

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH BENCH AT**  
**SUKKUR**

Const. Petitions No. D – 1064, 1068, 1069, 1072, 1075, 1077, 1080, 1081, 1083,  
1084, 1087, 1088, 1089, 1091, 1096, 1097, 1098, 1099, 1103, 1104, 1105, 1106, 1108, 1112,  
1114, 1125, 1126, 1127, 1132, 1135, 1141, 1146, 1147, 1148, 1151, 1152, 1153, 1154, 1155, 1160,  
1162, 1169, 1174, 1180, 1191, 1193, 1213, 1217, 1235, 1259, 1277, 1287, 1300, 1468, 1549,  
1599 of 2022 & 02/2023

Date of hearing	Order with signature of Judge
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Mr. Justice Salahuddin Panhwar  
Mr. Justice Abdul Mobeen Lakho

For hearing of main cases:

**08.02.2023**

M/s Ghulam Shabbir Shar, Fidaullah Qureshi, Muhammad Raza Soomro, Sohail Ahmed Khoso, Abdul Qadeer Khoso, Waqar Ali Phulpoto, Muhammad Qasim Kandhro, Ubedullah Malano, Riaz Ali Shaikh, Athar Hussain Abro, Niazuddin N. Memon, Nusrat Hussain Memon, Shabbir Ali Bozdar, Badaruddin Memon, Muhammad Qayyum Arain, Deedar Ali M. Chohan, Abdul Mujeeb Shaikh and Achar Khan Gabol, Humail Rafi, Abdul Ghani, Sadaqat Ali Rid, Abdul Sattar Mahesar & Samiullah Rind, Advocates for the petitioners in C. Ps. No. D-1064, 1072, 1080, 1081, 1083, 1098, 1104, 1125, 1126, 1132, 1148, 1151, 1169, 1174, 1180, 1191, 1193, 1217, 1235, 1287 and 1549 of 2022.

M/s Jhando Khan Jarwar, Waqar Ali Phulpoto, Gul Feroze Kalwar, Asif Ali Bozdar, Muhammad Balam Sangi, Riaz Ali Maitlo, Aijaz Ali Shar, Samiullah Rind and Shabbir Hussain Talpur, petitioners in person in C. Ps. No. D-1084, 1088, 1091, 1096, 1099, 1135, 1147, 1152 and 1153 of 2022.

Mr. Sanwan Khan Jagirani, Legal Advisor of SIDA along with Faisal Ahmed (Executive Engineer, Nara Canal Division, Khairpur @ Sukkur).

Mr. Shafi Muhammad Chandio, Additional Advocate General Sindh and M/s Mehboob Ali Wassan, Assistant Advocate General Sindh along with Suhail Ahmed Qureshi, Secretary (Irrigation), Shariq Ahmed, Secretary (Works and Services Department), Syed Salman Shah, DG PDMA, Imdad Hussain Siddiqui, Director PDMA, Maqsood Hussain Soomro, Deputy Director, PDMA Sindh, Shahzeb Shaikh, Deputy Commissioner, Naushahro Feroze, Sharjeel Noor Channa (Deputy Commissioner, Khairpur),

Muhammad Usman Abdullah Deputy Commissioner, Ghotki, Maqsood Hussain Soomro, Deputy Director, PDMA Sindh, Liaquat Ali Kalhoro ADC-I, Sukkur Waseem Ahmed, AC-Rohri, Muhammad Adeel, Assistant Commissioner, Salehpat, Asadullah Khokhar, Assistant Commissioner, Mehrabpur Sajjad Ali Khaskheli, Mukhtiarkar Taluka Hussain Bux Mari, District Mirpurkhas, Dr. Jameel Ahmed, DHO Sukkur, Dr. Abdul Sattar, Director Health Services, Sukkur, Dr. Rehmatullah Solangi, DHO Khairpur, Rasool Bux Junejo, Abdul Majeed Panhyar, Executive Engineer, Provincial Highway Division Shaheed Benazirabad, Khursheed Ahmed, XEN Mirpur Mathelo, Irrigation Ghotki, Darya Khan Chandio, AC Kotdiji, Dr. Nadeem Memon, Focal Person, DHO Office Naushahro Feroze, Jawed Memon, Project Director, Sindh Flood Emergency Rehabilitation Project, Muhammad Hayat Shaikh (Project Director SCARP, Khairpur), Amjad Ahmed Memon (Project Director SCARP, North Rohri/Shahed Benazirabad), Zain-ul-Abidin Morio (Executive Engineer, Provincial Highways, Khairpur), Qaisar Ali Hashmi, District Accounts Officer, Sukkur.

