

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
C.P. No.D-8534 of 2017
(Yasir Khusheed & others versus Government of Sindh & others)

Date	Order with signature of Judge
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Mr. Justice Adnan-ul-Karim Memon
Mr. Justice Zulfiqar Ali Sangi

Date of hearing and order:- 07.04.2026

Mr. Zubair Abro advocate for the petitioners No. 1 to 42.

Mr. Zulfiqar Ali advocate for the petitioner No.43.

Mr. Nadir Khan Burdi, advocate for respondent No. 4.

Mr. Shahzaib Akhtar advocate for the respondent No.09

Mr. Ali Safdar Depar, AAG.

ORDER

Adnan-ul-Karim Memon, J. – The petitioners have filed the captioned Constitutional Petition under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, seeking the following relief(s):-

1. *Declare that the open burning/moldering of solid waste being carried out by any Respondents is a permanent safety threat for the locality and is also hazardous for public health hence the fundamental rights of the petitioners and other residents of the area guaranteed under Article 9 and 14 of the Constitution as well as under the relevant Environment protection laws being violated and infringed;*
2. *Declare that the reverbed being used by the respondents for open burning/smoldering of solid waste is patently illegal and amounts to playing with the lives of the petitioner and other residents of the area;*
3. *Direct the respondent No.5/SEPA to perform statutory obligations towards serious environmental havoc played by the respondents in an illegal manner, hence respondent No.5/SEPA be ordered to immediately initiate proceedings and take penal action against the respondents;*
4. *Direct the respondents, especially the respondents. 4,6,7 and 8 to immediately stop dumping and burning/smoldering of the solid waste/garbage in the Malir River at the Korangi Causeway;*
5. *Direct the respondent No.1 to impose a complete ban on disposal, burning, or smoldering of solid waste/garbage in the Malir river or its banks at the Korangi causeway;*
6. *Direct the respondent No.3 to ensure the enforcement of Section 144 Cr.P.C imposed by the Respondent No.1*
7. *Grant an injunction and restrain the Respondents, more particularly the respondent Nos. 4,6, 7 & 8 from disposing, dumping, burning, and smoldering Solid Waste in the Malir River at Korangi Causeway.*
8. *Any other or further relief(s) which this Hon'ble Court may deem fit and proper under the circumstances.*

2. The Petitioners, comprising residents of Air force Officers Housing Society (AFOHS), Dadabhai Town, Mehmoodabad, and an environmental organization, have invoked constitutional jurisdiction challenging the dumping and open burning of solid waste in the Malir River at Korangi Causeway. They submit that thousands of tons of municipal, industrial, and hospital waste are being unlawfully dumped and burnt, releasing hazardous pollutants such as dioxins, mercury, and lead, causing severe environmental degradation and serious health risks, particularly respiratory diseases among residents and children. It is their case that such acts violate their fundamental rights to life and dignity under Articles 9 and 14 of the Constitution. Despite repeated complaints and even imposition of Section 144 Cr.P.C., the

authorities have failed to take effective action. The Petitioners seek directions to immediately stop the dumping and burning activities, enforce environmental laws, and restrain the Respondents from continuing such practices.

3. The Respondents, on the other hand, have largely denied responsibility and shifted liability inter se. The Sindh Solid Waste Management Board (SSWMB) maintains that it is actively collecting and transporting waste to designated landfill sites and has a zero-tolerance policy against burning; it attributes the alleged burning to unauthorized third parties outside its operational domain. Cantonment Board Faisal (CBC) asserts that it disposes of its waste through contractors at approved landfill sites and denies any involvement in dumping or burning in the Malir River. District Municipal Corporation (East) submits that, pursuant to an agreement, waste management functions stand transferred to SSWMB, and thus it bears no responsibility. The Karachi Metropolitan Corporation (KMC) submits that solid waste management falls within the statutory mandate of SSWMB and further raises that control of riverbeds lies with the Irrigation Department under the Sindh Irrigation and Drainage Authority Act, 1997. Similarly, the Irrigation Department (SIDA) denies jurisdiction, stating that its mandate is limited to water management and does not extend to solid waste or environmental regulation. SEPA/Respondent No.5 submits that it has already initiated proceedings against SSWMB before the Environmental Protection Tribunal regarding the issue.

