookie/Fixer, Yousaf, made an offer to Sharjeel Khan to fix part of the PSL match to be played on the same day in the evening between Islamabad United and Peshawar Zalmi in Dubai. The *Modus Operandi* of fixing, as allegedly agreed by Sharjeel Khan, was that he would, after the first over in whichever subsequent over he came on strike from the start of the over, play both the first and second consecutive balls as dot balls (i.e. will not score any runs). Sharjeel Khan discussed the pre-arranged signals which included stretching (in a squat like manner) to indicate that he will carry out the fix in this meeting with the Bookie (Yousaf). Sharjeel Khan also discussed the details of payments to be made in exchange for carrying out the fix. The cricketer also met with Yousaf's "accomplice" in this meeting.



Later on the match was played as scheduled on. 9.2.2017, Sharjeel Khal carried out the pre-arranged signals (i.e. stretching in a squat like manner) in the start of the second over and subsequently played the first two balls of the second over of Islamabad United's batting inning as dot balls, thereby completing the act of spot fixing / corrupt conduct, as alleged by the PCB.

5. After the completion of the match, three Cricketers namely, Mr. Sharjeel Khan, Mr. Khalid Latif and Mr. Muhammad Irfan, were separated for alleged violation of PCB Anti-Corruption Code, from the rest of the squad, and their cell phones and kit bags were taken into custody. All these Cricketers were taken to International Cricket Council (ICC) Headquarters, where they were interviewed on the night 9<sup>th</sup>/10<sup>th</sup> February, 2017, by Pakistan Cricket Board and ICC, Anti-Corruption Officials. Col ® Khalid Mehmood and



- Col. ® Muhammad Azam Khan and Mr. Hassan Raza, also acted as interpreters/translators for Cricketers (Audio recordings viewed).
6. Pursuant to Article 4.7.1(a) of the Code, Mr. Sharjeel Khan and Khalid Latif, were provisionally suspended by Pakistan Cricket Board, on 10<sup>th</sup> February, 2017 and sent back to Pakistan the same day.
7. On 13<sup>th</sup> February, 2017, a Notice of Demand was issued to Mr. Sharjeel Khan, under Article 4.3 of the Code to appear before Pakistan Cricket Board Security and Vigilance Department, for an interview. The interview was conducted on 17<sup>th</sup> February, 2017. (Video recording viewed).
8. On 18<sup>th</sup> February, 2017, Notice of Charge under Article 4.6 of the Pakistan Cricket Board's Code, was issued to Mr. Sharjeel Khan



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and five charges were framed against him, which are detailed

herein-under:-

|    |               |   |
|----|---------------|---|
| 1. | Charge No. 1. | Breach of Article 2.1.1 of the Code by agreeing to fix PSL Match played between Islamabad United and Peshawar Zalmi on 09-02-2017 in Dubai.   |
| 2. | Charge No. 2  | Breach of Article 2.1.2 of the Code by ensuring for Betting and /or other corrupt purposes the occurrence of particular incident in the PSL Match played between Islamabad United and Peshawar Zalmi on 09.02.2017 in Dubai.  |
| 3. | Charge No. 3. | Breach of Article 2.1.3 of the Code by seeking and agreeing to accept bribe and/or other Reward:-<br><br>(a) To fix aspects of the PSL Match played between Islamabad United and Peshawar Zalmi on 09.02.2017 in Dubai.<br><br>(b) For Betting and / other corrupt purposes the occurrence of a particular incident in the PSL Match played between Islamabad United and Peshawar Zalmi on 09.02.2017 in Dubai. |
| 4. | Charge No. 4. | Breach of Article 2.4.4 of the Code by failing to disclose to the PCB Vigilance and Security department (without unnecessary delay) full details of the approaches and invitations received by Sharjeel Khan Cricketer to engage in Corrupt Conduct under the Code in respect of PSL Match played between Islamabad United and Peshawar Zalmi on 09.02.2017 in Dubai.   |
| 5. | Charge No. 5  | Breach of Article 2.4.5 by failing to disclose to the PCB Vigilance and Security Department (without unnecessary delay) full details of the approaches and invitations received Khalid Latif to engage in Corrupt Conduct under the Code in respect of PSL Match played between Islamabad United and Peshawar Zalmi on 09.02.2017 in Dubai.   |







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9. The corresponding punishments prescribed under the Code are

also reproduced:-

| CHARGES       | ANTI-CORRUPTION OFFENCE   | CODE | RANGE OF PERMISSIBLE PERIOD OF INELIGIBILITY             | ADDITIONAL DISCRETION TO IMPOSE A FINE  |
|---------------|---|------|--|---|
| Charge No. 1. | Breach of Article 2.1.1 of the Code by agreeing to fix PSL Match played between Islamabad United and Peshawar Zalmi on 09-02-2017 in Dubai.   |      | A minimum of five (5) years and a maximum of a lifetime. | In all cases, in addition to any period of ineligibility the Anti-Corruption Tribunal shall have the discretion to impose a fine on the Participant of such amount as it deems appropriate. |
| Charge No. 2  | Breach of Article 2.1.2 of the Code by ensuring for Betting and /or other corrupt purposes the occurrence of particular incident in the PSL Match played between Islamabad United and Peshawar Zalmi on 09.02.2017 in Dubai.  |      | A minimum of One (1) years and a maximum of a lifetime.  |   |
| Charge No. 3. | Breach of Article 2.1.3 of the Code by seeking and agreeing to accept bribe and/or other Reward:-<br><br>(c) To fix aspects of the PSL Match played between Islamabad United and Peshawar Zalmi on 09.02.2017 in Dubai.<br><br>(d) For Betting and / other corrupt purposes the occurrence of a particular incident in the PSL Match played between Islamabad United and Peshawar Zalmi on 09.02.2017 in Dubai. |      | A minimum of One (1) years and a maximum of a lifetime.  |   |
| Charge No. 4. | Breach of Article 2.4.4 of the Code by failing to disclose to the PCB Vigilance and Security department (without unnecessary delay) full details of the approaches and invitations received by Sharjeel Khan Cricketer to engage in Corrupt Conduct under the Code in respect of PSL Match played between Islamabad United and Peshawar Zalmi on 09.02.2017 in Dubai.   |      | A minimum of six (6) months and a maximum of a lifetime. |   |
| Charge No. 5  | Breach of Article 2.4.5 by failing to disclose to the PCB Vigilance and Security Department (without unnecessary delay) full details of the approaches and invitations received Khalid Latif to engage in Corrupt Conduct under the Code in respect of PSL Mach played between Islamabad United and Peshawar Zalmi on 09.02.2017 in Dubai.  |      | A minimum of six (6) months and a maximum of a lifetime. |   |









