

ORDER SHEET

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Constt Petition No. D- 852 of 2010

Date _____ Order with signature of Judge _____

Present:

Mr. Justice Nadeem Akhter &
Mr. Justice Muhammad Faisal Kamal Alam.

For katcha Peshi.

Date of Hearing: 12th December 2017

Mr. Sohail Ahmed Khoso, Advocate for the petitioner.

Mr. Mehboob Ali Wassan Assistant Advocate General.

ORDER.

MUHAMMAD FAISA' KAMAL ALAM, J. Through present constitutional petition, petitioner who is a resident of village Dur Muhammad Pathan, Taluka Gambat, District Khairpur, has prayed for directions of this Court to officials/ respondents Nos. 1 to 6 to resume the work of the road leading from Ripri Regulator to new Indus Eridge via Bharo (approximately 13 kilometers long), the subject road.

Mr. Sohail Ahmed Khoso, the learned counsel for the petitioner states that the subject road will not only be beneficial for the people of the locality, but it will also be useful for general public. He further submitted, as also pleaded in the petition, that the scheme for building the subject road was sanctioned way back on 03.01.2007 by respondent No.2 (Works and Services Department, Government of Sindh), vide sanction letter available at page 13, but after constructing 2 kilometers, the work was discontinued.

In para-wise comments, the respondents have disputed the claim of the petitioner only to the extent that the present scheme with regard to the subject road is only for its widening/re-conditioning, as the subject road already exists, but official respondents have not disputed that the work was stopped abruptly. The fact that relevant is, that in the year 2007, the entire allocation of funds

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amounting to Rs. 5 million was released. The estimated cost of the subject road /project at that time was Rs.89.862 Million. It has been further averred by the official respondents in their separate para-wise comments that the Government of Sindh has taken up cases of all those projects which remained incomplete during the past financial years, including the subject road. The respondents have stated that the subject road will be completed subject to availability of funds.

Arguments heard. Record perused.

The stance of official respondents is not plausible. The respondents cannot be absolved of their obligations merely by stating that the sanctioned/approved public project is discontinued on account of some " policy decision". The question is that once the approval was given as mentioned in the aforementioned letter, it is implied that officials while approving the subject project did deliberate upon the same and after taking into the account all the aspects of the case, including the financial component, the sanction was accorded. Perusal of parawise comments of different official respondents also leads to the conclusion that proper financial regulations and management are not in place, as the subject project was discontinued after expending Rs. 5 Million, which was not a small amount and should have been accounted for. Public exchequer can not be allowed to be misused in this manner and those responsible should be punished.

In one of the written statements of the official respondents (respondents Nos.3, 4 and 6), it is mentioned that contractor stopped the work due to non-availability of funds. This is yet again another proven act of mal-administration and mis-management of on the part of Respondents. The respondents should realize importance of building/constructing quality roads and projects, not only in the public interest or for the benefit of a particular locality but such facility is one of the basic means of communication. Reducing distances result in upliftment of socio-economic condition of persons/citizens. None of the parawise comments have stated that the scheme was wrongly approved or was dis-continued for any cogent reason. If the subject Road was not a feasible scheme then what punitive action was taken against delinquent officials, on this issue, even if there is one,

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Respondents' stance is completely silent. The Article 9 of the Constitution of Pakistan, relating to 'Life' in various judicial pronouncements, has been liberally expounded; the same principle is also applicable for the present case.

Though half-heartedly, but the respondents have conceded that the subject road will be completed on the availability of funds.

In this view of the matter we allow this petition with directions that the subject road/project should be completed in the first quarter of year 2018.

NI HANWAD FAISAL AHMAD ALAM,
JUDGE.

Sd/-
NADEEM AHMED,
JUDGE.

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