4. We have heard the learned counsel for the parties present in court and perused the record with their assistance.

5. From the facts placed on record and the submissions advanced by the learned counsel for the parties, we have noticed that overall, the stance of the official Respondents reflects a lack of coordination and jurisdictional ambiguity, with each authority disclaiming direct responsibility while acknowledging the broader issue of waste management in Karachi.

6. The core issue in the present matter is not merely the denial of responsibility by different authorities, but a complete failure of governance resulting from a lack of coordination and effective enforcement of environmental laws. The record prima facie establishes that dumping and open burning of solid waste is taking place in the Malir River at Korangi Causeway, causing serious environmental degradation and posing grave threats to public health.

7. The stance of the Respondents, whereby each authority seeks to disclaim jurisdiction, cannot be countenanced. It is a settled principle of law that statutory bodies cannot evade their obligations on the pretext of inter se disputes of jurisdiction, particularly where fundamental rights of citizens are at stake.

8. The Supreme Court of Pakistan in *Shehla Zia v. WAPDA* has expansively interpreted Article 9 of the Constitution to include the right to a clean and healthy environment as an integral part of the right to life. It was held that environmental

hazards affecting the quality of life fall within the ambit of constitutional protection, and the State as well as its functionaries, are under a duty to prevent such hazards. Similarly, in *General Secretary, West Pakistan Salt Miners Labour Union v. Director, Industries and Mineral Development*, the Supreme Court emphasized that where environmental degradation poses a threat to public health, the superior courts are empowered to intervene to safeguard fundamental rights. Further, in the Human Rights Case *Environment Pollution in Baluchistan*, it was reiterated that the State is under a constitutional obligation to ensure environmental protection and cannot permit activities that endanger human life and ecological balance.

9. Applying the ratio of the above judgments, this Court is of the considered view that open dumping and burning of solid waste in the Malir River is per se illegal, unconstitutional, and violative of Articles 9 and 14 of the Constitution, as well as the applicable environmental laws, including the Sindh Environmental Protection Act, 2014. However, at the same time, the dispute reflects a systemic failure requiring coordinated administrative intervention rather than piecemeal adjudication.

10. Accordingly, the petition is disposed of with the directions that there shall be an immediate and absolute ban on dumping, disposal, burning, or smoldering of any kind of solid waste in the Malir River or its banks at Korangi Causeway by any authority, agency, contractor, or third party. Respondent No.3 shall strictly enforce the prohibition, including implementation of Section 144 Cr.P.C., and shall ensure that violations are dealt with promptly by registration of criminal cases under the relevant provisions of law. All Respondents, particularly Respondent Nos. 4, 6, 7, and 8, shall be jointly and severally responsible to ensure that no dumping or burning of waste is carried out, either directly or through contractors or any third party acting on their behalf. Any violation shall entail penal consequences, including departmental action against responsible officials. Respondent No.5/SEPA shall immediately initiate appropriate proceedings under the law against all violators and ensure strict compliance with Sindh Environmental Quality Standards (SEQS).

11. The Chief Secretary, Government of Sindh, is directed to convene a high-level meeting within two weeks of all relevant stakeholders, including but not limited to SSWMB, KMC, Cantonment Boards, DMCs, SEPA, Irrigation Department, and law enforcement agencies, to clearly delineate jurisdictional responsibilities, devise a coordinated and enforceable mechanism for solid waste management in the subject area, ensure that all waste is transported to designated landfill sites in accordance with law and submit a comprehensive report before this Court within four weeks.

12. The ban imposed herein shall remain in force and shall continue until a lawful, coordinated, and environmentally compliant mechanism is fully implemented to the satisfaction of this Court. It is clarified that administrative or jurisdictional

disputes shall not be a ground to compromise public health, and all authorities shall act in aid of one another to protect the fundamental rights of the citizens.

13. After this arrangement, the petition is disposed of along with pending applications.

Let a copy of this order be communicated to all concerned for compliance in time without fail. In case of failure the appropriate proceedings shall be initiated in terms of Article 204 of the Constitution against the delinquent officials.

JUDGE

JUDGE