10. Mr. Sharjeel Khan responded to the Notice of Charge through his Counsel vide a reply dated 4<sup>th</sup> March, 2017.
  
11. Mr. Sharjeel Khan's matter was thereafter referred to the Anti-Corruption Tribunal, for hearing as required under Article 5 of the Anti-Corruption Code, for the Participant, 2015, framed by the Pakistan Cricket Board.
  
12. The Pakistan Cricket Board is a statutory body established under section 3 of the Sports Development and Control Ordinance, 1962, and acting under this enactment, the Federation of Pakistan established the Pakistan Cricket Board, under SRO No. 43, (K.E) 2014 dated 10<sup>th</sup> July, 2014 and gazetted the Constitution of the Pakistan Cricket Board on 30<sup>th</sup> of August, 2014. In furtherance thereto, being the supreme body to control cricketing affairs in Pakistan, the Board of Governors constituted



under the Constitution of the PCB, in the 38<sup>th</sup> meeting held on 17,  
November, 2015, approved and updated the Pakistan Cricket  
Board's Anti-Corruption Code for Participants, and henceforth  
(wherever the word Code is used it would mean the Pakistan  
Cricket Board's Anti-Corruption Code, for Participants, 2015).

13. The PCB constituted a Three Members Anti-Corruption Tribunal,

The Tribunal comprised the following:-

- |                                      |          |
|--------------------------------------|----------|
| a) Mr. Justice ® Syed Asghar Haider. | Chairman |
| b) Lt. Gen. ® Tauqir Zia.            | Member   |
| c) Mr. Wasim Bari.                   | Member   |

14. The Tribunal was also requested specifically to initiate  
proceedings against Mr. Sharjeel Khan, (a cricketer), for violating  
the Pakistan Cricket Board's, Anti-Corruption Code for  
Participants, 2015, in terms of the charges enumerated above.



15. The Pakistan Cricket Board, made all necessary arrangements for smooth and un-interrupted functioning of the Tribunal. In pursuance thereof, the Tribunal issued Notice to the PCB and the Participant. A preliminary hearing was thereafter held on 24<sup>th</sup> March, 2017, in this hearing modalities for full/final hearing as contemplated under Article 5.1.4.2 (a) (b) & (C) were discussed and settled. It was agreed that the PCB shall submit its Opening Brief on 14<sup>th</sup> April, 2017 under Article 5.1.4.2 (a). In response thereto, the Participant shall submit an Answering Brief on 10<sup>th</sup> May, 2017, in terms of Article 5.1.4.2 (b). Thereafter, the PCB would submit a Reply Brief under Article 5.1.4.2 (c).
16. The Parties as agreed, submitted the requisite briefs in terms of Article 5.1.4.2. Thereafter, to augment its claim the Pakistan Cricket Board, produced the following 05 witnesses:-



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- a. Col ® Mohammad Azam Khan as PW-1,  
(Senior General Manager, Security and Vigilance  
Department, PCB).
- b. Col ® Khalid Mehmood, as PW-2  
(Manager, Security and Anti-Corruption Department,  
PCB).
- c. Mr. Umar Ameen, as PW-3, (Cricketer)
- d. Mr. Salman Naseer, as PW-4, (General Manager,  
Legal Affairs, PCB)
- e. Sir Ronald Flanagan as PW-5 (Chairman, ICC Anti-  
Corruption Unit).

They were subjected to cross-examination by the Learned

Counsel for the Participant, (Mr. Shaihgagan Ijaz). After conclusion

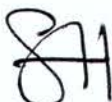
of the evidence by PCB, the Participant produced three witnesses

namely:-

- i. Mr. Dean Jones as RW-1 (Cricketer)
- ii. Mr. Sadiq Mohammad as RW-2 (Cricketer)
- iii. Mr. Muhammad Yousaf, as RW-3(Cricketer)

They were subjected to cross-examination by the Learned

Counsel for Pakistan Cricket Board, Mr. Taffazul Haider Rizvi. It



would be advantageous to state here that the Tribunal also put questions to the witness of both parties.

17. Thereafter, the Tribunal opted to summon Mr. Aaqib Javaid as TW-1 and Mr. Andrew Ephgrave, as TW-2 as (Tribunal's witnesses). The parties were given the freedom to cross-examine these witnesses, both parties availed this opportunity and extensively cross-examined them.
  
18. The Counsel for the parties thereafter addressed the Tribunal at length and walked us through the evidence, and also pointed out the anomalies, in their wisdom, which they had extracted from the cross examination of witnesses. The Tribunal, thereafter, also permitted both parties to tender, Written Arguments, which opportunity they availed. The Tribunal received these Arguments



and thereafter, reserved the instant decision, as contemplated by the Code.

