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In the Supreme Court of Pakistan
(Original Jurisdiction)

Present:

Mr. Justice Anwar Zaheer Jamali
Mr. Justice Khilji Arif Hussain
Mr. Justice Sarmad Jalal Osmany
Mr. Justice Amir Hani Muslim
Mr. Justice Gulzar Ahmed

Suo Motu Case No.16 of 2011

On Court notice:

Mr. Abdul Fateh Malik, Advocate General, Sindh
Mr. Shahadat Awan, Prosecutor General, Sindh
Mr. Jawaid Farooqui, Dy. Attorney General
Mr. Adnan Karim, Asstt: Advocate General, Sindh
Raja Abbas, Chief Secretary, Sindh
Mr. Waseem Ahmed, Home Secretary, Sindh
Mr. Fayyaz Ahmed Leghari, IGP, Sindh
Mr. Iqbal Mehmood, Addl: IGP, Sindh
Mr. Manzoor Mughal, DIG, CIA
Mr. Mushtaq Maher, DIG, South
Mr. Shahid Hayat, DIG East
Mr. Aamir Farooqi, Acting DIG, West
Mr. Ali Sher Jakhrani, AIG (Legal)
Mr. Saeem Ahmed, ADIG (Legal)
Mr. Naeem Ahmed Shaikh, AIG Operation.
Maj. Ashfaq, Law Officer, Pakistan Rangers
Mr. Javeed Iqbal, D.G. NADRA
Mr. Ghulam Mustafa Phul, Member (L.U.) BOR
Mr. Waheed Ahmed Director, Anti-encroachment, BOR
Ms. Kausar Sultana Hussain, MIT-II, H.C. of Sindh
Mr. Atta-ur-Rehman,
Regional Election Commissioner, Hyderabad.
Mr. Tanveer Zaki,
Regional Election Commissioner, Karachi.
Mr. Abdullah Hanjrah, Law Officer, E.C. Sindh
Mr. Muhammad Ashraf Samoo,
President, Malir District Bar Association.
Mr. Muhammad Aqil, Ex-President, KBA
Mr. Iftikhar Ali Kaimkhani, Director Land, KDA
Mr. Mehmood-ul-Hassan, President, KBA
Mr. Umar Farooq, Director Settlement Survey & L.R.
Mr. Ahmed Pirzada, Special Counsel, BOR
Mr. Javed Haleem, complainant, in person

Date of hearing: 25.10.2012

Order

Today, when we have again take up the proceedings for
implementation of judgment in the case of Watan Party, as regards

observations (a) & (c), learned Advocate General Sindh has placed on record some maps of Karachi. In addition to it, Mr. Iftikhar Ali Qaimkhani, Director Land, Master Plan, KDA has also placed on record copy of digital map of Karachi. Mr. Fateh Malik has further placed on record certain documents, which also contain copy of order dated 5.10.2005 in Suit No.431 of 2005 (re: M/s Javedan Cement Limited versus Province of Sindh & others) passed by the High Court of Sindh. In the concluding part of this order, Court has observed as under:-

“.... I direct the Chief Secretary to immediately take steps to order survey of these Na Class numbers to save Government lands from land grabbers on one side and to secure revenue record from further tempering on the other hand. The proposed survey be ordered through Survey of Pakistan. In this regard, learned Additional A.G. present is directed to take up the matter with Chief Secretary for appropriate orders, which will be for the benefit of the Sindh Government.

.... The Chief Secretary, Sindh Government shall submit progress report in regard to proposed survey of the lands within four months today through M.I.T.”

2. When confronted with the issue of implementation of above directions, which were to be complied within four months, learned Advocate General Sindh and Mr. Ghulam Mustafa Phul, Member, L.U., Board of Revenue conceded that as yet, except some paper

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work/correspondence, no practical steps have been taken to ensure survey of un-surveyed (Na-class) Government land as required in terms of the judgment of the High Court. This being the position, we are inclined to issue Show Cause notices to the officials designated as Chief Secretary, Government of Sindh, Senior Member Board of Revenue, Sindh, and Director Settlement Survey and Land Records Department, as to why contempt of Court proceedings may not be initiated against them for non-compliance of such directions even after lapse of almost seven years. In addition to it, Senior Member, Board of Revenue is also directed to be present in Court on the next date of hearing with a working formula for implementation of aforesaid judgment of the High Court of Sindh within shortest possible time, as it is extremely important, in order to curb the menace of land grabbing and encroachment, which has become a rampant business, particularly, in the suburbs of Karachi city and is one of the major contributing factor in creating serious law and order situation due to frequent disputes of land grabbing, as also noted in our judgment in Watan Party (*ibid*).