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**Salahuddin Panhwar, J:-** Paragraph-5 of order dated 25.01.2023

is reproduced as under:-

*“5. It has come on record that Vehri Lake is occupied by private Respondents at the side of RD-40 Lath Waro Minor and that is way of natural drainage, due to that, stagnant water could not be drained out. Accordingly, Deputy Commissioners shall form a committee comprising of concerned officers of SCARP, Director Agriculture, Representative of Abadgar Association, Representative of PW&D, Director, SIDA, who shall be competent to take action in accordance with law and ensure removal of encroachment, if any, over there. Moreover, with regard to stagnant water in Mirwah, Project Director, Khairpur shall provide Jhatta and ensure that stagnant water is drained from Mirwah and Deputy Commissioners in all respective districts shall also ensure by directing the concerned officials to drain out the stagnant water; moreover Executive Engineer, Highway, present contends that department has submitted PC for new road towards Mirwah. Accordingly, Works and Services Department shall look into the issue and ensure that such PC is approved and funds are provided”.*

Pursuance to that none is in attendance. It has come on record that one Ali Asghar Kanasro is Project Director of Sindh Flood Emergency Rehabilitation Program (SFERP), Infrastructures,

livelihoods and Rescue 1122 components. On query, DG PDMA contends that perhaps Kanasro is Federal Government employee and his parent department is not rehabilitation, if this is the fact then how he can be appointed as Project Director in Rehabilitation Department on deputation and that is clear violation of order dated 14.03.2017 passed Hon'ble Supreme Court judgment passed in *Suo-Moto* Case No.19/2016 and judgments of this Court hence he shall be removed forthwith. Secretary Rehabilitation shall be in attendance with complete breakup of last one year with regard to allocation of funds, release of funds and utilization thereof. That report shall include complete details of livelihood and infrastructure saved under this project. Chief Secretary shall ensure compliance with report.

2. That Secretary Rehabilitation shall conduct open *katcheris* Thari Mirwah, Kotdiji, Ahmedpur, Pacca Chang and Talpur Wada in District Khairpur, Kotri Kabeer, Bhiria Road in District Naushahro Feroze, District Ghotki, Dhandhi in Taluka Rohri, Tando Jan Muhammad, Taluka Digri and Hingorno, Taluka Sindhri District Mirpurkhas and submit details regarding actions taken with regard to redressal of grievance of flood effectees.

3. With regard to paragraph-4 of order dated 25.01.2023, Secretary (Irrigation) present submits compliance report and future plans. Being relevant paragraphs-3, 5, 6, 7 & 8 are reproduced herewith as under:-

3. **Keeping in View the afore submitted position, Irrigation Department took the following efforts during floods of 2022:**
  - i. **Number of relief cuts were made in the irrigation infrastructure to drain out the rain water from Cities, towns and fields. Subsequently, after dewatering the same, these cuts are being plugged.**
  - ii. **To avoid any breach, rain water in canal system were safely diverted into desert areas by making new channels like in tail of Faiz Ganj wah, which is collecting water of Thari Mir Wah, Faiz Ganj talukas Of District Khairpur Mirs,**
  - iii. **Two escape channels from Kot wah, one from Chor Wah and one from Dhoro Naro were excavated in District Urnerkot.**
  - iv. **From tail of Noor Wah, Thar Tail Distry, Soofi Distry channels excavated to divert water into Hakro Dhoro**
  - v. **Enhanced the carrying capacity of Kakaho and Kalanker Escape of Nara Canal in District Sanghar and Umerkot respectively**
  - vi. **More than 200 km new field drains/Channels were excavated to drain out the rain water in District Sanghar, Mirpurkhas, Umerkot, Badin, Khairpur Mirs, Naushahro Feroze, Shaheed Benazirabad, Dadu and Kamber-shahdadkot**

