

Shabbar not fit to be FBR chairman: cabinet summary

ISLAMABAD: The conflict of interest and legal implications for making an appointment without following the due process of merit are two key questions raised by the Cabinet Division over the nomination of tax consultant, Shabbar Zaidi, as the new FBR chairman.

A summary presented before the federal cabinet in this respect has, however, suggested making the appointment on an honorary basis to avoid litigation. Prime Minister Imran Khan announced late on Monday the appointment of Shabbar Zaidi as new FBR chairman but he together with his cabinet are still struggling to understand how to translate this announcement into reality due to plethora of challenges.

Meanwhile, Jehanzeb Khan, whose removal was advertised through media has not been officially de-notified as FBR chairman and Shabbar Zaidi's fate also hangs in balance. On moral grounds, he is facing a question of potential conflict of interests. On legal grounds, his appointment is prone to judicial scrutiny with a precedent already available in the form of the removal of Ali Arshad Hakeem in 2013 as FBR chairman.

The CV of Shabbar Zaidi "reveals that he has made representations before the Federal Board of Revenue on behalf of his clients for various clarifications and reconciliations. The existence of conflict of interest in his appointment as chairman, FBR/Secretary, Revenue Division may also need to be taken into consideration," reads the summary of Cabinet Division presented before the cabinet late Tuesday. Likewise, the appointment of an individual from private sector isn't possible without proper procedure that requires advertising the vacant post and selection of the best among the best. Alternative plan is to induct him on an honorary basis as chairman wherein he will have to work without salary. The government was insistent to pick Shabbar for the job, his refusal notwithstanding. A source close to him told The News that he was first contacted in this connection a few weeks ago. "He had refused to accept this offer," according to the source. He was approached again on late Monday. This time, he was asked to suggest some names for the post and he did, according to the source. The government instead finalised his name and he came to know that through media.

As Shabbar submitted to the demand, he is now in an awkward position about his status as to whether and how he will be appointed. A summary by the Cabinet Division presented before the federal cabinet late on Tuesday is suggestive of the situation where government is confused about the likely mode of his appointment as the entire process is fraught with legal challenges. The former FBR chairman Ali Arshad Hakeem is a case in point referred to in the cabinet summary. His appointment was declared null and void by the Islamabad High Court after an FBR's BS-19 officer challenged it on the grounds that proper procedure was not followed in his case. Consequently, Establishment Division was directed to make a regular appointment through a competitive process after advertising the post.

"Since express directions of the Court are in the field regarding appointment of FBR chairman through a competitive process, appointing Syed Muhammad Shabbar Zaidi without advertising the post as chairman, FBR, Secretary, Revenue Division, may tantamount to contempt of court," according to the summary of Cabinet Division. The Establishment Division's opinion wasw

incorporated in the summary Keeping in view this situation, law ministry was asked for legal opinion “whether or not FBR chairman can be appointed from private sector in terms of Section 3 (3) of the Federal Board of Revenue Act, 2007,” reads the cabinet summary.

An alternative option is also under consideration for which legal opinion has been sought and that is of appointing him on an honorary basis: “Whether or not the post of chairman, Federal Board of Revenue is required to be advertised if the appointment is to be made on an honorary, pro-bono basis.” The government has already made such appointments without inviting legal trouble so far. Included among them is Chairman Prime Minister Inspection Commission, Ahmad Yar Hiraj and Chairman National Vocational and Technical Training Commission, Syed Javed Hassan.

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