19. The pith and substance of the evidence produced by the Pakistan Cricket Board in the Opening Brief and the Reply Brief broadly refers to its claim, the interviews conducted and also on the proceedings which were held in these interviews. (These would be referred to and dealt with in detail in the subsequent paragraphs) All the five witnesses supported the cause and the claim raised by the PCB in clear and unambiguous manner, they broadly stated that the charges as framed are in consonance with the PCB's viewpoint, the broad features of their assertions are that the Security & Vigilance Department of PCB had information that the players had been contacted by Bookies, they were prone to spot fixing and were thus on the radar of the PCB. The PCB



had comprehensive details in this regard but in order to ensure that such incidents are not repeated in future PW-I, Mr. Mohammad Azam Khan, on receipt of the information, did not interfere in the execution of this plan with the hope and prayer that this incident would not materialize, but unfortunately the information available with PW-I, proved to be true and the plan was executed as conveyed to him. This position was by and large affirmed by the remaining witnesses and especially by Sir Ronald Flanagan PW-5, who made a similar statement as of PW-I, PCB also relied on Forensic Science Report. Thus according to the learned counsel for the PCB they proved their cause and case and have adequately discharged Onus, he especially referred to the Code, to elaborate that under Article 3.1 of the Code the standard of proof as below:-



3.1 *Unless otherwise stated elsewhere in this Anti-Corruption Code, the burden of proof shall be on the PCB in all cases brought under this Anti-Corruption Code and the standard of proof shall be whether the Anti-Corruption Tribunal is comfortably satisfied that the alleged offence has been committed, bearing in mind the seriousness of the allegation that is being made. This standard of proof in all cases is greater than a mere balance of probability but less than proof of beyond a reasonable doubt."*

And finally prayed that on the strength of five charges levelled and referred to above, the Participant Mr. Sharjeel Khan be barred from playing Cricket for life.

Conversely the learned Counsel for the Participant Mr. Sharjeel Khan, stated in his Answering Brief that PCB has no evidence to prove its cause, the entire case of the PCB gravitates around Mr. Sharjeel Khan, playing two dot balls, there is nothing credible either in the Opening Brief or the Reply Brief or for that matter the





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witnesses produced by the PCB, to prove the episode about spot fixing, thus the charges be dropped. To augment his argument the learned Counsel referred Article 4.3 of the Code for Participants, and Article 11.5 of the Code, non-credence of the Forensic Science Report and pointed out various anomalies which he had extracted during cross-examination of the PCB's witnesses No. 1 to 5, and the reliability of the (FSR). He specifically referred to RW-1, 2 & 3, who supported his cause, and elaborated on the USB which contained messages as according to him it was not tendered in evidence properly. He further stated that the evidence of TW-1 and TW-2 (Tribunal Witnesses) is unreliable, as the statement of TW-1, was recorded without Oath, and Mr. Andrew Ephgrave TW-2, was accompanied by a member of the Crown Prosecution Services, therefore the deposition of these



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witnesses be ignored and discarded or its impact be considered as diminished. Likewise the documentary evidence does not in any manner substantiates or helps the cause and case of the PCB on the set judicial standards. Lastly he submitted that as the PCB has not been able to prove any of the charges levelled, therefore, the same be dropped or alternately ,in case of finding to the contrary, on any charge, if proved, be considered in light of mitigating circumstances referred to in the Written Arguments and they be considered. He also raised legal objections regarding the governing laws of Pakistan emphasizing that they have precedence over the Code, the Code enunciates that the burden of proof in all cases is on the PCB and never shifts to the Participant, and no or inconsequential credence be given to the expert witnesses.



20. We have heard the learned counsel for the parties at length, and perused all material available on record, very carefully. At the very outset we would like to state that the present proceedings are "Disciplinary Proceedings", which means, they are Administrative Proceedings against a delinquent individual to consider his lapse or omission or non-adherence, to the required standards as set in this regard, in the Disciplinary Code. The lapse (Article 1.11 of the Code) if proved, of course entails appropriate remedial action by way of sanctions. We would also like to state here that under Article 3.2 of the Code for the Participants, the Anti-Corruption Tribunal is not bound by the Rules governing the admissibility of evidence in Judicial or other proceedings, instead facts can be established by reliable means, including admissions and circumstantial evidence.



21. We therefore, would be discussing evidence on this standard and the threshold as set in Article 3 of the Code and also keeping in mind that these are Administrative/Disciplinary proceedings.
22. At the very outset we fully subscribe and agree with the viewpoint of the learned Counsel for the Participant, that the Constitution of Islamic Republic of Pakistan, 1973, is the Supreme Law of the land and all laws which are in conflict with it or in derogation, of any of its Articles, cannot survive. However, we would not subscribe to the viewpoint of the learned Counsel for the Participant, on this touchstone and threshold, qua, the Qanun-e-Shahdat Order, 1984, and will elaborate and dwell on it, in detail in the coming paragraphs.
23. The first and foremost issue raised before us by the learned Counsel for the Participant, is that the proceedings under the



PCB's Code for Participants, 2015, are *Quasi* Criminal, as they contain punishment for any infraction. The interpretation made is not inconsonance with the provisions of the Code, as under Article 1.11 of the Code, it has been explicitly stated that the proceedings under the Code are not criminal or even *quasi* criminal, but are exclusively disciplinary rules of professional misconduct or infraction, involving non-adherence, to the standard's set in the Code. Therefore in our humble opinion, as stated above the present proceedings, under the code are Disciplinary Proceedings, which means they are Administrative Proceedings, against a delinquent individual, to consider his lapse or omission for non-adherence to the required standard's as set in this regard, in the Code, of course if proved, the infraction, entails sanctions but is not a punishment as referred to



by the learned Counsel for the Participant. Sanction is a term alien to punishment, which entails criminal liability, while sanction is limited only to ineligibility to play cricket. Thus we overrule the objection raised by the learned counsel for the Participant, in this context.

