

## SEPARATE OPINION OF JUDGE REDDY

*United Nations Charter — Articles 2, paragraph 2, and 33 — Simla Agreement, 1972, and the Lahore Declaration, 1999 — Obligation upon the Parties to settle their differences by peaceful means by entering into bilateral negotiations — Element of good faith and the necessity to create an atmosphere conducive to such negotiations emphasized.*

I agree respectfully with the opinion expressed in the Judgment of this Court that this Court has no jurisdiction to entertain the Application filed by Pakistan on 21 September 1999. I am equally in agreement with the observation made in paragraphs 47 to 51. In particular I wish to emphasize the element of good faith which is required of any State which wishes to settle its disputes with another State as required by Article 33 read with paragraph 2 of Article 2 of the Charter of the United Nations. In this connection, the recitals in the Simla Agreement and Lahore Declaration referred to in paragraph 54 of the Judgment of this Court are of crucial relevance. The Simla Agreement recites that “the two countries (Parties to this case) are resolved to settle their differences by peaceful means through bilateral negotiations or by any other peaceful means mutually agreed upon between them”. The Lahore Declaration, which is as recent as 1999, reiterates “the determination of both countries to implementing the Simla Agreement in letter and spirit”. Indeed, the Lahore Declaration goes further and quite significantly refers to the menace of terrorism and “reaffirms their (of the two countries) condemnation of terrorism in all its forms and manifestations and their determination to combat this menace”. This addition is not without significance; indeed it refers to a new phenomenon vitiating the relations between the two countries. It is in this context that the “good faith” referred to in paragraph 49 of the Judgment of this Court assumes singular significance. The requirement of “good faith” obliges the two countries to create an atmosphere where the “bilateral negotiations or any other peaceful means mutually agreed upon” can be conducted and carried on meaningfully and in good faith.

I wish the two countries to settle all their differences in the spirit aforementioned and to devote their energies to developing their economies as well as friendly relations between them.

*(Signed)* B. P. Jeevan REDDY.