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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. Jawaid Farooqui, Dy. Attorney General  
Mr. Shahadat Awan, Prosecutor General, Sindh  
Mr. Adnan Karim, Asstt: Advocate General, Sindh  
Mr. Waseem Ahmed, Home Secretary, Sindh  
Mr. Fayyaz Ahmed Leghari, IGP, Sindh  
Mr. Iqbal Mehmood, Addl: IGP, Sindh  
Mr. Kamran Fazal, DIG, CID  
Mr. Manzoor Mughal, DIG, CIA  
Mr. Mushtaq Maher, DIG, South  
Mr. Shahid Hayat, DIG East  
Mr. Bashir Ahmed Memon,  
Acting Addl: IGP, Crimes.  
Mr. Azmir Farooqi, Acting DIG, West  
Mr. Ali Sher Jakhrani, AIG (Legal)  
Mr. Saleem Ahmed, ADIG (Legal)  
Maj. Ashfaq, Law Officer, Pakistan Rangers  
Lt. Col. Rashid, for D.G. Rangers.  
Mr. Zia Asif Janjua, Dy. Supdt. Rangers  
Mr. Muhammad Ashraf Samoo,  
President, Malir District Bar Association  
Mr. Muhammad Aqil, Ex-President, KBA  
Mr. Javed Haleem, complainant, in person

Date of hearing: 23.10.2012

Order

Suo Motu Case No.16 of 2011 and Constitutional Petition No.61 of 2011, regarding law and order situation in Karachi were heard and disposed off by a larger Bench of this Court, vide its judgment dated 13.9.2011, which is now reported as Watan Party and another versus Federation of Pakistan and others (PLD 2011 S.C. 997). In the said case, after detailed hearing, in terms of

paragraph 131, inter alia, following declarations and observations were made for the purpose of implementation:-

"131. Thus, from the material produced before the Court and the information conveyed during hearing of the case by the ISI followed by intensified arguments advanced by the learned counsel appearing for the Provincial and Federal Governments, learned Attorney General, learned Advocate General, learned counsel for the Province of Sindh and learned counsel for the interveners, the Inspector General of Police, the DG Rangers, the Presidents of the Sindh High Court Bar Association and the Karachi Bar Association as well as all others, we --

Observe that violence in Karachi during the current year and in the past is not ethnic alone but it is also a turf war between different groups having economic, socio-politico interest to strengthen their position/aggrandizement, based on the phenomenon of tit for tat with political, moral and financial support or endorsement of the political parties, who are claiming their representation on behalf of public of Karachi including components and non-components of Provincial Government/Executive;

AND

Declare that recent violence in Karachi represents unimaginable brutalities, bloodshed, kidnapping and throwing away dead bodies and torsos in bags; as illustration, indicating toll of 306 lives in one month; detection of torture cells video of which has been produced; receiving bhatta to strengthen the ranks of one group against the other; grabbing land; drug mafia etc., destroying moveable and immovable properties of the citizens, establishes that the Fundamental Rights of the citizens enshrined in Articles 9, 14, 15, 18 and 24 of the Constitution have not been protected/enforced by the Provincial Government/Executive authority and this failure has made the lives and properties of the citizens insecure, inasmuch as Federal Government/ Executive has also not protected Province of Sindh against internal disturbance, thus the government of Province of Sindh, on this account, too, failed to carry out functions in accordance with the provisions of the Constitution [Article 148(3)];

AND

Further observe that both the Provincial and Federal Governments/Executives have to find out solutions of the present scenario as per provisions of the Constitution:

AND

Further observe that to come out of instant grave situation of law

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and order in Karachi, police force being principal law enforcing agency has to be de-politicized and strengthened so that they could, with full commitment, dedication, zeal and zest, perform its bounden duty, and unless there is a de-politicized police, the situation of law and order is likely to become more aggravated, no sooner the assistance of Rangers is withdrawn;

AND

We apprehend that any further failure to protect the lives and property of the citizens is likely to cause unprecedeted disaster, therefore, all efforts should be made to avoid the same in the interest of the nation and country, which is supreme as per the mandate of the Constitution and the law;

