

*ORDER SHEET***IN THE HIGH COURT OF SINDH, CIRCUIT COURT,  
HYDERABAD.**

**C.P. No.D-2879, 2939, 2980, 2991, 2992, 3046, 3066, 3075, 3076, 3077,  
3084, 3095, 3096, 3275, 3306, 3318, 3454 of 2022**

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DATE

ORDER WITH SIGNATURE OF JUDGE[S]

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**16.05.2023.**

FOR ORDERS ON OFFICE OBJECTION.  
FOR HEARING OF MAIN CASE.

M/s Raja Jawad Ali Sahar, Mengal Meghwar associate of Mr. Muhammad Hamayoon Khan, Mr. G.M. Laghari, Sajid Ali Soomro and Rashid Nizam, Naveen Salim, Ghulam Murtaza Korai and Asad Jahangir advocates for petitioners.

Mr. Abdul Aziz Advocate holds brief for Mr. Faizan Ahmed Memon advocate for petitioner.

Mr. Ghulam Abbas Sangi Assistant Attorney General for Pakistan.

M/s Muhammad Arshad S. Pathan, Safdar Hussain Leghari, Fayaz Ahmed Laghari & Syed Mujeeb Alam Shah advocates for HESCO.

Through all these petitions, the petitioners have challenged imposition/charge of Fuel Price Adjustment (“**FPA**”) in their electricity bills issued by respective Electricity Distribution Companies. On the very first date a learned Division Bench while entertaining these petitions has passed ad-interim orders to the effect that the petitioners are only required to pay the current dues and not the FPA as claimed in their monthly Bills. However, it appears that during pendency of these petitions, the controversy as to the legality of charging FPA in monthly bills, as well the question of jurisdiction of High Court under Article 199 of the Constitution in entertaining such petitions now stands decided by the Hon’ble Supreme Court in the case reported as *Peshawar Electric Supply Company Ltd (PESCO) v SS Polypropylene (Private) Limited (PLD 2023 SC 316)*. The said case arose from a Judgment by the learned Peshawar High Court, whereby, the petitions of the consumers were allowed and it was held that imposition of FPA is unconstitutional and illegal. It has been held by the Supreme Court that firstly, the matter pertains to the exclusive domain of

NEPRA under Regulation of Generation, Transmission and Distribution of Electric Power Act, 1997, (“**1997 Act**”) including the powers to issue guidelines and standard operating procedures outlining the mechanism through which various tariffs, including the ‘charges’ ought to be factored in the respective tariffs of the consumers, whereas, NEPRA after an elaborate, open and transparent process that involves hearing of all stake holders and after careful scrutiny of various components of the claimed rate of tariff suggests a uniform consumer tariff across the country in line with section 31(4) of the 1997 Act. Lastly it has been held that the High Court under Article 199 of the Constitution lacks jurisdiction in such matters as they pertain to policy making and economic regulations; hence, falls within the domain of the Executive.

Similarly in the case of *K-Electric<sup>1</sup> v Federation of Pakistan* it has been held by the Supreme Court that tariff determination is a complex and technical process, for which, NEPRA has been established; a detailed regime exists with procedures, process and guidelines on tariff determination which in no manner empowers the Federal Government to determine or adjust the tariff and it is the clear mandate of the Act.

Since the controversy as well as the jurisdiction issue already stands decided against the petitioners by the Supreme Court in the aforesaid Judgment(s), no case of any indulgence is made; hence, all these petitions being misconceived are hereby dismissed with pending applications.

**JUDGE**

**JUDGE**

A.

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<sup>1</sup>Judgment dated 19.01.2023 in CIVIL APPEALS NO.1011 TO 1119 OF 2020 and other connected matters