

IN THE SUPREME COURT OF PAKISTAN

(Review Jurisdiction)

Present:

Mr. Justice Jawwad S. Khawaja

Mr. Justice Ejaz Afzal Khan

Mr. Justice Maqbool Baqar

CRPs Nos.315-316 of 2013 in CMAs-6158-6159/13 in SMC-20 of 2007

AND

CrI.O.P. No.115 of 2014.

National Highway Authority thr. its Chairman
Israr Ahmed & others

...Petitioners in both petitions
...Petitioners in CrI.O.P.115/14

Versus

Roedad Khan
Maroof Afzal, Chairman, and others

... Respondent in both petitions
... Respondents in CrI.O.P.115/14

For the petitioner(s): Nemo. (in CRPs)
Syed Nayab Hassan Gardezi, ASC
(in CrI.O.P.115/14)

For the respondents-1,4&5: Mr. Munir Paracha, Sr. ASC
Hafiz S. A. Rehman, Sr. ASC
Hafiz Hifzur Rehman, ASC/Legal Advisor
Syed Mustafain Kazmi, Member (Environment)
Dr. Sheikh Suleman, DG, (Environment)
Rana Tahir Hassan, Director (Environment)

For the respondent-2: Mr. Mian Abdul Raoof, AG, Islamabad with
Mr. Bashir Ahmed, Director (Industries & Labour) ICT

For the respondent-6: Mr. Aitzaz Ahsan, Sr. ASC
Barrister Gohar, ASC
Mr. M. S. Khattak, AOR

Date of hearing: 19.03.2015

ORDER

Jawwad S. Khawaja, J.- CrI. O.P. 115 of 2014: On 6.3.2015 we had passed an order which is absolutely clear and without any ambiguity. The main thrust and purport of the order is that our order of 25.10.2013 shall not be allowed to be violated. We reproduce the relevant part of our order dated 25.10.2013:-

"5. Thus, Chairman CDA, Chairman NHA and any other executing agency are hereby restrained not to undertake any exercise towards the construction of Tunnel in the Margallah Hills enroute to the Province of KPK, nor CDA shall grant licence of crushing stones from the Margallah Hills. The Chairman CDA is further directed to constitute a team which shall put up a report that no activity of constructing of Tunnel or crushing of stones or encroachment or any other activity in the National Park is going on. If there is any such activity, the same shall be stopped at once. Copy of the compliance report shall be submitted before

this Court through Registrar for our perusal in Chambers and passing further orders if need be."

When the case was listed for hearing yesterday i.e. 18.03.2015 a letter dated 17.3.2015 was placed before us which has been issued by Bashir Ahmed, Director (Industries & Labour), Govt. of Pakistan. The said Bashir Ahmed is present in Court today and he was specifically summoned because para 2 of the aforesaid letter is in the following terms:-

"2. In pursuance of the Supreme Court of Pakistan's orders dated 16th March, 2015, in CRPs No.315,316 of 2013 in CMAs-6158-6159 of 2013 in SMC-20 of 2007 AND CrI.O.P.No.115 of 2014, Mining Lease of M/s FECTO Cement Limited issued vide letter No.DDI&MD/ICT/LL-5/Vol-1/2467, dated 21.12.2011 is hereby cancelled with immediate effect. You are directed to stop all activities and remove all installation forthwith."

Today, Mr. Aitzaz Ahsan, learned counsel has come to the Court on behalf of respondent No.6. He has argued that respondent No.6 i.e. M/s Fecto Cement Pvt. Ltd has not been undertaking any activities which are violative either of our order dated 25.10.2013 reproduced above or the Section 21 of the Islamabad Wildlife (Protection, Preservation, Conservation and Management) Ordinance 1979. We may point out that the moment we saw the letter on 17.3.2015 referred to above, we immediately summoned the Director (Industries & Labour) Govt. of Pakistan because our order of 16.3.2015 is clear and does not show any ambiguity. We, therefore, expressed our surprise that the said Bashir Ahmed has stated in his letter that it was in pursuance of the Supreme Court's order dated 25.10.2013 and on that basis he had proceeded to cancel the mining lease issued to M/s Facto Cement Ltd. (respondent No.6).

3. We may make it abundantly clear that no violation of our order shall be countenanced. If indeed respondent No.6 is undertaking any quarrying activity within the area of the Margallah Hills National Park, it would be a violation of our orders because we have specifically stopped illegal activities, quarrying etc. within the area of the Margallah Hills National Park which activities are violative of our order dated 25.10.2013 and Section 21(4) of the Islamabad Wildlife (Protection, Preservation, Conservation and Management) Ordinance 1979. Needless to add, all violators of our orders shall be proceeded against.

4. Learned counsel for the petitioners Israr Ahmed and two others was asked to file a concise statement because it was his plea that the Director (Industries & Labour) had

violated our orders of 25.10.2013 and this had been done earlier also. Today, he has the concise statement with him. Let the same be filed in Court. Copy of the same shall be provided to each of the parties.

5. The matter to come up on **8.4.2015**.

Judge

Judge

Judge

ISLAMABAD

19.03.2015

*M. Azhar Malik/**