AND

Further observe that in respect of banning any political party including MQM, against whom all the interveners mostly had voiced complaints is not within domain of the Court at this stage as in terms of Article 17(2) of the Constitution every citizen, not being in the service of Pakistan, shall have the right to form or be a member of a political party, subject to any reasonable restrictions imposed by law in the interest of the sovereignty or integrity of Pakistan and it is the responsibility of the Federal Government to act under Article 17 for action against any party violating this Article. The Court will only review such issue at any other appropriate stage or proceeding if then necessary to determine whether the actions of any party are directly or indirectly prejudicial to the sovereignty or integrity of Pakistan within the meaning of the Article. The Court will remain, in appropriate proceedings, the ultimate arbiter of this question but will not allow any government to avoid its duty under the law and the Constitution;

AND

Further observe that as per material brought before the Court, there are criminals who have succeeded in making their ways in political parties notwithstanding whether they are components or non-components of government, and are getting political and financial support allegedly from such parties, therefore, the political parties should denounce their affiliation with them in the interest of the country and democratic set up and they should not allow them to use their names as militant outfits of the political parties. Failure to do so may entail consequences of a penal nature against the party or person responsible, whether in office or not;

AND

- (a) Further observe that to avoid political polarization and to break the cycle of ethnic strife and turf war, boundaries of administrative units like police stations, revenue estates, etc., ought to be altered so that the members of different communities may live together in peace and harmony, instead of allowing various groups to claim that particular areas belong to them and declaring certain areas as NO GO Areas under their fearful

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influence. Subsequent thereto, on similar considerations, in view of relevant laws, delimitation of different constituencies has also to be undertaken with the same object and purpose, particularly to make Karachi, which is the hub of economic and commercial activities and also the face of Pakistan, a peaceful city in the near future. The Election Commission of Pakistan may also initiate the process on its own in this behalf;

AND

Further observe that equal chances should be provided to different communities of Karachi to participate in economic and commercial activities instead of confining the same to different political groups on the basis of parochial, racial, tribal, sectarian, partisan and provincial prejudices;

AND

(b) Further observe that Karachi is full of arms and ammunition of prohibited and non-prohibited bores including licensed and illicit, therefore, Karachi has to be cleansed from all kinds of weapons by adhering to the laws available on the subject, and if need be, by promulgating new legislation. All licensed arms genuinely required for security concerns and personal safety may be retained but these must also be registered with NADRA. All other licenses, where such need cannot be shown, or where multiple licenses have been issued to the same individual (as distinct from security firms) if not justified, or which are used for unnecessary display at ceremonies or elsewhere for aerial firing should be cancelled after summary and expeditious proceedings in accordance with law;

AND

(c) Further observe that there is a need for a fresh comprehensive law to eliminate and punish land grabbers and encroachers. This is one of Karachi's greatest problems. The Court has already dealt with some cases *Suo Motu* and otherwise, and will continue to do so whenever necessary or appropriate. Sometimes this Court is the last hope of the citizens or a community which turns to it for redress when all other avenues are denied to them. But overall it is the duty of both Governments to formulate such law and initiate it in the appropriate assembly; and thereafter to implement it fully without showing any favour or immunity to any person whether a political favourite, ally or for any other personal or party consideration;

AND

(d) Further reiterate that monitoring of the criminal cases should take place in view of the observations made in the case of Sheikh Liaqat Hussain (*supra*). Besides, the appointments of the Presiding Officers of the Anti-Terrorism Courts should also not be delayed for any reason, as we experienced during the hearing of the case that those appointments were delayed for a period of nearly two years. However, under the direction issued by the Court, the Presiding Officers were appointed and we expect thins such delays shall not be allowed to occur in future;

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- (e) We observe that since innocent citizens have lost their lives, number of which comes to 1310 during the current year. Similarly, a good number of citizens have been injured and/or lost their valuable property, both movable and immovable, therefore, provincial government/executive shall constitute a Commission to assess their losses and on its recommendation, compensation must be paid to the sufferers without partisan consideration, as early as possible;

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- (f) We direct that there must be no 'NO GO AREAS' at all in Karachi. If any is found or credibly reported to the Court the Police and, if required by the Provincial Government, the Rangers shall take strong and decisive action to eliminate it.

