

ORDER SHEET
IN THE HIGH COURT OF SINDH BENCH AT SUKKUR
C.P. No.D-1309 of 2013

Date	Order with signature of Judge
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1. For orders on CMA No.10670/2013
2. For hearing of main case.

28.02.2023

M/s. Shafique Ahmed Babar Leghari, Qurban Ali Malano, advocates for the Petitioner
Mr. Khuda Bux Chohan, Advocate for SMC
M/s. Ali Raza Balouch and Zahid Farooq Mazari, AAGs along with Muhammad Bachal Rahupoto, Secretary to Government of Sindh Public Health Engineering and RD Department, Shafi Muhammad Lakho, Managing Director RCC Consultants Hyderabad and Barkat Ali Khawaja, Chief Engineer, Public Health Engineering Department and Syed Sardar Ali Shah, Chief Engineer, Sukkur Barrage, Sukkur

Salahuddin Panwar, J: Pursuance to order dated 22.02.2023, Chief Engineer, Public Health Engineering present as well as consultant of different projects in view of water commission, after hearing at length, they have submitted final submissions/accommodations. Being relevant, same are reproduced herewith:-

FINAL SUBMISSIONS

During the hearing it came to the light that for completion of the job of elimination plugging diversion intrusion of untreated sewage into irrigation water bodies, the force mains and disposal drains need crossing beneath railway tracks under passes, due to lengthy and tedious procedure permission from railway authorities is delayed hence it is directed that railways authorities should give preferences to such requests of Public Health Engineering Department and grant requisite approval on immediate basis for completion of job.

The treated Sewage which is to be disposed of into any water body or channel is pumped through electrical and mechanical means for which availability of electric power is basic need. The authorities of SEPCO/HESCO may be directed to ensure that required facility/connection is provided to Public Health Engineering Department on preferential basis wherever needed.

Similarly the land for construction of oxidation ponds is primary requirement for treatment of raw sewage hence Senior Member Board of Revenue and Secretary, Land Utilization Department should see that state land is provided for this purpose wherever available, in case state land is not available, the land acquisition process for acquiring private land should be completed within minimum time. Simultaneously the encroached lands of Public Health Engineering Department may be got vacated so that same could be utilized for identified purpose.

The modern intake water pumping station established at Bakhar Island has capability to cater the need of Sukkur city and condition of water at this location is also sustainable hence this system may be activated fully and supply may be provided to Pumping Stations of Cily to overcome the shortage of water. In case any additional human resource (HR) is required to run this this facility same should be provided and financial aspect relating to the regular operation and maintenance of water supply and drainage facilities may be reviewed and if any enhancement is required and is supported by facts and figures same should be accommodated"

The Chief Secretary Sindh, Chairman Planning and Development Board Sindh and Additional Chief Secretary Local Government Department Sindh, should see that proposal relating to the approval of "Improvement of Drainage System of Sukkur City (Phase-II)" is implemented early by declaring this Scheme as Non-ADP during Current Financial Year 2022-23 so that this menace may be reduced in view of the directions of this Honourable Court in C.P.No.D-464/2018 and C.P.No.D-346/2018 enabling authorities of Sukkur Municipal Corporation to implement Phase-II.

A strategic development study was conducted in 2013 which has been notified as Master Plan of Sukkur. The strategic study is a concept plan and very general in nature whereas the Master Plan has to be very specific which can be implemented in letter and spirit. The issue was brought into the knowledge of Honourable Chief Minister Sindh and on the directives of Honourable Chief Minister the meeting was held and chaired by Chief Secretary Sindh to resolve the issue of Master Plan of Sukkur. The committee was formed by Chief Secretary Sindh under the Chairmanship of Commissioner Sukkur to have a weekly meeting with concerned departments, civil society and relevant stakeholders to resolve the issue, however the progress is awaited despite lapse of 2 years. Master Plan is a key document mandatory for development of Sukkur City specially to resolve the issue of Urban Population in light of increasing population. Commissioner Sukkur may kindly be directed to conduct a meeting with concerned departments and come up with a solution of Master Plan as decided in the meeting of Chief Secretary Sindh. Furthermore, the Master Plan shall incorporate the traffic plan and long term plan for social and economic growth of Sukkur".

Chief Secretary Sindh, Secretary (Irrigation), Secretary (Public Health Engineering) department shall ensure strict compliance of above referred final submissions without fail.

2. In compliance of earlier order, it has been submitted that SNE(s) of 17 labs has been approved. Accordingly, Secretary Public Health shall ensure that labs shall be made functional within shortest possible period and recruitment shall be carried out through 3rd party testing agency.