- vii. Especially a channel of 36 km excavated having discharge more than 300 cusecs from left side of spinal drain to collect water of Hakro (Rain water of Umerkot, Sangher and Mirpurkhas) to dispose off water into Puran
- viii. Support was provided for construction of Ring Bunds around the major cities and towns like Nawabshah, Daur, Sangher, Juddo, Mehar, Bhan Saeedabad and on Grid Stations of Nawabshah, Bhan Saeedabad, KN Shah and Naokot.
- ix. The required machinery were engaged like Hydraulic Excavators, front and back blade, Tractors, Tractor trollies, Dozers, Datsun Pickups including procurement of Abklani material and engaging of labor all along Irrigation channels including LBOD, RBOD, Drainage network, FP Bund, Suprio Bund, Mancher Lake.
- x. For enhancing carrying capacity of drains, desilting, deweeding and raising of free Board was carried out specially in Spinal Drain about 5 ft. to avoid any breach in the system.
- xi. Due to submerging of roads, number of motor boats were engaged for transportation of material and manpower alongwith LBOD system and Right Bank of River Indus.
- xii. Due to heavy rainfall, most of the pumping stations were submerged which were made functional by repairing pumps, panels, electrification and Generators in District Khairpur Mirs, Naushahro Feroze, Dadu, Larkana, Shikarpur and Qamber Shahdadkot.
- xiii. Extra dewatering pumps were also installed along pumping stations to accelerate the evacuation process in District Khairpur Mirs, Naushahro Feroze, Dadu, Kamber Shahdadkot, Shaheed Benazirabad and Shikarpur.
- xiv. Extra heavy Generators were hired on rental basis for pumping stations in Districts Khairpur Mirs, Dadu and larkana
- xv. More than 200 tractors mounted pumps for dewatering were installed where there was no any drainage networks in District Khairpur Mir's, Naushahro Feroze, Dadu, Kamber Shahdadkot, Shaheed Benazirabad, Jamshoro and Shikarpur.
- xvi. Additional transformers were hired for extra electric pumps installed along B,C,F,G pumping stations of district Khairpur Mir's, Dadu and Shaheed Benazirabad.

5. *It is also submitted that committees have been notified by Sindh Government, headed by Deputy Commissioners or concerned districts which lead the evacuation process with concerned stakeholders i.e. Irrigation, Agriculture, Public Health Engineering and Local Government Departments (Annexure-II)*

6. *As regards the compliance of Para-2 of the Honourable Court Order dated 25.01.2023, it is respectfully submitted that after approval of the Honourable Chief Minister Sindh, the concept clearance paper related to revival natural waterways (Dhoras) has been sent to Planning and Development Department vide letter dated 02.02.2023 (Annexure-III). it is submitted that this department has simultaneously approached to Chairman Federal Flood Commission vide letter dated 05.10.2022 for consideration of number of schemes including rehabilitation and improvement of LBOD as well as providing drainage facilities to leftover areas of district Khairpur and Naushahro Feroze costing to Rs.115 Billion and Rs.50 Billion respectively (Annexure—IV).*

7. *It is also pertinent to submit that this department has also sent the list of projects for remodeling, rehabilitation and restoration of irrigation & drainage networks to Planning and Development Department vide letter dated 23.01.2023 for its consideration by united Nations Development Program (UNDP) Conference to be held on 08/02.2023 at Karachi. The number of projects have been included which,*

