

ORDER SHEET

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

C. P. No. D - 1064 of 2022

along with C. Ps. No. D - 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, 1484, 1549 & 1599 of 2022 and 02, 107, 111, 122 & 493 of 2023

Present:

Justice Zafar Ahmed Rajput

Justice Zulfiqar Ahmad Khan

Date of Hearing : 18.05.2023

Date of Decision : 02.06.2023

M/s Ghulam Shabbir Shar, Humail Rafi Mahesar, Muhammad Qasim Kandhro, Syed Zaffar Ali Shah Bukhari, Niazuddin N. Memon, Abdul Sattar Mahesar, Shabbir Ali Bozdar, Syed Muhib Ali Shah, Irshad Hussain Dharejo and Danish Ali Bhatti, Advocates for the petitioners in C. Ps. No. D-1064, 1072, 1077, 1104, 1105, 1132, 1148, 1160, 1169, 1193, 1468, 1484 & 1599 of 2022 and 107 & 111 of 2023.

Mr. Muhammad Asif Kolachi, Advocate holding brief for Mr. Imdad Ali Malik, Advocate for the petitioners in C. P. No. D-1068 of 2022.

Jhando Khan Jarwar, Abdul Sattar Maheshar, Ghulam Rasool Bahleem, Muhammad Balam Sangi, Abdul Wahid Ghunio, Ahsan Ahmed, Ghulam Rasool Mahar, Riaz Ali Maitlo, Aijaz Ali Shar and Zahid Ali Jalalani, Petitioners in person in C. Ps. No. D-1084, 1087, 1097, 1099, 1106, 1112, 1114, 1135 & 1147 of 2022 and 02 of 2023.

Mr. Shafi Muhammad Chandio, Additional Advocate General Sindh and Ali Raza Baloch and Mehboob Ali Wassan, Assistant Advocate Generals Sindh along with Syed Sardar Ali Shah (Chief Engineer, Sukkur Barrage Left Bank Region, Sukkur), Ghulam Shabbir Memon (Chief Engineer Highways, Sukkur), Shahzeb Shaikh (Deputy Commissioner, Naushahro Feroze), Liaquat Ali Kalhoro (Additional Deputy Commissioner-I, Sukkur), Majid Hameed Shaikh (Additional Deputy Commissioner-II, Ghotki), Zafar Abbas Abbasi (Additional Deputy Commissioner-II, Khairpur), Niaz Hussain Mangnejo (Focal Person, Deputy Commissioner Office, Khairpur), Mustaqeem Hussain Qureshi (Assistant Commissioner, Faiz Ganj), Imdad Hussain Siddiqui (Director Operations, PDMA, Sindh), Javed Aftab (Project Director, SCARP), Habibullah Soomro (Assistant Executive Engineer, SCARP, Naushahro Feroze on behalf of Amjad Ahmed Memon (Project Director, SCARP, North Rohri/Shahheed Benazirabad), Mukhtiar Ahmed Samejo (Superintending Engineer, Provincial Highways Circle, Sukkur), Zain-ul-Abidin Morio (Executive Engineer, Provincial Highways, Sukkur), Jameel Ahmed Sangi (Executive Engineer Irrigation, West Division, Khairpur), Zirgham Ali Rajpar (Executive Engineer, Tube-well Division, Naushahro Feroze), Nisar Ahmed Sahito (Deputy Director SFERP, Karachi), Dr. Rahmatullah Solangi (District Health Officer, Khairpur), Dr. Anwar Ahmed (Focal Person of District Health Office, Sukkur), Dr. Nadeem

Ahmed (Focal Person of District Health Office, Naushahro Feroze), Maqbool Hussain Hakro (District Malaria Superintendent, Khairpur), Mir Aijaz Hussain (Assistant Executive Engineer, Mirpur Band) and Abdul Ahad Solangi (A.C-G, Commissioner Office, Sukkur).

ORDER

ZAFAR AHMED RAJPUT, J. - These petitions have been filed by the petitioners, who are residents of Sukkur Division and Naushero Feroze District (*Shaheed Benazirabad Division*) and due to torrential rain and flooding in monsoon season of 2022 they became internally displaced ('IDPs'), for providing them tents, food, medicines, etc. being their basic rights. The unusual monsoon rains and flood caused widespread devastation, resulting in the destruction of public property, infrastructure and loss to livestock, human lives, and affected vulnerable individuals. After disastrous rainfall in 2010, it was second time in 2022 monsoon season that the Sindh Province faced such havoc. Over 05 million people were displaced from their homes due to substantial damage to their houses, crops, livestock, lack of town planning and emergency management. There was no proper and organized system for providing them tents, food, clean drinking water, health facilities in the flood affected areas. No place or land was reserved for providing shelter to IDPs with basic facilities; resultantly, they were compelled to take refuge under the open sky along with road side, canal and river banks in miserable and unhygienic conditions. Under such circumstance, in order to channelize the efforts for betterment of IDPs, this Court vide order dated 01.09.2022 issued directions to the Commissioners, Sukkur and Shaheed Benazirabad Divisions, to constitute a 'Citizens Committee' in every Taluka of Sukkur Division and Naushahro Feroze District headed by a Civil Judge, notified by the District Judge concerned and comprising of Medical Superintendent of the Taluka Hospital, Mukhtiarkar, Focal Person of PDMA and President of the Taluka Bar Association, with following directions:

