

ORDER SHEET
IN THE HIGH COURT OF SINDH BENCH AT SUKKUR
C.P. No.D-1105 of 2018

Date	Order with signature of Judge
1.	For hearing of CMA No.9918/2018
2.	For hearing of CMA No.5944/2018
3.	For hearing of main case.

16.02.2023

Mr. Amir Ali Bhutto, Advocate for Petitioner
Mr. Sohail Ahmed Khoso, Advocate for Respondents
M/s. Ghulam Shabbir Shar and Zaheer Minhas, advocate for interveners
Mr. Ashraf Ali Mirani, Law Officer on behalf of Secretary Culture
Mr. Shafi Muhammad Chandio, Additional Advocate General and Mehboob Ali Wassan, Assistant Advocate General alongwith Umar Farooq Bullo, Director General Mines and Minerals Department, Shehzad Tahir Thaheem, DC Sukkur, Sharjeel Noor, DC Khairpur, Liaquat Ali Kalhor, ADC-I, Sukkur, Waseem, Assistant Commissioner, Rohri, Sajjad Ali Pahore, Assistant Commissioner, NARA, Khalil-ur-Rehman Shaikh, Additional Director, DHS Sukkur on behalf of Secretary Health and Dr. Ramesh Kumar, Additional Director, DHS, DSP Fida Hussain Solangi, on behalf of DIGP Sukkur and SIP Jameel Ahmed on behalf of SSP Khairpur

Salahuddin Panhwar, J: Pursuant to earlier order dated 02.02.2023, Director General present, submits that they have not issued any permit/license for crushing plants. He further submits that in view of Mines Act, 2021, they have amended rules, which speaks about committees comprising of officers given below:-

Sr. No.	Designation	Title
1.	Director General, mines and Minerals Development	Chairman
2.	Director, Mineral Department, M&MD	Secretary/ Member
3.	Director (Exploration), M&MD	Member
4.	One Nominee by the Secretary, Mines and Mineral Development department, Government of Sindh not below the rank of BPS-18	Member
5.	One Nominee by the Director General Sindh Environmental Protection Agency, Government of Sindh, not below the rank of BPS-18	Member
6.	One Nominee by the Secretary Land Utilization, Government of Sindh, not below the rank of BPS-18	Member
7.	Director General Antiquities, Government of Sindh or his representative not below the rank of BPS-18	Member
8.	One Nominee by the Secretary Wild Life and Forest, Government of Sindh, not below the rank of BPS-18	Member
9.	Deputy Commissioner (concerned) or as representative	Member
10.	Concerned Field Officer of regional office of the Mines and Minerals Development Department, Government of Sindh	Member
11.	President of Sindh Mine Owner Association	Non-voting Member
12.	Any other Co-opted Member	Member

2. The committee will examine all licenses/permits issued to different crushing plants for mining purposes and if any license is not fulfilled the criterion of present rules; that shall be considered as cancelled.

3. It is pertinent to mention that merely providing such class will not serve the purpose, unless those licenses are examined and if same are not falling within criterion at the sites, those mines shall **not only** be stopped **but stern action should be taken against them and those who issued license(s) without considering the criterion at the site. It should be further assured that in future no license shall be issued to those persons or crushing plants or their companies whose licenses are not fulfilling the criterion of present rules. Besides this action as provided under sub Rule 3 of Rule 134.** DG Mines and Minerals Department also refers Rule 134, which speaks as under:-

“134. Restriction on grant of area for Mining purpose and Stone Crushing activity: (1) There shall be a complete ban on the mining and stone crushing activity in any historical / religious / heritage / Culture /public places including old archeological/historical hills/mountains having historical identity etc. or any vital installation, irrespective of sites of mentioned areas / locations.

2. Subject to sub rule (1) the already granted mineral title and mineral permits shall stand cancelled.

3. Any person who shall carry out illegal mining directly or indirectly which is detrimental to any historical /religious /heritage /cultural /public place or any vital installation shall be punished with an imprisonment which may extend to six month or a fine of rupees up to five hundred thousand or with both”.

4. Further, Health Department has submitted the report, which shows that they have examined the workers and villagers adjoining to the mines and have found serious Acute Respiratory Tract Infection in 58 persons and Upper Respiratory Tract Infection in 67 persons.

5. Counsel for owners of crushing plants undertake that they will submit details of employees on the next hearing with assurance for taking further steps by them in SESSI, EOBI and Factories Act; beside contend that they will seek permission under Factories Act from the Labour Department concerned. Secretary (Labour) shall be in attendance and submit details of permissions, if granted and criterion to verify the sites with regard to permits and violation, if any and action in case of violation.

6. Secretary (Culture) shall be in attendance on the next date. In case of failure, this Court will be constrained to initiate contempt proceedings against him. Besides, he shall personally visit the site as mentioned in order dated 02.02.2023 and other sites in District(s) Khairpur, Ghotki and Sukkur and shall submit report of visits along with the proof in shape of photographs as well as videos (in the USB) showing his appearance at every site. Secretary Culture shall submit details regarding seminar(s)/festival(s) on culture and cultural heritage since two years and also proposed culture events in the country or abroad.

7. Deputy Commissioners and Survey Department of all three districts shall constitute a committee comprising of Archeology Department, Culture Department and Mines Department shall re-inspect the sites and ensure that historical sites are not destroyed further, in any manner. They shall also submit present status of Bakhar Fort.

8. Paragraph-8 of order dated 02.02.2023 is modified to the extent that all crushing plants in view of new prescribed rules shall deemed to be sealed until demarcation. It is made clear that in future the crushing plant, if will function, the license of the plant will be issued after observing all the legal formalities and the crushing site would be at a distance of atleast one kilometer radius from the historical site. Besides the crushing plants shall adopt wet crushing technology and dust collectors.

9. Deputy Commissioners shall personally visit the sites on monthly basis and ensure that all workers are registered with SESSI with all facilities under SESSI Laws. Commissioner SESSI shall be in attendance on the next date.

10. Focal Person on behalf of Secretary Health undertakes that Pulmonologist will visit the sites near to crushing plants on monthly basis; besides they will provide other treatment to the villagers adjacent to the crushing plants.

11. Assistant Commissioner, Mines Welfare attached with Labour Department under Mines Labour Welfare Act, 1936 shall be in attendance with complete breakup of welfare amount received for last five years and utilization thereof for the welfare of the workers in the entire area of Sindh Province.

12. Secretary Law shall examine the new rules and shall vettage in accordance with law. Focal Person, Law Department, shall appear in person on the next date **and shall submit report with regard to examining and applicability of new rules**. Secretary Mines and Secretary Law shall ensure vettage preferably within one month and progress report shall be filed on the next date without fail.

Adjourned to **08.03.2023**; to be taken up at **11:00 a.m.**

JUDGE

Faisal Mumtaz/PS

JUDGE