3. Needless to mention that **it is man's birth right to have clean water; besides provision of unpolluted water is the fundamental right of every citizen** of this County under Articles 9 & 14 of Constitution of Islamic Republic of Pakistan and in this regard, Hon'ble Apex Court has already declared in **Shehla Zia** case that every citizen has the right to unpolluted water, environment and clean atmosphere. ***Undoubtedly, water is a vital resource which makes possible survival of living things and a key to determines the rate of economic development; however, unfortunately, water is contaminated through Industrial and municipal effluents discharges,*** agricultural run-off transporting fertilizers despite of availabilities of general laws relating to prohibition of water pollution besides determine the ways to eliminate sewerage instead to

dropping/dumping in the river, canals but the same are not being complied with in its true letter and spirit.

4. It is pertinent to mention here with Section 14 of the Factories Act, 1904 stipulates that factory owners to make effective arrangements for the disposal of waste and effluents from manufacturing process instead to drop it in water bodies. It shall be conducive to reproduce Section 14 as under:-

“14. Disposal of wastes and effluents. - (1) Effective arrangements shall be made in every factory for the disposal of wastes and effluents due to the manufacturing process carried on therein. (2) The Provincial Government may make rules prescribing the arrangements to be made under subsection (1) or requiring that the arrangements made in accordance with that subsection shall be subject to the approval of such authority as may be prescribed”.

5. Besides, Pakistan Environmental Protection Act, 1997, being special law relating to prohibition of water pollution, has been established wherein Section 11 of said Act declares that ***“No person shall discharge or emit or allow to discharge or emission of any effluent or waste or air pollutant or noise in an amount, concentration or level which is in excess of the National Environment Quality Standards”***. This issue has already decided by the Apex Court as well as High Courts in numerous cases. In the case of *Rana Ishaque vs. DG EPA and others*, Lahore High Court **restrained 121 industrial units of Punjab**, excluding those that had already installed treatments plants from discharging effluents into drains and canals and directed them to install treatments plants to avoid any threatened litigation in the future. Undoubtedly, the development of different industry branches has significantly improved people's quality of life in many aspects. However, industrial plants developing so numerously have started to emit a lot of water pollution. ***In many cases, sewage is discharged into rivers without any purification, which causes eutrophication, due to the high concentration of phosphorus and nitrogen and causes pollution of waters which could be used as a source of drinking water. The pollution of water caused by sewage input is a serious threat for people and animals.***

6. Suffice it to say that water protection from industrial pollutions is one of the basic elements of sustainable development. In order to achieve this, it is necessary to purify the industrial wastewater more eminently and to change the technologies to more friendly to the environment. A good method of controlling water pollution is the monitoring of industrial plants that discharge sewage directly to municipal channels. In this regard, **Deputy Commissioner(s) shall ensure that factories established or ought to be established nearby Indus in their territorial jurisdiction will not be functional expect those who have make arrangements for the disposal of wastes and effluents due to the manufacturing process carried on therein by reserving lands for its' elimination.** Concerned Deputy Commissioner(s) shall ensure stern and austere compliance of directions referred in this paragraph without fail. In case of failure, contempt proceedings would be issued against delinquent officer(s).

7. In compliance of directives issued earlier, RCC Consultant has submitted details of land to be acquired by Sindh Government for elimination of Canal Lake in Sindh Phase-I for oxidation.

8. Accordingly, Chief Secretary Sindh shall ensure acquisition of above referred lands as proposed. Municipal Committee shall ensure acquisition and comply with above submissions and order dated 22.02.2023 and submit periodical report on monthly basis through Additional Registrar of this Court. Besides, DHO(s) concerned shall also ensure that wastage of hospitals' is not dumped/ dropped in Indus River and in case of failure, concerned authorities shall expose themselves for contempt of Court proceedings. Besides, Chief Secretary shall ensure strict compliance of above referred paragraphs and paragraph-17 of earlier order dated 22.02.2023 without fail. Being relevant, same is reproduced herewith:-

“17. Besides, Chief Secretary Sindh is hereby directed to form a Council/ Committee comprising on Secretary (Health), Secretary (Irrigation), Secretary (Public Health Engineering Department), Secretary (Industries), Secretary (Planning and Development) and Sindh Environmental Agency including participation of other stakeholders, who shall ensure that polluted/ drainage water is not poured in Indus River and stipulated period shall be provided with terms of reference particularly in view of study be carried out under

the orders of Water Commission therefore, the Secretary Ministry of Water and Power Government of Pakistan be taken on board as well. Besides, Administrators/ Deputy Commissioners shall affix penaflex near to treatment plant in District Head Quarters and Taluka Head Quarters in the manner that Indus River Water is not fit for human consumption unless it boils. Administrator Sukkur shall also affix this penaflex near treatment plants highlighting condition of water in view of reports with note of caution that such water is used after boiling. Such photographs regarding affixation of penflicts shall be submitted before this Court on the next date without fail”.

9. Despite of directions, Incharge Rohri Lab is called absent. Issue BWs in the sum of Rs.50,000/ against him to be executed through SSP Sukkur.

Adjourned; to come up on **05.04.2023**.

JUDGE

Faisal Mumtaz/PS

JUDGE