*inter-alia mention (i) Providing Drainage to leftover areas of district Jacobabad, Shikarpur, Kandhkot and Kashmore (ii) Remodeling and Rehabilitation of existing drainage system on Right Bank (iii) Activation and Restoration of old Dhoras from Sukkur to Shakoor Dhand and (iv) Rehabilitation of LBOD and leftover areas of LBOD (Annexure-V).*

8. Responding to the Para-6 Of the Honorable High dated 25.01.23, it is submitted that various feasibility and technical in the PC-I of Sindh Flood Emergency Rehabilitation Project (SFERP) approved and under Implementation (Annexure—VI). Those studies include “Capacity Building for Integrated Solution to build back better resilient Irrigation system of Province (Master Plan for Right Bank and Sehwan Barrage). These studies conducted by the Consultants thorough survey and investigation of the different vulnerable areas of the Sindh and will provide Roadmaps and Master plans for future planning and for the protection of communities, infrastructures and safe passage of excess water”.

4. Secretary (Irrigation) contends that they received 212 Million Dollars and they have bifurcated as short term and long term, utilization will be on long terms and short term. They have established the project with the consultation of World Bank headed by Chief Engineers of Irrigation, all stakeholders including hierarchy of irrigation as well as roads and other departments. Besides, it is contended that they have prepared a summary in view of flood commission report, 2013 as reproduced in above referred order in paragraph-2, which is pending for approval with P&D department and all schemes to revive the *Dhoras* will be restored through funds provided by Federal Government as well as Provincial Government.

5. Despite of repeated directions, thousands acres land is still under stagnant water, open katcheries were held but of no avail. At this juncture, Secretary (Irrigation), Secretary (Roads), DG PDMA, Deputy Commissioners and learned Counsel for the respective petitioners are agreed that a committee under the chair of Imdad Hussain Siddiqui, Director (PDMA), PD(s) SCARP, Superintending Engineer(s) (Irrigation) and Superintending Engineer(s) (Roads) of each districts, respectively, will personally visit site of subject matter petition(s) with the help of Deputy Commissioners and will ensure that stagnant water drained out from the lands, the petitioners and the effectees including IDPs will be rehabilitated with short term and long term schemes without any delay. Committee shall public schedule of visits with due notice to the petitioners through their Counsel(s). This exercise shall be completed in four weeks.

6. Deputy Commissioners will be responsible to provide complete facilities by directing respective officer and will resolve the issues/miseries of the flood effectees.

7. Finance Department would be bound to release the budget as per the demand of Deputy Commissioners of District Sukkur, Khairpur, Ghotki and Naushahro Feroze without any delay after receiving the requisition within three days. Deputy Commissioners contend that they are not receiving funds from one and half months; besides Deputy Commissioner, Naushahro Feroze contends that he has not received funds from the month of October, 2022 despite of demand. Accordingly, Finance Secretary shall ensure that amount is released. In case of failure, Finance Secretary shall be in attendance alongwith explanation. Needless to mention that respective authorities shall complete the requisite formalities; however on technicalities, Finance Department will not stop the release of funds.

8. Assistant Commissioner, Rohri, in compliance of paragraph-10 of order dated 25.01.2023, contends that Vehri Lake is with the length of 17 Kilometers, which is in illegal occupation and that requires demarcation. Accordingly, Survey Superintendent, Khairpur along with Assistant Commissioner, Rohri shall demarcate the area in the Vehri lake and thereafter Deputy Commissioner, Sukkur, shall ensure that after demarcation, encroachment is removed. DIGP Sukkur shall provide police force as required.

Adjourned to **28.02.2023**; to be taken up at **11:00 a.m.** Attendance of Secretaries, DG PDMA and Chief Engineers is dispensed with till further order(s); however Deputy Commissioners shall be in attendance without fail. Copy of this order be communicated to all concerned as well as AAG Sindh and further all compliance reports shall be maintained through separate file with duplicate set.

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