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# Civilians cannot be court-martialled, SC reminds govt lawyer

Haseeb Bhatti | March 04, 2020



The Supreme Court on Wednesday said that "even military officers cannot be court-martialled in cases pertaining to civil offence." website/File

**The Supreme Court (SC) reminded the government on Wednesday of its earlier ruling that civilians cannot be court-martialled.**

A two-member bench, headed by Justice Mushir Alam and Justice Munib Akhtar, made these remarks during a hearing on the government's appeal against the release of Inamur Rahim — a retired colonel.

On Jan 2, the defence ministry had informed the Lahore High Court (LHC) that Rahim was in the custody of its subordinate agency and that he was being investigated for allegedly violating the Official Secrets Act. The LHC, in its decision, had termed the detention "illegal" and ordered the authorities to free him.

Last month, the SC had suspended the LHC's order to free Rahim, after the federal government approached the top court to stop the advocate's release.

*Read: [Supreme Court suspends LHC orders for release of missing persons' advocate](#)*

During today's hearing, Justice Akhtar remarked that "even military officials cannot be court-martialled in crimes pertaining to civil cases. If a civil offence is committed, whether by a soldier or a common citizen, the case will be tried in a criminal court."

He added that Rahim's court-martial would be "against SC decisions" and court-martialling a civilian would require "an amendment to the Constitution and permission from the federal government". He further observed that a criminal court has the authority to stop court-martials in civil offence cases.

Justice Alam questioned how the Official Secrets Act was applicable to Rahim after he had retired.

He observed that Rahim had not been freed on the court's orders. "The army brought grave allegations and then freed him itself. Is anybody picked up without thinking it through?" he questioned.

The government had, on Jan 22, informed the SC that it wanted to release the retired colonel in "view of his health condition". A two-page order issued by the Supreme Court in this regard had stated that the detained lawyer should be released on these grounds but that his passport would be deposited.

*Read: [Detained lawyer returns home](#)*

On Wednesday, the Additional Attorney General Sajid Ilyas Bhatti informed the court that although Rahim had been released, he was still under investigation. He added that the LHC had given a detailed decision on the matter.

*Read: [Detention of missing persons' advocate against the law, rules Lahore High Court](#)*

The additional AG told the court that he would need time to answer the points the court had raised and would ask the authorities concerned for instructions.

The court adjourned the case for three weeks and instructed him to "prepare for sections 94 and 95 of the Army Act and section 549 of the Code of Criminal Procedure before the next hearing."