24. The golden rule applicable to interpretation of statutes and legal instruments, envisages that all legal instruments should be construed in a harmonious manner. Thus if there is clear and explicit conflict between two legal instruments, the later in time prevails. The Constitution of Islamic Republic of Pakistan, 1973, is the primary law of the land. It envisages a fair trial under Article 10-A. To our understanding the Code has been framed keeping this in mind, there is no repugnancy in any provision of this Code, which undermines or derogates any Article of the Constitution of



Islamic Republic of Pakistan, 1973. The reference made by the learned counsel for the Participant to prove that Articles 1.1, 1.5, 5 and 7 of the Anti-Corruption Code for the Participants, 2015 as repugnant to if read with the Constitution of Pakistan and the Qanaun-e-Shahadat Order, 1984. In our considered opinion these are not in conflict, as this Code has merely regulated the procedural aspects, no substantive provision as referred to above, undermines or derogates, any provision of the Constitution of Islamic Republic of Pakistan, 1973 or the Qanun-e-Shahadat Order, 1984, infact it only elaborates the procedural aspects which is permissible in law. Further Article 3 of the Code cannot be read in isolation, although the standard of proof set in Article 3.1, states that the burden to prove an omission shall be on PCB in all cases, but it is qualified by Article 3.2, which clearly



enunciates, in an unambiguous manner, that the proceedings do not in any manner compromise the threshold set in for recording evidence in general law but the procedure has been modified and augmented to facilitate proceedings under this Code. There is a reason for this because the instant proceedings are neither criminal proceedings, nor entail any criminal sentence, in fact, as referred to above these are Disciplinary Proceedings which are by and large, Administrative, therefore, the parameters are different, thus to equate them with proceedings which are criminal and applying the threshold set therein, would be a travesty of justice. Even otherwise Article 2.5 and 3, of the Code envisage a compelling justification, to be provided by the Participant, for commission of an infraction, of Article 2.4.6, of the Code. It is the Participant who is required to adduce sufficient





credible evidence to disapprove the commission of infraction otherwise. Therefore, the Onus to prove oscillates, between the PCB and the Participant, on charge to charge basis. Thus stating that the Onus to prove is always on PCB is absolute, is unfounded, in our opinion. As adverted to earlier we see absolutely no conflict between any provision of the General Law including the Constitution of Islamic Republic of Pakistan, 1973, and the Code on this account.

25. The assertion of the learned Counsel that the Code contains provisions of self-incrimination against the Participant, does not need to be dilated, because the Participant, has not entered the witness box and made any such statement, which will incriminate him. Contrarily, he has deliberately, not entered the witness box, although his deposition is a part of the Reply Brief, this in fact



gives rise, in our opinion to the fact, that he is withholding vital and necessary information, which at least is undesirable, on the norms and standards as set in this Code or even in the General Law.

26. Now we advert to Tribunal's witness, Mr. Aaqib Javaid TW-1, who was not administered Oath before his deposition and what is its effect, In this context, we would firstly rely, on section 13 of the Oath Act, 1873, which clearly and unambiguously, states that any omission to take oath, does not invalidate the deposition. It is a mere irregularity, in furtherance thereto, we would also like to state that even this omission was removed because he was administered oath, later, and he reaffirmed the deposition and cross-examination made. In these circumstances, we express our inability to subscribe to the viewpoint of the learned counsel for



the Participant in this regard. On the contrary, we hold that an expert witness, is credible in terms of Qanaun-e-Shahadat Order, 1984, which is also the general law of the land and the Code, because parameters set in both General and Special Law have been adhered to, we would also like to state here that, we have not relied solely on the deposition of the expert witness, but in-fact, the deposition made by the witness has been supported from other collateral evidence, and even to a degree, by the witnesses of the Participant. As their deposition, to the extent of the character of the Wicket, and also that ball was neither swinging nor seaming and it was an ideal batting wicket, in-fact a batsman's paradise, and also supplemented by the fact, that Dewyne Smith, scored 13, runs in the first over setting the tempo, and explicitly the deposition of Mr. Dean Jones, stating that



160/170, was an achievable target, which later was also achieved, makes it abundantly clear, that whatever the expert witnesses deposed was on merit and in consonance with the deposition of other witnesses produced. As far as the allegation regarding that Mr. Andrew Epgrave was a tutored witness, as his deposition was made in consultation with the Crown Prosecution Service, is concerned, firstly he , volunteered, to make the deposition and cross-examination on Oath. In our opinion this sanctifies his testimony and eliminates any charge of falsehood, further, the testimony was made in our, presence on Skype and except a few answers in cross-examination, Initially when he consulted an unknown man on legal aspects which were objected to by the Counsel for Participant, and we accepted his objection and got recorded the remaining testimony completely independently,



without any interference. Thus his deposition cannot be disregarded in entirety or even partially, as he in our opinion gave his independent assessment without any material help, from anybody, which could render his disposition invalid.

27. The only documentary evidence which is on record is a USB (Mark 'A') the objection that it was not exhibited, in consonance with the required legal standards as set in the Qanaun-e-Shahadat Order, 1984, is concerned, we beg to differ with the objection raised, on the ground that the PCB's Code for the Participant's, 2015, is a special law and it is an understood proposition, of interpretation of statutes, that a special law has an overriding effect, over the general law, in case of conflict. To further elaborate, the PCB Anti-Corruption Code for the Participants, 2015, is ipso facto, applicable to all participants



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without demurr, because each Participant, is required to adhere to each and every recital contained therein and educate himself with it, infact it is a Bible for all Cricketers and demands complete and absolute adherence. The Participant too accepted, this voluntarily and without any reservation, he ~~thus~~ is thus bound by the recitals contained therein. Further, as stated earlier, these are Disciplinary Proceedings, and not Criminal proceedings, consequently, the standards set in the Code and referred to earlier, would be governing these proceedings being conducted by this Tribunal under Article 3.2.1 and 3.2.2. The Tribunal has been vested with unfettered powers to accept any facts from the material which is available, and Article 164 of the Qanaun-e-Shahadat Order, 1984, augments this view as it also clearly states that evidence which is available in form or in shape of modern devices, can be looked



into, thus this further strengthens, our viewpoint, that the strict procedural methodology, as required under the general law, even if accepted will not be applicable to the present proceedings, regarding tendering of USB, in evidence. Further he would like to elaborate the USB was examined by the Punjab Forensic Science Agency (Mark 'A') and the report clearly reflects that recordings are genuine and not doctored or tempered, therefore, any assertion to the contrary is untenable. Thus, we overrule all legal objections raised, by the learned Counsel for the Participant and now move to the resolution of the factual dispute.

