Assignment

Name:- Rashid Latif

Roll No:- F-22-1192

Section:- B

Department:- Law

Submitted to:- Miss Sadia Sattar

Date

Asma Jilani vs. Government of Punjab

→ Introduction:-

The case of Asma Jilani vs Government of Punjab **1972** is one of the most influential and histosic decisions in the **constitutional** history of Pakistan. This landmark judgment was delivered by the Supreme Court of Pakistan shortly after the fall of General Yahya Khan's military regime. This case is particulary important for students of law, political science, public policy and governance because it marks a turning point in the judiciary's response to unconstitutional takeovers by military rulers.

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Historical & Political background:-

Provides context on previous constitutional disruptions, specifically the **Dosso case**, and the rise of General Yahya Khan's martial law, which led to the **detention** at the heart of the case.

→ Facts of Case & legal Questions

• Facts of the Case:-

Malik Gulam Jilani, a prominent political figure, was placed in detention by the military government of General Yahya Khan under martial law- regulations.

Another petitioner, **Zahoor Elahi**

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filed a similar petition for his own detention. Both cases questioned the legality of martial law orders issued during Yahya Khan's rule.

Legal Questions:-

The Supreme Court had to decide several major constitutional questions:

- Was Yahya Khan a lawful ruler under the constitution?
- Where martial law orders and regulations issued by him legally valid?
- Was the detention of Malik Ghulam Jilani justified under law?
- Should the court continue supporting the doctrine of necessity?
- Does the judiciary have the power to declare military rulers a usurper?

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Supreme Court Judgment and Reasoning.

→ Supreme Court Judgment:-

Summarizes the historic ruling, which declared Yahya Khan a usurper, rejected the doctrine of necessity, and ordered the release of detainees by invalidating all actions under the illegal martial law.

→ Judicial Reasoning:-

Explains the principles behind the judgment, including the supremacy of the Constitution, the rule of law, the protection of fundamental rights, and the proper role of the military.

Constitutional Significance and Impact.

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→ Constitutional Importance:-

of the case: Highlights the case as a turning point for restoring the rule of law, overruling the **Dosso case**, strengthening judicial review, and limiting military power.

→ Political & Social Impact:-

Discusses the judgment's real-world effects, including the delegitimization of the regime, the strengthening of democratic forces, and its influence on future jurisprudence.

Conclusion:-

This case stands as a timeless reminder that true governance must operate under constitutional authority not through force. It continues to guide Pakistani courts & lawmakers.

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