- (i) The Deputy Commissioners of Sukkur Division and Naushahro Feroze District shall forthwith establish per requirement one or

more Tent City in their Talukas for scattered IDPs. The Citizens Committee shall look after the affairs of Tent City.

- (ii) The Commissioners, Sukkur and Shaheed Benazirabad Divisions, Deputy Directors PDMA, Sukkur and Shaheed Benazirabad Regions and concerned District Health Officers shall ensure medical facilities to IDPs, including lady Medical Officers and Maternity Staff in Tent City.
- (iii) PDMA shall ensure providing food, clean water, clothes and other basic facilities to IDPs including washrooms in good number and hygienic atmosphere in the Tent City.
- (iv) The Deputy Commissioners and SSPs of Sukkur and Shaheed Benazirabad Divisions shall take action against the misappropriation, stealing and selling of IDPs Aid Items.
- (v) The Commissioners, Sukkur and Shaheed Benazirabad Divisions, Chief Engineer Irrigation, Sukkur Barrage, Sukkur and SSPs of the Districts shall ensure that no illegal cut is made in *sim nalas*, drainage and water channels etc. by the miscreant persons and action against them in accordance with law.

2. Subsequently, this Court passed various directions to concerned officials and departments for draining out rainwater from geologically depressed areas of Sukkur Division and Naushero Feroze District through natural watercourses and channels, etc., which bore fruits and with the exception of a few areas, the stagnate rainwater has now drained out. It is just a temporary relief for the affected people.

3. In order to formulate some suggestions for Government of Sindh to avoid in future the similar or even more disastrous events due to heavy rain and flooding in the Province, we have heard the learned counsel for the parties and also sought assistance from officials of various departments of Government of Sindh, including Mr. Mansoor Ahmed Memon (*Chief Engineer Irrigation Development Region-I, Hyderabad*) and Mr. Syed Sardar Ali Shah (*Chief Engineer, Sukkur Barrage Left Bank Region, Sukkur*).

4. We have been apprised of the facts that the Sindh Province possess waste Irrigation and Drainage network and it is one of primary beneficiary of the Indus Basin System and also one of the largest contiguous irrigation system in the world. In Sindh Province there have been constructed three barrages, which have diverted about 48 Million acre feet or 59 billion cubic meter of water annually to 14 main canal commands. In addition to this the network or River Protective Bunds, flood protective bunds and drainage system has also been existing to drain out the excessive water during floods. The detail of Irrigation Infrastructure its statistics, canals, bunds, drains and reservoirs and tube-wells are as under:-

The detail of Irrigation Infrastructure & Statistics.

•	Geographical Area of Sindh Province.	54,408 Sq: Miles – 34 Million Acres.
•	Irrigation Area.	12.81 Million Acres.
•	Irrigation Department Establishment.	1849 by British Government.
•	Sukkur Barrage Constructed	1932
•	Kotri Barrage	1955
•	Guddu Barrage	1962
•	Total Number of main Canals.	14 (3 Guddu, 7 Sukkur & 4 Kotri).
•	Total Number of Branch Canals.	109
•	Total Number of distributaries.	509
•	Total Number of Minors	902
•	Total Number of water courses	42268
•	Total Number reservoirs (1.5 MAF)	3 (Manchar, Kinjhar & Chotiari)
•	Total length of Indus River in Sindh	528 Miles.
•	Total length of drainage network	837 miles.
•	Total number of tube wells (Fresh/Saline)	5863 Nos 6005 respectively.
•	Allocated Water (1991 Accord).	48.70 MAF.

The detail of Flood Protective Bunds.

•	Front line bunds.	875 Miles.
•	Loop Bunds	331 Miles.
•	Total River bunds	1206 Miles.
•	Flood protective bunds	119 Miles.
•	Total length of bunds in Sindh	1325 miles.

The brief detail of drainage system in Sindh.