28. Thus it is essential and necessary that we analyse the charges of Corrupt conduct against Mr. Sharjeel Khan in their true and factual perspective. We shall consider various aspects related to the case separately, and formulate a wholesome picture at the



end. After carefully examining the entire material brought before us, some irrefutable facts emerged, these are analyzed in subsequent paragraphs.

29. The first aspect we like to discuss in this context ~~are~~ the views of Cricket experts on Sharjeel Khan as a player and the playing conditions of the first match between Islamabad United and Peshawar Zalmi on 9<sup>th</sup> February, 2017. This aspect is being analyzed to establish if Sharjeel Khan deliberately underperformed in the match. Ian Bishop analyzed the playing conditions by saying it's a placid pitch, a batsman's paradise, there is no swing or seam for the fast bowlers, the overall conditions are suitable for very attacking batsmen like Sharjeel Khan and Dwayne Smith. Aaqib Javed remarked that the pitch is so good that you could play any kind of shot with ease, the intent





of players would always be to score as many runs as possible, not less than 50, in the Power play. Dean Jones, Head Coach of Islamabad United also in PSL 1, stated that I told Sharjeel Khan that he would be the player of the tournament. He was like a rough diamond and needs to be polished. In PSL 2, he told Sharjeel Khan to pick his battles which he could win and attack certain bowlers. The wicket has 160-170 plus runs. He did however say that since they were ahead of Power play (14 runs in the first over) so Sharjeel Khan did nothing that would limit his performance. Dean Jones (RW-1) was participant's witness. Sadiq Muhammad (RW-2) again participants' witness stated that the wicket was so good than you could take advantage and try to score as many runs as possible in the Power Play. The Tribunal carried out comparison of Sharjeel Khan's previous matches



played in varying conditions, against different bowlers faster than the ones playing against him in the first match. In PSL 1 against Shaun, Tait he hit two consecutive boundaries on the first ball (140.7 kmph) and second ball (144.2 kmph) while chasing 147 runs, balls pitching almost the same length as the PSL 2 match under discussion, also chasing 190 runs and batting against a bowler with speed of 126 kmph. In 2016 World Cup T-20 playing against New Zealand, chasing a target of 181 runs, he smashed 15 runs in the first over. His style of batting has always been aggressive, he has a maximum strike rate of 140 but on the average it has never been less than 100. Mr. Aaqib Javaid (TW-1) after watching the footage of the first match remarked that the intent to play shots on the first and second ball of the second over was not there when compared with the fifth ball of the first over.



His opinion may have been based on his background knowledge of the case, but we shall discuss the issue of dot balls in detail, later, in a different context. We are mindful of the fact that this aspect alone may not be a contributing factor, and has to be seen in the totality of the case. At this stage, we do feel that Sharjeel Khan has not played his natural game, for which he was renowned.

30. We shall now analyse the issue of two dot balls. It is worth mentioning here that the matter in hand was not limited merely to the allegations of playing or not playing two dot balls on merit but it was a serious matter where Sharjeel Khan was charged on five counts, each carrying serious implications for him but Sharjeel Khan contested the charges on grounds having little or no effect on the real issue. The three witnesses produced by Sharjeel Khan



namely, Mr. Dean Jones (RW-1), Mr. Sadiq Mohammad (RW-2) and Mr. Mohammad Yousaf (RW-3) expressed their opinion only on the merit of the two dot balls played by Sharjeel Khan, and categorically stated that they were asked by Sharjeel Khan, to comment on those. They were not aware of the background of the case. Their depositions appeared almost identical as if these were written by one person alone. All these three former greats are entitled to respect, as after analyzing the whole picture, they expressed their honest opinion on the issue during the course of cross-examination.

31. The two dot balls carried a story behind it where it, was predicted before the match that two dot balls would be played at a stated moment and it happened, as the response of the witnesses was that such an action causes suspicion. Our view is further



cemented by Mr. Sadiq Muhammad (RW-2) during cross-examination when he stated "If I am told that the first two balls of the second over will be dot balls then yes it can be said it is a fix. If the sequence of events and narration of facts are the same as narrated and executed". In fact he further elaborated that in case of rumour and speculation, referred to above, it would give credence to this episode. The player should play otherwise and opposite to counter the rumour and ward off any suspicion in this regard. Mr. Dean Jones (RW-1) concurred to the fact that if an approach was made to a player he should report the matter, without delay. He also agreed with the fact that Sharjeel Khan was an attacking player with perhaps one of the best strike rates in limited overs. Thereafter, upon deep analysis we have come to



the irrefutable conclusion that the alleged balls as referred to were not played on merit.

32. We also have to keep in mind that the only person who could have dispelled this impression was Mr. Sharjeel Khan by himself making an unequivocal and categorical denial by elaborating it with strong reasons, as to why he was playing against his natural style and manner, but unfortunately he did not enter the witness box, despite imploring and persuasion by the counsel for the PCB Mr. Taffazul Haider Rizvi. This leaves us with no option but to draw an adverse opinion and concur with the view point as presented by the PCB and augmented by the analogy referred to above. In this context we would like to elaborate and state that even in general proceedings before the Courts of Law, under the Code of Civil Procedure, 1908, (Order XVIII Rule 2) the party



having the right to begin has to state his case by appearing in the witness box and thereafter, producing evidence, read in conjunction with the Qanun-e-Shahadat Order, 1984, Article 70 contemplates that all facts except the contents of documents are to be proved by oral evidence, further Article 130 (ibid) also envisages that witnesses are required to be produced and examined by the law and practice, thus accepting the provisions as contained in the Civil Procedure Code. We have referred to these enactments only to establish that even under the General Law of the land the Participant was required to make a statement by appearing as his own witness. This serious lapse and omission on his part in our opinion is fatal to his cause and therefore further strengthens our view point as referred to earlier, further the proceedings under the Code, require and command under Article