Moreover, if such an area is proved to exist to the satisfaction of the Court, we may require the IGP himself, and if necessary the DG Rangers also, to personally lead the operation into such areas. The Police and Rangers are therefore, expected to conduct the on-going operation across the board without showing any favour to any one and without being influenced from any quarter, be it political or otherwise. In case they are asked to obey any illegal orders, or to show leniency to any criminal, it will be their duty to bring it to the notice of the Court and appropriate orders will be passed accordingly;

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- (g) Further direct that an independent and a depoliticized investigation agency be deputed to conduct investigation of cases fairly, honestly and without being influenced in any manner. Similarly, the prosecution agency comprising competent prosecutors and the Provincial Government/Executive must provide protection to the witnesses so that they may depose against the perpetrators of crimes without any fear, enabling the courts to decide cases against them in accordance with law. The prosecutors, particularly for the Anti-Terrorism Courts should be appointed in a highly transparent manner according to the Constitution and the law. Appointments of prosecutors are required to be undertaken without any political whims and considerations;

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- (h) Further direct that DG NADRA and the IGP will set up a special joint cell with specialized officials and experts along with sufficient manpower to establish several teams to visit on the spot and identify illegal foreigners so that they may be dealt with strictly in accordance with law after a proper hearing and opportunity to present proof of their citizenship. They should attempt to conclude this exercise preferably in one year;

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- (i) Further direct that the IGP shall collect the record and facts

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about the disappearance or elimination of all police and other officials who took part in the Karachi operations of 1992 and 1996 or were witnesses in ethnic or related crimes and present a report to the Court within the next one month also showing whether their families were compensated or not;

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- (j) Further direct that the Provincial Government shall place on record of the Court copies of all judicial inquiries instituted in the matter of law and order in Karachi since 1985. These shall be retained for perusal and for any necessary action or appraisal of the situation at any time in the future;

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- (k) Further observe that the Provincial Government/Executive shall ensure smooth running of economic and commercial activities and shall take necessary steps that the protection is provided against uncalled for and illegal shutter down and strikes to the businessmen. During arguments, it was also brought to our notice that due to illegal strikes and shutter down calls, the normal life of citizens of Karachi is paralyzed, and allegedly it causes loss of billions of rupees in a day, therefore, it is observed that the Government and the political parties shall evolve a respectable way out to avoid such a situation in future;

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- (l) Finally, it is directed that a Committee be constituted by the Provincial Government/Executive, headed by the Chief Justice of Sindh High Court, who shall be assisted by the Chief Secretary, the heads of the security agencies i.e. para-military organizations and I.G. Police, to supervise and ensure that law enforcement agencies take action indiscriminately, across the board against the perpetrators involved in causing disturbances in Karachi. The Chief Justice shall convene the meeting at least once in a month to review the implementation of this judgment and copy of the proceedings shall be transmitted to the Registrar of this Court for our perusal and passing appropriate orders at a later stage, if need be.”.

2. Now, after the lapse of more than one year, we have again taken up this suo motu case in order to examine the extent of its implementation. For this purpose, today we have heard Mr. Abdul Fateh Malik, learned Advocate General, Sindh, duly assisted by the officials of the Government of Sindh, police department and other law enforcing agencies, present in Court.

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3. For the sake of convenience in dictating this order and to deal with each declaration/observation separately in a chronological manner, we have marked the observations, which need implementation, (a) to (l) as above and now deal with the same one by one as under:-

(a) As regards the observation marked (a), Mr. Abdul Fateh Malik, learned Advocate General Sindh made reference to the earlier report dated 17.5.2012, and further report submitted in Court today to show that the work as regards alteration of boundaries of administrative units like police station and revenue estates has been subjected to various meetings/ proceedings at different levels. But, it has not been finalized as yet. He further submitted that he is unable to make any statement on behalf of Election Commission of Pakistan regarding "delimitation of different constituencies", which exercise was required to be undertaken with the object and purpose of making the city of Karachi a peaceful city in near future. We have noted with concern that probably due to non-issuance of notice or otherwise, today no responsible officer from the office of Election Commission of Pakistan is present to answer our queries in this regard. Let notice for tomorrow be issued to the Election Commission of Pakistan to depute some responsible officer, who shall attend the proceedings in this case and submit their report about implementation of such observation by the Election Commission of

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Pakistan. Mr. Abdul Fateh Malik, learned Advocate General Sindh is also directed to submit his further report in this context by tomorrow.