3. Mr. Tanveer Zaki, Regional Election Commissioner, Karachi, on behalf of Election Commission of Pakistan, has submitted reply, wherein reference to certain correspondence has been made. For not undertaking the exercise of de-limitation, reference to Article 51 (5) of the Constitution and section 7(2) of the De-limitation of Constituencies Act 1974 has also been made. The stance taken by the Election commission of Pakistan will be examined in detail on the next date of hearing, but in the meantime, copies of the relevant documents/record referred to in their reply may be placed on record.

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4. Making his submissions with reference to observation (e) learned Advocate General Sindh filed a list of remaining deceased lawyers, whose families have been paid compensation by the Government of Sindh through crossed cheques. This assertion is confirmed by M/s Mehmood-ul-Hassan, Muhammad Aqil and Muhammad Ashraf Samoo, who are officer bearers of Bar Associations. As to the non-payment of compensation to the families of the remaining 76 victims out of 476 cases of ordinary citizens, whose names were approved for payment of compensation, the Home Secretary, Government of Sindh made a statement in Court that all possible steps will be taken to ensure that the cheques of compensation issued by the Government of Sindh for the bereaved families of the victims are delivered within shortest possible time and for this purpose, if need be, necessary publication will also be made through print media so that their legal heirs may contact the Government for payment of compensation. The Advocate General Sindh is required to submit further compliance report in this regard on the next date of hearing.

5. As regards direction (g), Mr. Fayyaz Ahmed Leghari, IGP, Sindh made reference to his report dated 23.10.2012 (page 14) to show that special units have been formed and revamped for controlling the crimes relating to kidnapping for ransom, *bhatta* collection and car lifting incidents. According to him, as a result of such steps taken by the police, the crime rate in this regard is gradually coming down. He has further assured that untiring efforts will be made by the police force under his command for complete elimination or to minimize such type of crimes in Karachi.

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6. As to appointments of Prosecutors, contemplated in direction (g), Mr. Shahadat Awan, learned Prosecutor General, Sindh placed on record list of eleven Prosecutors, who have been respectively posted in all the established ATC Courts in Sindh at various places. Such list is taken on record. He has further disclosed that in addition to these appointments, in order to strengthen the prosecution, Assistant Prosecutors have also been appointed for their assistance. He is directed to submit more comprehensive report about the completion of this exercise on the next date of hearing. Mr. Wasim Ahmed, Home Secretary, Government of Sindh has also brought to our notice allocation of Rs.10 million by the Government of Sindh for launching a comprehensive programme of witnesses protection. In this context, he has further disclosed that a bill containing detailed legislation on this subject has been prepared and finalized, which will be shortly submitted to the Provincial Legislatures for their approval.

7. As regards compliance of direction (h), we have heard Mr. Abdul Fateh Malik, learned Advocate General, the Chief Secretary, Government of Sindh as well as Mr. Wasim Ahmed, Home Secretary, Government of Sindh. From the disclosure of facts made by them, we are tentatively of the opinion that no substantial progress has been made either by the Federal Government or the Provincial Government to deal with the issue of illegal foreigners settled in different areas around the city of Karachi. Accordingly, Advocate General Sindh, the Home Secretary, Government of Sindh and Deputy Attorney General for the Federation of Pakistan are directed to submit their respective replies regarding the steps taken by them for compliance of such directions.

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8. In reply to the direction (i), Mr. Leghari, IGP Sindh made reference to para 16 of his report dated 23.10.2012, which reveals that out of 254 police personnel, who lost their lives, families of 239 shaheeds police personnel have been paid compensation, while the cases of remaining 15 have not been finalized or rejected for different reasons, mentioned in his report. As we have reservation about non-payment of compensation to the families of these 15 police personnel, we direct the IGP and the Advocate General Sindh to submit detailed report for non-payment of compensation to the families of these remaining 15 shaheeds police personnel on the next date of hearing.

9. When the matter relating to compliance of direction (j) was taken up for consideration, Mr. Waseem Ahmed, Home Secretary, Government of Sindh came at the rostrum and informed the Court about the list of fifteen enquires, which are available at pages 8 to 15 of the report dated 17.5.2012, and also accompanied with copies of all such 15 enquiry reports. However, when he was specifically confronted about the enquiry report regarding the incident of accidental death of one girl Bushra Ansari in the year 1985-86 and some other reports, which do not form part of his list, he stated that unfortunately record of many judicial enquires undertaken by different forums or the Tribunals are missing from the official record. In this regard, the Home Secretary Sindh is directed to make serious efforts for bringing on record all these reports of enquiry tribunals, which were constituted in the matter of law and order situation in Karachi since 1985 onward.

10. During the proceedings of this case, it was also brought to the notice of this Bench that in Sindh number of criminals involved in

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crimes of heinous nature have been released on parole in an arbitrary and discriminatory manner. Taking judicial notice of this fact, we direct the Home Secretary, Government of Sindh to submit a detailed report about the ~~release of these~~ accused facing trial or otherwise, who have been released on parole in the last five years.

Further proceedings of this suo motu case are adjourned to 31.10.2012.

Karachi the
25th October, 2012
Not approved for reporting.
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