5.1.4.2 (b), the Participant to submit the deposition of each witness which he intends to produce with the summary of evidence. The Answering Brief contained Mr. Sharjeel Khan's deposition, his non-appearance as a witness in fact, is not a lapse and omission only under the General Law as discussed above, but is a serious omission and lapse even in terms of this Code and therefore, establishes that he is shying away and hiding facts. It is also important here to note that the deposition of RW-1, 2 & RW-3 are in the same format and manner and in fact, are stereotype, RW-3 Mr. Muhammad Yousaf, stated before us, that his deposition was recorded, by the Counsel for the Participant on his instructions. This seriously compromises the independence and the credibility of the witnesses despite that we have perused it very carefully, but it does not help the Participants case.





33. Another dimension which we would like to dilate and deliberate upon is the joint interview conducted by the PCB and ICC officials at the ICC Headquarters, Dubai, on night 9<sup>th</sup> /10<sup>th</sup> February, 2017.
- It transpires that Mr. Sharjeel Khan stated that during West Indies tour to Pakistan at UAE in September – October 2016, Mr. Khalid Latif initiated a discussion with him on the modus operandi of the fixers. It also emerges that during Sharjeel Khan's tour with Pakistan team to New Zealand and Australia from November 2016 to January 2017, Mr. Khalid Latif remained in regular communication with him but limited only to asking about his performance. In our opinion this was a 'testing ground' by Mr. Khalid Latif to allure Mr. Sharjeel Khan into the menace of fixing and examine as to whether he would be willing to such a proposition. This matter does not end here, Mr. Sharjeel Khan



admitted that he knew whom he was going to meet, this was a person of a disputed and tainted character but he met him and elaborated that he went there, 'just to listen' to the man, without discussing any convincing reason.

34. However, during his interview conducted on 17<sup>th</sup> February, 2017

at the PCB Headquarters, Lahore, Mr. Sharjeel Khan stated that

Mr. Khalid Latif told him that Nasir Jamshaid was insisting that we

both meet this man as he was his friend. He admitted that Mr.

Khalid Latif told him that the person was not a reputed man

(وہ ایسے ویسے کا جوں میں ہے) and the friend that Nasir Jamshaid wanted

us to meet makes approaches

(نہیں صحیح نہیں ہے - دو طرفہ کا جوں میں ہے) on probing,

Mr. Sahrjeel Khan nodded in affirmative, yet he opted to go

alongwith Mr. Khalid Latif to meet Yousaf. It strengthens our

viewpoint that the allegation levelled by the PCB has substance.

After knowing that the person he is going to meet is a disputed man and still holding a meeting <sup>with</sup> ~~whom~~ him and that too for 10-15 minutes, discussing modalities and details like use of grips, as a signal (stating that he uses his own yellow grip, which is lucky for him) and on the suggestion of an alternate signal, the stretching like squat (stated squat is my routine) before the second over and playing of dot balls, and payment schedule, casts very serious doubts on his credibility. We have viewed his previous eight One Day Internationals and Twelve T-20 Internationals and we observed that the squat like stretch, he made in the instant match was not visible at all in any of these. It also is essential to state here that the story narrated by Mr. Sharjeel Khan that he had gone to see a fan, falls apart, as Sharjeel Khan waited for the fan.



This is in sharp contrast to the normal routine and behaviour of the players for their fans, as fans, are dying to meet the stars and make every conceivable effort, to do so, paradoxically, and in contrast, here the star waits for the fan, and when the fan turns up he neither asks for a photograph or auto graph and after a brief secret talk, gently walks away brings us to an irrefutable conclusion, that the meeting was not a chance meeting but was deliberately set up and arranged meeting to settle modalities and fix, in the larger canvas emerging from the facts narrated above.

35. PW-5, Sir Ronald Flanagan, Mr. Andrew Ephgrave (TW-2) and Col ® Muhammad Azam PW-1, are independent of each other. Sir, Ronald Flanagan works for ICC, Mr. Andrew Ephgrave works for National Crime Agency while Col ® Muhammad Azam works for the PCB. It is amazing to note that all these three persons



belong to different countries, to three different organizations but each one of them had independently narrated the details of the incident, sequence of events as disclosed by Col ® Muhammad Azam. There is no contradiction and anomaly that we have spotted in their depositions regarding the spot fixing matter, in fact there is complete convergence. The two witnesses PW-5 and TW-2, are not subordinated to the PCB and completely independent of each other. They are not beholden to each other for any purpose, they have no enmity or bias against the Participant, therefore, their testimony and depositions cannot be brushed aside, especially, when the narration of events not only coincides but is exact. No doubt the learned Counsel for the Participant has made an effort to state that the three were working in league and concert and knew each other's depositions made before this



Tribunal, but in our opinion it would be transgressing beyond the known boundaries of evidence and jurisprudence to discard the entire testimony and deposition made, on this ground alone because the witnesses stood their ground in cross-examination.

What has come on record is The ICC, The PCB and even NCA, had identical information earlier, to the happening of this event, with photographic details, and the information proved true.

Despite best efforts, the Counsel for the Participant, could not establish before us that this information was emanating from a single individual but to the contrary, we have come to the irrefutable conclusion that all their sources were independent.

Now we advert to the deposition of PW-1 Col ® Muhammad Azam, he clearly and unequivocally stated that the narration of events made by him was meticulously executed by the



Participant. In this background and the narration events made above, even Mr. Dean Jones (RW-1) and Sadiq Muhammad (RW-2) alongwith Mr. Aaqib Javaid stated that if narration of events are proved correct after execution, then certainly there was a possibility of the allegation levelled being true.