•	Drain	No. of Drain	Length in miles.
•	Sukkur Barrage Command.	361	1909 Miles.
•	Kotri Barrage Command.	361	2030 Miles.
•	LBOD spread in Sukkur & Kotri Barrage Command.	110	958 Miles.
•	Guddu Barrage Command Ghotki Feeder.	5	63 Miles.
•	RBOD-I, II & III	Work in progress	

The detail of Tube Wells.

	Name of Project	No. of Tube Wells.
•	SCARP Khairpur Project	645
•	SCARP North Rohri Project	1797
•	SCARP Sukkur Project	532
•	LBOD	1798
•	SCARP Ghotki	1091
•	Total	5863 Nos: Tube Wells.

The detail of existing Reservoirs in Sindh.

	Name	Area	Location
•	Kinjhar Lake (0.5 MAF).	50 (Sq: K.M)	Near Thatta Town.
•	Manchar Lake (0.35 MAF)	100 (Sq: K.M).	Near Sehwan Town.
•	Chotiari (0.7 MAF)	98 (Sq: K.M).	Along Nara Canal near Sanghar Town.

5. **Left Bank of River Indus:** The major area of Sindh is underlain by saline ground water, which is untreatable for Irrigation and other uses. Due to insufficient drainage network and flat topography of the basin, nearly one-fifth of canal command area is affected by water logging and salinity. To help and address the problem of water logging and salinity the LBOD (*Left Bank Outfall Drain*) was constructed and completed in 1997. The LBOD collects the drainage water from three districts of the Sukkur Barrage Command area viz. Shaheed Benazirabad, Sanghar & Mirpurkhas districts and drains the said water to the sea through Badin district through a tidal link drain. The upper part of the LBOD area has benefited from the drainage; however, there are several issues un-resolved in Badin district and coastal zone.

6. In the Sindh Province there are many short and long reaches of the abandoned river courses on both sides of the Indus river. These abandoned river courses use to serve as natural drains (*dhoros or dhoras*) for river and storm water floods. With the passage of time, these *dhoros* have been obstructed by un-authorized embankments, roads, canals, drains, fishponds, crop areas, villages, small towns and houses. These obstructions impede the drainage of rain and floodwater causing ponding and in addition of the water, which ruins the standing crops and damages to infrastructure and put losses to livestock and human lives. The extreme rain fall events in 2010 & 2022 are a wakeup call, which caused unparalleled loss to the human lives, marooning settlement and damaged to crops, livestock, physical and productive infrastructure as well as

communication. In a result the huge loss worth in billions of rupees sustained by the Government as well as private properties and infrastructure which reflects the bad impact on the economy of the country and also increase the poverty elevation throughout the country specially in rain affected area.

7. A study shows that even in the rain fall events of 2003, 2006 and 2011 in the lower Sindh and 2012 in the upper northern Sindh caused un-parallel loss to the human lives marooning of settlements, standing crops, livestock and damaged the physical and productive infrastructure and means of the communications, displacement of flood affected population and their livelihoods. These calamities challenges the ability of government agencies to cope up with such a catastrophic situation and highlights the need for corrective and mitigation measures to avert similar flood and natural disasters in future. This experience also provides an opportunity to evaluate the performance of the drainage network.

8. **Right Bank of Indus River:** In the right side of Indus River specially in the jurisdiction of Sukkur Barrage Right Bank Region Larkana, the total length of front line of river protective bunds is 169.0 miles and second line of defence bund is 62.25 miles. In addition to this the flood protective bunds front line 119.70 Miles and second line is 52.4 Miles to face the situation during flood. The Superio Bund keeps very important role in the flood fighting, though it is not connected with any flood protective bund, it may be connected with Johi Branch and Warah Branch tail because without connecting it with above said compartments, the required results cannot be achieved, which is needed to be linked as during flood the people have to face very alarming situation. Moreover in case of heavy rains, the unlimited water reaches and attacks the flood protection bunds. During the flood 2010 & 2022, the over topping and breaches were occurred causing damage to existing infrastructure and devastation of human lives, livestock and public properties.

9. There are almost 11 obstructions / hindrances in the water way from Baluchistan to Manchar lake at various locations which are required to be re-addressed / removed looking to the present flood situation so that flood

water run smoothly and to control over occurrence of breaches / over topping in future and the detail of obstruction and breaches are as under:-

Details of obstruction of water way from Baluchistan to Manchar Lake:

1	RD-169	Bridge Sindh Balochistan Border
2	RD-183	Bridge Shahdaskot to Khuzdar
3	RD-452	Bridge Qambar to Gebidero
4	RD-346	Bridge MNV Head
5	RD-322	Bridge Mehar to Faridabad
6	RD-285	Bridge Mado to other Villages
7	RD-252	Bridge Bug Burrira to other Villages
8	RD-221	Bridge K.N Shah to Mian Naseer faqeer
9	RD-193	Bridge Kakkar to Gaj Bund
10	RD-88	Bridge Johi to Gorakh Hill
11	RD-33	Bridge Bhan to Chinni

Details of Breaches occurred in 2022 flood.