(b) As regards observation marked (b), relating to illicit and licensed arms, Mr. Waseem Ahmed, Home Secretary, Government of Sindh submitted that more than one million arms licenses have already been issued in the Province of Sindh, and for the effective implementation of observations of this Court in this regard, an agreement has been entered into with NADRA on payment of Rs.72.00 million to them, whereby they have agreed to maintain, step by step, a complete and transparent record of already issued arms licenses and also the licenses now being issued by the Government. Learned Advocate General Sindh conceded to the position that the progress as regards compliance of such observations is very slow and needs acceleration so that menace of illicit arms and issue relating to cancellation of unauthorized armed licenses is dealt with on priority basis.

(c) About compliance of observation marked (c) relating to comprehensive legislation to eliminate and punish land grabbers and encroachers, learned Advocate General frankly conceded that as yet no such legislation has been made by Government of Sindh. He, however, requested for further time to seek instructions in this regard.

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(d) As regards compliance of observation relating to monitoring of criminal cases in line with the earlier judgment of this Court in the case of Sheikh Liaqat Hussain versus Federation of Pakistan (PLD 1999 SC 504), Mr. Shahadat Awan, learned Prosecutor General Sindh made statement before the Court that all the Anti-Terrorism Courts in Sindh are now fully functional, having Presiding Officers. However, he showed his inability to submit up-to-date progress report regarding pending cases in these Courts, as, according to him, MIT-II, in the High Court of Sindh is the Incharge Officer, who can submit such report. This being the position, notice be issued to MIT-II, High Court of Sindh to submit a comprehensive report about the pending cases in all the Anti-Terrorism Courts in Sindh, with reference to any difficulty being faced by them and the reasons for delay in the disposal of such cases.

(e) About the observation marked (e) relating to loss of life of 1310 innocent citizens, learned Advocate General Sindh brought to our notice constitution of a Committee by the Government of Sindh, headed by Mr. Justice Zahid Qurban Alvi, former Judge, High Court of Sindh, who has undertaken some exercise in this regard. He further made reference to the earlier report dated 17.5.2012, and the report dated 23.10.2012 to show that out of 254 police personnel, who lost their lives in the line of duty, families of 239 Shaheed police personnel have been paid

compensation of Rs.20,00,000/- (rupees twenty lacs) each, while remaining 15 deceased have not been found entitled for payment of such compensation, as per the policy of the Government in this regard.

As to the payment of compensation to the citizens, who lost their lives due to violence, he further stated that out of 1310 claims of only 476 victims were verified and recommended for payment of compensation and from them payment of compensation has already been made through cheques to the bereaved families of 327 deceased at Rs.2,00,000/- (rupees two lacs) each. However, payment could not be made to the families of remaining, due to the main difficulty in locating their whereabouts. In this regard, learned Advocate General Sindh and the concerned police officers are directed to place on record the report of Committee headed by Mr. Justice Zahid Qurban Alvi, former Judge, High Court of Sindh, if any, policy decision of the Government of Sindh regarding payment of compensation to the families of Shaheed police personnel as well as to the families of innocent citizens, who lost their lives due to disturbed law and order situation. They are further directed to submit report as regards non-approval of the claim of remaining police personnel, who have not been found eligible for payment of such compensation.

In the same context, the issue regarding payment of compensation to fifteen deceased practicing lawyers in

Sindh, as detailed in paragraph 76 of the judgment, has also been taken up for consideration. In this regard, submission of M/s Muhammad Ashraf Samoo, President Malir Bar Association and Muhammad Aqil, ex-President Karachi Bar Association is that only the families of six Shaheed lawyers have been paid compensation at Rs.5,00,000/- (rupees five lacs) each, while families of other lawyers have not been paid compensation as yet. In reply, learned Advocate General Sindh undertook to submit detailed report in Court by tomorrow.

4. Keeping in view the above noted disappointing progress in the implementation of our above judgment in suo motu case No.16 of 2011, we observe that upto now very causal, unsatisfactory and unprofessional course has been followed by the concerned Government functionaries and the law enforcing agencies, therefore, we also call upon the Chief Secretary, Government of Sindh and Director General, Rangers to be present in Court tomorrow.

Adjourned to 24.10.2012.

Karachi the  
23<sup>rd</sup> October, 2012  
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