36. In this deposition Mr. Andrew Ephgrave (TW-2) states that around 23.51, hours while the game was in progress, Sharjeel Khan, entered the crease and displayed the pre-agreed signal i.e (stretch in squat like manner the message of Yousaf to Mark "we are on"). After this fix had been applied i.e, the two dot balls another message from Yousaf to Mark was "Job well done" proves that the allegation is not without substance.

37. Thus from the beginning of the episode, the narration of the events, as made by the PCB, in the Opening Brief and



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substantiated by the witnesses and circumstances narrated before us, not only by the witnesses of PCB, but by other relevant material available on record, we have come to the irrefutable conclusion that not only spot fixing was discussed by Mr. Sharjeel Khan but was meticulously executed by him in a text book manner, in the mode and manner agreed. We have deliberately not relied much on the witnesses produced by the PCB, because in our assessment they may not be totally independent. Thus likewise, witnesses produced by the Participant, in our humble opinion may also not be totally independent, therefore except PW-5, who is independent of PCB we have not relied much on them, but extracted maximum material collaterally.





38. The battle lines between the PCB and the Participant relate to five charges, but the entire depositions, cross examination, written arguments and submissions all are transfixing on dot balls, therefore, we are left with no option but to accept the viewpoint of PCB, on the remaining charges after evaluating the evidence available, as there is no convincing evidence to the contrary.

39. We would now like to dilate briefly on the obligations of the participants under the PCB anti-corruption code, particularly the one on corrupt conduct. We would also cover the views of his own witnesses on corrupt conduct. Mr. Sharjeel Khan is a participant and is bound by the code whereby he has agreed not to engage in corrupt practices in respect of any match wherever it is held and whether or not he is personally participating or involved in any way in it. Mr. Sharjeel Khan is fully aware as to what constitutes



corrupt conduct. Dean Jones RW-1, Head Coach of Islamabad United states that it was my responsibility to educate boys two days before the first match. Any approach of fixing must be reported. Approach should be reported within 24 hours depending on circumstances. He further said I was approached in 1992, for such a silly stuff and stormed out of the room. Players who do not want to get involved in fixing should storm out. He said he was surprised to learn that a lecture by Col ® Azam (PW-1) around 1200 hours on 9<sup>th</sup> February, 2017, on the subject of anti-corruption lasted only 5 minutes, whereas it normally takes 35 minutes (we will advert to this later). Muhammad Yousaf (RW-3) Sharjeel Khan's witness stated I would ignore if an offer of fixing, was made, leave, and I would have said shut up, and informed the concerned officials. Mr. Sadiq Muhammad (RW-2) Sharjeel's



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witness said I know there is corruption in cricket but a player must report if approached. Mr. Aaqib Javed (TW-1) stated that spot-fixing is everywhere in the world but unfortunately, a large number of Pakistani players get involved. Asked the reason for this trend, he stated there are many reasons but my experience is that senior players induce junior players and force them to get involved in corrupt conduct. Support staff can also influence their team members. He stated that you can find out the motive of the person you are meeting with only in a few seconds. If you are honest then you must stop such a person immediately and go back and report. We have come to a irrefutable conclusion that Sharjeel Khan was fully aware of his obligations and despite a warning of sort in the lecture conducted by Col ® Mohammad Azam Khan, ((PW-1) at 12.00 hours, and its duration being five



minutes tells the reason for such a short lecture. Sharjeel Khan went to meet the bookie soon after that lecture. It is probable that he could be involved in fixing / spot-fixing a match.

40. Thus for what has been detailed and discussed above, we are of the considered opinion that the Pakistan Cricket Board has discharged Onus in terms of Article 3.1 of the PCB's Anti-Corruption Code for the Participants, 2015 and we are comfortably satisfied that all alleged offences detailed above have been committed, by the Participant. We had announced the short order on dated 30<sup>th</sup> August, 2017, which is reproduced again herein-under and shall be deemed to be a part of this decision:-

"We are very grateful to the learned Counsel of the PCB and his legal team, and also Mr. Shaighan Ejaz and his legal team for the in valuable legal assistance, they have rendered before us for reaching this decision. We must also express our deep gratitude



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to both parties for ensuring cordiality and a very friendly environment during the course of these proceedings.

The PCB levelled the following charges against Mr. Sharjeel Khan:-

|    |               |   |
|----|---------------|---|
| 1. | Charge No. 1. | Breach of Article 2.1.1 of the Code by agreeing to fix PSL Match played between Islamabad United and Peshawar Zalmi on 09-02-2017 in Dubai.   |
| 2. | Charge No. 2  | Breach of Article 2.1.2 of the Code by ensuring for Betting and /or other corrupt purposes the occurrence of particular incident in the PSL Match played between Islamabad United and Peshawar Zalmi on 09.02.2017 in Dubai.  |
| 3. | Charge No. 3. | Breach of Article 2.1.3 of the Code by seeking and agreeing to accept bribe and/or other Reward:-<br><br>(e) To fix aspects of the PSL Match played between Islamabad United and Peshawar Zalmi on 09.02.2017 in Dubai.<br><br>(f) For Betting and / other corrupt purposes the occurrence of a particular incident in the PSL Match played between Islamabad United and Peshawar Zalmi on 09.02.2017 in Dubai. |
| 4. | Charge No. 4. | Breach of Article 2.4.4 of the Code by failing to disclose to the PCB Vigilance and Security department (without unnecessary delay) full details of the approaches and invitations received by Sharjeel Khan Cricketer to engage in Corrupt Conduct under the Code in respect of PSL Match played between Islamabad United and Peshawar Zalmi on 09.02.2017 in Dubai.   |
| 5. | Charge No. 5  | Breach of Article 2.4.5 by failing to disclose to the PCB Vigilance and Security Department (without unnecessary delay) full details of the approaches and invitations received Khalid Latif to engage in Corrupt Conduct under the Code in respect of PSL Match played between Islamabad United and  |



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|  |  |
|--|--|
|  | Peshawar Zalmi on 09.02.2017 in Dubai. |
|--|--|

After detailed deliberation and perusing the record we are making this decision (Short Order) in terms of Article 5.2 of the Pakistan Cricket Boards, Anti-Corruption Code for the Participants, 2015, for detailed reasons to be recorded later (because the operative part of the decision was not dictated for confidentiality and secrecy and shall be incorporated in the decision later).consequently the detailed decision is not being issued today.