Sr#	Location	RD	Present Status
1.	Flood Protective (F.P. Bund).	RD-169	Closed.
2.		RD-200	Closed.
3.		RD-340	Closed.
4.		RD-432	Closed.
5.		RD-476	Closed.
6.	Superio Bund.	RD-12	Closed.
7.		RD-28	Closed.
8.		RD-42	Closed.
9.		RD-52	Closed.
10.		RD-82	Closed.

10. Seemingly, the natural flow of storm water through the dhoros is blocked by low capacity culverts and bridges on the roads, illegal barriers, settlements and crop. Consequently, relief cuts are made at numerous places to the banks of natural drains to evacuate floodwater. The existing drainage network of LBOD is designed for lower runoff according to the rainfall condition, which is unable to drain out its catchment areas during high rainfall and other climatic events on left side of River Indus.

11. The Sindh Province sustained irreparable huge loss worth in billions of rupees due to natural calamity of heavy rainfall of 2010, which was an extreme catastrophe for whole Sindh. In this behalf it is not out of place to mention that a study was conducted by the Louis Berger Group Inc. in association with Indus Associated Consultants (Pvt.) Ltd. during August 2013 and in the final report of above said study five investment projects were identified that apparently meet the criteria of sustainability, high economic return and high

likelihood of being implemented as designed and the said projects are as under :-

- i) Rehabilitation of LBOD.
- ii) Revival of natural water ways and storm drains.
- iii) Mangrove plantation in coastal areas.
- iv) Rehabilitation of Deh Akro-II and Chotiari wetlands.
- v) Forest plantation using drainage water (Pilot).

12. Besides, in order to address the issues relating to ponding and in audition of excessive water caused by storm rains, it is suggested that there is need of reviving the LBOD and major dhoros to ensure safe disposal of floodwater along both sides of River Indus. There is also utmost necessity to improve the drainage of storm water from both sides of Indus river by reviving the natural water ways including constructing a new surface / storm drains in the left over area. Simultaneously there is need to accelerate the work of RBOD Project which is still in progress.

13. At the right bank of Indus River situation in the jurisdiction of Sukkur Barrage Right Bank Region Larkana there seems necessary to have a carrier channel / drain to be constructed from Baluchistan to Hamal Lake (MNV Head Regulator) and from Hamal Lake to Manchar Lake total 119.3 Miles so as to divert the hill torrents water of Baluchistan through the said proposed carrier channel / drain up to the Manchar Lake as to reduce the pressure of water from F.P Bund and Superio Bund.

14. In the light of the study of Louis Berger Group, Mr. Syed Sardar Ali Shah, Chief Engineer, Sukkur Barrage Left Bank Region, Sukkur has suggested that the rain water of Kotdiji , Mirwah, Talpur Wada, Faiz Ganj and Mehrabpur may be drained out by constructing the under passes along Rohri Canal and Mirwah Canal and approach drains may also be constructed to connect with Kandiaro Dhoro and other main drains. The effluent water of Khuhra, Gambat, Ranipur and Hingorja may be drain out in Kandiaro Dhoro through Kandiaro Escape while low levels of the water in the Indus River. Similarly the pumping station of 500 cusecs should be installed, which may be kept functional while

rising of the water level in the Indus River, so that, the pumping stations could drain out water while high level of water in Indus River so as to avoid stagnating in the area. An approach drain should be constructed to connect the Mirwah Canal with Nara Canal by making proper survey as the Nara canal is nearby source to drain out rainwater of Kotdiji, Mirwah, Talpur Wada, Faiz Ganj and Mehrabpur.

15. In view of above, we dispose of above listed petitions directing to the Chief Minister Sindh to form a high level committee comprising of at least three (03) senior officials of Irrigation Department, Government of Sindh for preparation of Regional Master Plan for the left and right banks of Indus River, Delta and Coastal Zone for implementation of feasibility study, carried out under Water Sector Improvement Project (WSIP) by International Consultant Louis Berger Group Inc. in association with Indus Associated Consultants (Pvt.) Ltd. referred to in Para 11 above and the suggestions referred to in Para 12, 13 and 14 above. Such compliance report be submitted by the Chief Secretary, Government of Sindh within thirty (30) days hereof through Additional Registrar of this Court. Once such a committee has been constituted, let copies of the progress reports be furnished to the Court through Additional Registrar.

16. All petitions stand **disposed of** in the above terms along with pending application(s), if any. Office is directed to place a signed copy of this order in all the captioned connected petitions.

JUDGE

JUDGE

Abdul Basit