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PHC Challenges Removal of JCP Judges After Amendment

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The Peshawar High Court (PHC) hears a petition against the federal government's decision to remove senior puisne judges from the Judicial Commission of Pakistan (JCP), raising concerns over judicial independence post-26th Constitutional Amendment.

On August 5, 2025, the Peshawar High Court (PHC) took up a petition challenging the federal government's exclusion of senior puisne judges from the Judicial Commission of Pakistan (JCP) under the 26th Constitutional Amendment, passed on October 21, 2024. The amendment restructured the JCP, which oversees judicial appointments, by replacing high court judges with parliamentary nominees, prompting concerns about political overreach. Advocate Ali Azeem Gohar, representing the petitioner, argued before Justices Ishtiaq Ibrahim and Abdul Shakoor that this move undermines judicial

autonomy, violating Article 175-A of the Constitution, as reported by The News International. The PHC issued notices to the federal government, demanding a response by August 12, 2025.

The JCP previously included senior puisne judges to ensure balanced representation in appointing judges to Pakistan's superior courts. The amendment's changes, which favor parliamentary involvement, have drawn criticism for potentially compromising merit-based selections. The petition references the 2011 Munir Ahmad Bhatti case (PLD 2011 SC 407), where the Supreme Court affirmed the JCP's authority over parliamentary committees, a principle echoed in a 2023 PHC ruling reinstating three additional judges, per Dawn. Barrister Ali Gohar told the court that sidelining experienced judges risks eroding public trust in the judiciary, a sentiment shared by the Peshawar High Court Bar Association, whose president, Fida Gul, endorsed the challenge.

The federal government maintains that the amendment strengthens democratic oversight, though no detailed statement from the Ministry of Law and Justice was available at the time of filing. Legal experts note that the PHC's decision could redefine the balance of power in judicial appointments, with implications for Pakistan's legal system. The Khyber Pakhtunkhwa legal community, including figures like Advocate Shah Faisal Utmankhel, has rallied behind the petition, emphasizing the need for an independent judiciary to uphold constitutional integrity.

The upcoming hearing at the Peshawar High Court (PHC) underscores the ongoing legal dispute between federal authorities and the judiciary regarding appointment procedures. The case is being closely followed due to its potential impact on the interpretation of constitutional provisions related to judicial oversight and executive powers.