We hold that the Participant has committed all offences as charged by the PCB under the Anti-Corruption Code. We therefore impose the following sanctions charge wise.

| CHARGE       | PERIOD OF SANCTION AND INELIGIBILITY TO PLAY CRICKET    |
|--------------|---|
| Charge No. 1 | Is barred and in eligible to play cricket for 05 years. |
| Charge No. 2 | Is barred and in eligible to play cricket for 05 years. |



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|              |  |
|--------------|--|
| Charge No. 3 | Is barred and in eligible to play cricket for 06 months. |
| Charge No. 4 | Is barred and in eligible to play cricket for 06 months. |
| Charge No. 5 | Is barred and in eligible to play cricket for 06 months. |

All sanctions imposed shall run concurrently, of the sanctions imposed half of the period viz two years and six months is suspended, for mitigating circumstances and good conduct during the hearing before this Tribunal by the Participant, details recorded in the main decision. The suspended part of the sanctions imposed will only be got resurrected by the PCB if the Participant is found guilty and convicted of a similar offence in future, by a Tribunal of Competent Jurisdiction, enacted by the Pakistan Cricket Board. The period of suspension, undergone by the Participant, shall stand deducted from the active sentence imposed.



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The parties shall bear their own costs. However, the costs of the proceedings shall be borne by the PCB.

The file, of these proceedings with all incidental and ancillary record shall stand consigned and be handed over by the Registrar of this Tribunal for safe keeping and custody, to the Senior General Manager, Security and Vigilance Department of the Pakistan Cricket Board. This material can and may be used by the Chairman of the Pakistan Cricket Board in his discretion if and when needed.

The PCB is directed to put the detailed decision of this Tribunal on its Website after the hard copy is handed over to both parties, for information of the general public.

The telephone collected by the PCB from the Participant be returned to him forthwith.

The parties may, if they so desire, file an appeal under

Article 7 read with Article 7.4 of the PCB's Anti-Corruption Code





for Participant, 2015, within 14 days of the receipt of the detailed decision, before the court of Appeals Lausanne, Switzerland or an Independent Adjudicator in terms of the Constitution of the PCB.”

41. However, we would elaborate the reasons for imposing minimum sanctions permissible as prescribed by the Code and holding half of the sanctions in abeyance.
42. The relationship between the Participant and the PCB, is parental, thus the purpose for sanctions, in our humble viewpoint is to correct any infraction by a delinquent player, which he has committed. We would like to elaborate here this ~~was~~ was the primary reason for which we have held in abeyance (suspended), the sanctions but with a stipulation, that in case, the Participant, is found guilty, again by a Tribunal of Competent Jurisdiction, set up by the PCB on a similar infraction, this sentence is self-executory, this is to ensure, the rehabilitation of the Participant, in terms of Article 6.8 and 6.5 of the Code, which empowers the Chairman of



the PCB, after seeking approval from the Board of Governors, to examine the period of ineligibility imposed in the terms set therein.

43. The Tribunal, excepts that the Chairman, PCB shall exercise, these powers, in consonance with the parameters set in the Code as referred to and as contained in this decision. The general law, in Pakistan, vests in the Courts/Tribunal, with the inherent power, to do complete justice. In this regard reference maybe made to Section 151 of the Code of Civil Procedure, 1908. The Probation Ordinance, 1960, and the Rules framed thereinunder and Article 1.11 of the Code, juxta posed, together these empower, this Tribunal accordingly. Lastly, PCB has already exercised similar power ~~the~~ <sup>the</sup> in case of Mr. Mohammad Mr. Nawaz and Mohammad Irfan, so in order to avoid any discrimination, and ensure equality, as guaranteed, under Article 25, of the Constitution of Islamic Republic of Pakistan, 1973. We have awarded similar sanctions for similar offence to the Participant. We would also like to



mention here again the mitigating circumstances, as referred to in the Code (Article 6.1.2.2, 6.1.2.3, 6.1.2.6 and 6.1.2.7) and especially, the unblemished record of the Participant, referred to earlier, and his behavior during the proceedings, before this Tribunal, it has been a huge factor in our mind to impose the minimum permissible sanctions in the limits set by the Code for the Participants.”

Thus, before parting with this decision we hope that the scourge and menace by way of similar incidents does not recur or happen in future and the menace of Corruption/Spot fixing, is eliminated from Cricket which is regarded as a game of gentlemen.

  
Wasim Bari  
Member

  
Justice ® Syed Asghar Haider  
Chairman

  
Lt. Gen. ® Tauqir Zia  
Member



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Certified that this decision consists of 60 pages and each page has been initialed by the Chairman and Members of the Tribunal and the final page has been signed by them.

Note:

- The word "Code" appearing in this decision anywhere means "The Pakistan Cricket Board's, Code for the Participants, 2015.
- The reference to General Law and Special Law referred to in the judgment means the Laws of Pakistan.

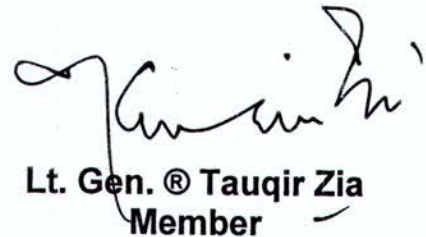
This detailed judgment is in continuation of the Short Order dated 30<sup>th</sup> August, 2017, and is announced this 8<sup>th</sup> day of September, 2017, at 1600 hours (PST).



Wasim Bari  
Member



Justice ® Syed Asghar Haider  
Chairman



Lt. Gen. ® Tauqir Zia  
Member

