

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI

Constitutional Petition No. D-1293 of 2013
(Muhammad Yahya and another versus Karachi Development Authority and others)

Date	Order with signature of Judge
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Mr. Justice Adnan-ul-Karim Memon
Mr. Justice Muhammad Jaffer Raza

Date of hearing & Orders: 21.09.2026

Mr. Farhan Khan, advocate for the petitioners
Mr. Abdul Jalil Zubedi, Addl. AG Sindh.

ORDER

Adnan-ul-Karim Memon, J. The petitioner has filed this Constitutional Petition under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, with the following prayer: -

- “1. *Direct respondent No.1 to reconstruct the cut at the intersection between Hyder Ali Road and the unnamed road.*
2. *Restrain the respondent No.1 from re-opening the cut at the intersection between Hyder Ali Road and the unnamed road.”*

2. The case of the petitioners is that they are residents of Faran Cooperative Housing Society, Karachi, and have filed this petition under Article 199 of the Constitution, alleging that reconstruction of Doraji Road resulted in increased traffic through a cut at the intersection of Hyder Ali Road and an unnamed road, causing heavy vehicular congestion, air and noise pollution, accidents and inconvenience to the residents. They state that despite completion of Doraji Road, the diversion continued to be used by buses and trucks. Petitioner No.1 initially approached Respondent No.1 through a letter dated 08.07.2010, followed by letters dated 24.01.2011 and 15.02.2011 to Respondent No.2, seeking remedial measures. Respondent No.2, after inspecting the area, vide letter dated 21.02.2011, directed Respondent No.1 to reconstruct the diversion/cut, which was accordingly reconstructed twice but subsequently reopened. It is added that despite a further representation dated 20.12.2011, no effective remedial action was taken. The petitioners contend that the respondents' failure to address the resulting environmental degradation violated their constitutional rights under Articles 9, 14, 23 and 24 of the Constitution and defeated their legitimate expectation that the cut would remain closed. They therefore seek directions to Respondent No.1 to reconstruct/close the cut and restrain it from reopening the same, along with costs and any other relief deemed just and proper.

3. Counsel for the petitioners submits that the grievance concerns continued use of the Hyder Ali Road cut, originally opened as a temporary diversion during reconstruction of Doraji Road, despite completion of the work. He contends that

the continued diversion has caused traffic congestion, pollution, public inconvenience and safety concerns, and that despite repeated representations and directions by the environmental authority vide letter dated 21.02.2011 to take appropriate remedial measures, including closure/reconstruction of the cut, the same was repeatedly reopened.

4. The respondent No.2, in its para-wise comments, stated that upon receipt of a complaint, the agency conducted a site inspection and found that the existing access towards Ghazi Salahuddin Road was extensively used by commercial and heavy vehicles, causing traffic congestion, vehicular emissions and noise pollution, thereby creating environmental nuisance and discomfort for residents of Farhan Cooperative Society and the adjoining areas. Consequently, a letter dated 21.02.2011 was addressed to the Administrator, CDGK, requesting appropriate traffic-management measures. However, upon fresh inspection conducted on 01.11.2021, the agency found that construction of Doraji Road had been completed and the complained-of issues were no longer observed.

5. Learned AAG submitted that traffic flow at the site was smooth and did not create any significant hazard or congestion. It was further reported that the existing cut forms part of the road design prepared by the Traffic Engineering Bureau (TEB). However, in case of closure of the existing cut, TEB may create an alternative cut near Rangoon Wala Roundabout, approximately 100 meters away, to ensure smooth traffic flow and avoid congestion.

6. Respondent No.4 (Defunct DMC East) in comments submitted that, pursuant to the Court's directions, a joint survey of Haider Ali Road was conducted by the concerned officials, including Traffic Police, Chairman TMC Jinnah, AEE DMC East and the petitioner. It was decided that an alternative diversion, approximately 130 feet from the existing cut, be opened before closing/reconstructing the old cut.

7. The Engineer, B&R, TMC Jinnah Karachi East, in comments submits that, after consultation with the Traffic Police and petitioners, the subject road cut was closed on 21.12.2023 as prayed. For public convenience and to avoid traffic congestion, a new U-turn was constructed 250 feet away from the old road cut.

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

9. In view of the pleadings and submissions, the grievance of the petitioners essentially relates to the continued opening and use of the cut at the intersection of Hyder Ali Road and the unnamed road, allegedly causing traffic congestion, pollution and inconvenience to the residents. However, the relief sought pertains

to the regulation and management of traffic and public roads, which primarily falls within the domain of the competent municipal/road authority. The petitioners have not been able to demonstrate any vested or enforceable legal right requiring this Court, in its constitutional jurisdiction, to direct reconstruction or permanent closure of a particular road cut. Moreover, the letter dated 21.02.2011 relied upon by the petitioners merely reflects an administrative direction to take appropriate remedial measures and, by itself, does not confer an indefeasible right upon the petitioners to have the cut permanently closed. In the absence of any material establishing that the respondents have acted in violation of a specific statutory duty or constitutional right, the relief sought cannot be granted merely on the basis of the petitioners' preference regarding traffic arrangements.

10. The petition, therefore, does not disclose sufficient grounds for interference under Article 199 of the Constitution and is dismissed.

JUDGE

JUDGE