

**ORDER SHEET**

**IN THE HIGH COURT OF SINDH AT KARACHI**

C. P. No. ***D - 4698*** of 2014

Date	Order with signature of Judge
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**Present:**

***Mr. Justice Aqeel Ahmed Abbasi***  
***Mr. Justice Zulfiqar Ahmed Khan.***

1. *For hearing of Misc. No. 22734/2017.*
2. *For hearing of Main Case.*

**12.09.2019**

Mr. Arshad Tayebally, advocate for the petitioner.  
 Mr. Salman Yousuf, advocate holding brief for  
 Ms. Navin Merchant, advocate for respondent No. 2.  
 Mr. Ghulam Rasool Korai, advocate for DHA.  
 Mr. Akram Javed, advocate  
 Sajjad Ahmed, I.O. NAB.

**ORDER**

1. Instant petition has been filed by the petitioner, a private limited company incorporated under the laws of Pakistan for the purposes of designing, constructing, marketing and development of the Creek Marina Project at Creek City, located at Phase VIII, Defence Housing Authority, Karachi, against alleged illegal and unlawful inquiry being conducted by National Accountability Bureau/respondent No.1 against the petitioner at the behest of complainants/private respondents No. 2 to 5, whereas, following relief has been sought:-

*I. Declare that the initiation and continuation of the inquiry against the petitioners and the threats, intimidations and coercion which the Petitioner No.1 and its employees are being subjected to are illegal, unlawful, ultra vires the Ordinance and liable to be quashed;*

*II. Permanently restrain the Respondent No.1 from conducting, proceeding or continuing with the inquiry initiated against the Petitioners and from taking any coercive action against the Petitioner No.1, its employees and officers and the Petitioner No.2;*

*III. Suspend the operation of the letter dated 02.09.2014 which has been issued by the Respondent No.1 to the Respondent No.—*

*IV. Costs of the Petition; and*

*V. Grant any further and better relief that this Honorable Court deems appropriate in the circumstances stated above.*

2. Today, learned counsel for petitioner has filed Statement dated 12.09.2019 alongwith its annexures, which is reproduced herein under for the sake of reference and record:-

*“It is respectfully submitted on behalf of the Petitioners above named that all the disputes between the Petitioners and the Defence Housing Authority Karachi (“DHA”), pertaining to the Creek Marine Project (“Project”) have been amicably settled out of Court and therefore all the proceedings pending before this Hon’ble Court between the said parties i.e. Suits No. 525 of 2011, 597 of 2011, 993 of 2013, 1158 of 2018 and JCM No. 06 of 2018, have been dismissed as withdrawn.*

*It is further submitted that in pursuance of the settlement, the Petitioner No. 1 duly submitted a*

*schedule for construction of the Project, along with a timeline, to DHA and the same was thereafter also shared with the Respondent No.1, who acknowledged the same vide receiving dated 16.08.2019.*

*It would also be pertinent to highlight that the Creek Marine Action Committee (CMAC)/the Respondent No. 2 to 5 have withdrawn their complaint filed with the Respondent No.1 against the petitioners which is already a part of this Hon'ble Court's record (pg. 273)*

*Therefore, in light of the above settlement/developments, the present Petition may be disposed of with directions to the Respondent No.1 to quash the proceedings against the Petitioners."*

Learned counsel representing the NAB has also filed a Compliance Report dated 12.09.2019 alongwith its annexures. The same is also reproduced herein under for the sake of reference and record:-

*"1. That it is most respectfully submitted that on previous date of hearing dated 26.4.2019, this Hon'ble Court was pleased to grant further time for finalization of settlement/agreement between DHA and Creek Marina Pvt. Ltd. (CMPL) to resume Creek Marina Project.*

*2. That in this regard, it is submitted that maximum possible efforts were carried out by NAB, which have resulted in a consensus between the parties i.e. DHA and CMPL to resume the project.*

*3. That DHA vide its letter dated 24<sup>th</sup> July, 2019 and CMPL vide its letter dated 15<sup>th</sup> August, 2019, have communicated that the parties have settled their issues amicably and resolved to*

*complete the project within a period of 5 years in three phases (copies of letters attached herewith).*

*4. That the Compliance Report is submitted, please.*

DAG has raised objection with regard to maintainability of instant petition and submits that relief sought through instant petition is beyond the scope of Article 199 of the Constitution.

3. Record shows that after having filed instant petition, petitioner did not pursue the matter with due diligence, whereas, adjournments were sought to prepare the case and also to file amended title by impleading the proper parties, however, it appears that needful has not been done, therefore, instant petition kept pending before this Court for the last two years', without any useful progress. Moreover, in view of General Elections held in the year 2018, there has been change of Regime in the Federal Government, as well as in the Provincial Governments, whereas, Muhammad Nawaz Shareef in view of the decision of the Hon'ble Supreme Court in the Panama Case, is no more the Prime Minister of Pakistan and also facing trial in the NAB cases. Accordingly, the declaration sought against the then Prime Minister, namely, Muhammad Nawaz Shareef besides being beyond the scope of Article 199 of the Constitution, has otherwise become infructuous. It has been further observed that during last about two years, the law and order situation in the country has improved, whereas, Pakistan Rangers has been deployed in various part of the country, and they are already performing their duties in the aid of Federal and Provincial Governments towards maintaining law and order situation, therefore, such grievance also stands redressed in

substance. As regards declaration for payment of compensation amount to victims of terrorist attacks or to the persons, who were murdered during the year 2016, falls within the domain of policy matter of the Federal and the respective Provincial Governments and it has been informed that there is no law enforced, so far for such purpose, however, Notifications are issued from time to time. It has, however, been informed that affectees are being compensated as per policy/guidelines to this effect. However, it is expected that in all such appropriate cases, the Federal and Provincial Governments should continue to compensate such victims through a uniform policy, without any discrimination. Since the petitioner has not mentioned the names of the affectees or particulars of their legal heirs in the instant petition, therefore, generalize directions or any declaration to this effect cannot be issued by this Court while exercising constitutional jurisdiction in the instant case. It may be further observed that to implement the Constitution and to maintain law and order, is one of most essential responsibilities of the Government and the law enforcement agencies, however, it is equally the responsibility of all the citizens to abide by the Constitution and the laws of land, and not to become part and parcel of any unconstitutional or illegal activity. However, there is no need to issue any declaration to this effect as it is the responsibility of all the elected Governments and the law enforcement agencies.

4. From perusal of the contents of instant petition, it has been observed that petitioner, while expressing her concern over the law and order situation in the country, and pointing out some instances of bad or poor governance by the previous Government, has also made certain suggestions, which are either unconstitutional or contrary to law. Moreover, the same do not fall within the domain

of Article 199 of the Constitution. Petitioner is either not well aware of such constitutional and legal provisions, or instant petition has been motivated by some vested interest person(s). We do not find any substance in the instant petition and would, therefore, dispose of instant petition with the observations that all the law enforcement agencies shall continue to perform their duties to the best of their ability to secure and maintain peace in the country, whereas, petitioner is cautioned to be careful and not to file frivolous petition(s) by seeking unconstitutional and unlawful declaration(s) from the Court. Offices of the Deputy Registrar (Writ) and the Writ Petition Branch are also directed to be careful in future while entertaining such petition(s), which are filed in the garb of public interest and do not fall within the scope under Article 199 of the Constitution of Pakistan, 1973.

5. Instant petition stands disposed of in the above terms alongwith listed application.

**J U D G E**

**J U D G E**

A.S.