

IN THE SUPREME COURT OF PAKISTAN
(Original Jurisdiction)

PRESENT:

Mr. Justice Iftikhar Muhammad Chaudhry, CJ.
Mr. Justice Ijaz Ahmed Chaudhry.
Mr. Justice Iqbal Hameedur Rahman.

CONSTITUTION PETITION NO. 20 OF 2013.

*(Action against Distribution of Development funds
by Ex-Prime Minister Raja Parvez Ashraf)*

AND

Human Rights Case NO. 11504-G OF 2013

*(News cutting Daily Al-Akhbar dated
25.03.2013 regarding alleged corruption of
Ex-Government)*

For the Applicants

Mr. Tariq Mehmood, Sr. ASC
(in CMA No.2960 & 3566/13)
Mr. M. Munir Peracha, Sr. ASC
(in CMA No.3579/13)
Syed Tayyab Jafri, ASC
(in CMA No.3649/13)
Mr.Irfanullah, Adv./SVP, DBA Lucky
Marwat (in CMA.3865/13)
Mr. Asif Fasihuddin Virdag, ASC
(in CMA No.4022/2013)
Mr. M. Siddique Khan Baloch, ASC
(in CMA. 4135/2013)

On Court's Notice:

Mr. Muneer A Malik,
Attorney General for Pakistan

For A.G.P.R.

Mr. Tahir Mehmood, AGPR

For Auditor General Pak.

Malik Manzoor Akhtar, D.G. Audit
Rana Shakeel Asghar, Dir. Audit
Mr. Khalid Naseer, A.O.
Mr. Athar Hussain Shah, A.O.

For M/o Housing & Works:

Mr. Nasar Hayat, Secretary

For Pak. PWD:

Mr. Sarwar Awan, D.G.

For M/o Finance:

Mr. Sajid Mehmood Butt, ASC
Mr. Abdul Khaliq, former Secretary

Mr. Seerat Asghar
Former SSPM/Addl. Secy

Mr. G. M. Mehmood, S.O. Legal

For Cabinet Div.	Nemo
For SNGPL:	Mr. Uzair Karamat Bhandari, ASC Mr. Arif Hameed, MD, SNGPL
For SSGL:	Nemo
For PEPCO:	Nemo
Date of Hearing:	28.06.2013.

ORDER

IFTIKHAR MUHAMMAD CHAUDHRY, CJ. — The learned Attorney General for Pakistan appeared in response to the Court's notice to assist the Court regarding the allocation of funds to the Parliamentarians under Peoples Work Programme-I (PWP-I)/Tamir-e-Watan Programme as well as Peoples Work Programme-II (PWP-II) and criteria/procedure along with results of the allocated funds, which ultimately belonged to the taxpayers. He is also required to assist the Court in terms of the Constitution and the law on the subject concerning the exercise of discretion by the Prime Minister keeping in view the requirement of transparency in distribution of public funds and execution of development works.

2. As far as PWP-II is concerned, it has a budgetary allocation of Rs.22 billions, to be distributed by the Prime Minister in his discretion. The material produced during hearing of the case suggests that upto 16.03.2013 the volume of allocated amount was increased upto Rs.47 billions. Details of slashing funds from other Heads to increase its volume have already been mentioned in the earlier order.

3. Raja Parvez Ashraf, former Prime Minister of Pakistan extended favours to the Senators, Members of the National Assembly, Provincial Assemblies, Notables and other functionaries by generously

distributing funds out of this programme in the name of so called development schemes. A major chunk of the amount of this fund has been distributed close to the completion of period of his government, i.e., on 15/16 March, 2013 as directions were issued from his office to the AGPR to disburse the amounts to various Federal and Provincial executing agencies, such as, PWD, SNGPL, PEPCO, etc. Funds were also given to certain Notables, details whereof are not mentioned in the relevant directives. Reference in this behalf may be made to the entries in the report submitted by Malik Manzoor Akhtar, D.G. (Audit), Office of the Auditor General of Pakistan, which read as under: -

Direct ive No.	Directive Date	Directi ve Cost	S.No.	Name of Scheme	Executin g Agency	Amount released (in Million)	Exp. Incurred (in million)	Saving / excess (in Million)	Physical progres s
			Notable						
506	30-Nov- 12	40.000	1	Construction of PCC Streets/Roads, Nallah, Boundary Walls & Brick Soling Streets at different Union Councils in District Chakwal		40.000	39.544	-0.456	100%
			1			40.000	39.544	-0.456	
			Notable						
507	30-Nov- 12	50.000	1	Construction of PCC Streets/Roads, Nallah, Boundary Walls & Brick Soling Streets at different Union Councils in District Chakwal		50.000	44.980	-5.020	85%
			1			50.000	44.980	-5.020	85%
			Notable						
508	30-Nov- 12	50.000	1	Construction of PCC Streets/Roads, Nallah, Boundary Walls & Brick Soling Streets at different Union Councils in District Chakwal		50.000	23.214	- 26.786	85%
			1			50.000	23.214	- 26.786	
			Notable						
509	30-Nov- 12	50.000	1	Construction of PCC Streets/Roads, Nallah, Boundary Walls & Brick Soling Streets at different Union Councils in District Chakwal		50.000	18.510	- 31.490	85%
			1			50.000	18.510	- 31.490	

4. During the course of hearing, the D.G. Pak. PWD, however, stated that Col. (R) Saleem, Malik Muhammad Amir, Mr. Faisal Majeed and Mr. Basharat Mehmood, all belonging to District Chakwal, were the Notables, to whom the funds were given. Not only this, in one of the cases even for furnishing of the office of Aviation Squadron, an amount of 0.200 million rupees was given, detail of which is as under: -

Directive No.	Directive Date	Directive Cost	S.No.	Name of Scheme	Executing Agency	Amount released (in Million)	Exp. Incurred (in million)	Saving / excess (in Million)	Physical progresses
			Maj Usman Nawaz Kiyani			Dated 11.3.13			
975	11-Mar-13	0.200	1	Renovation of Aviation Squadron Briefing Rooms.		0.200		-0.200	

5. Besides, when we commenced the hearing of the case an attempt was made to release the outstanding amount by signing cheques by M/S Khalid Qureshi and Khalid Malik, XENs CCD-II & IV, Pak. PWD, Islamabad, knowing well about the pendency of the case before this Court, but with the departmental intervention they were restrained from issuing cheques out of the amount which so far had not been spent and they have been placed under suspension.

6. *Prima facie* we are of the opinion that there must be some criteria for allocation of such funds because the Parliamentarians, Members of the Provincial Assemblies, other functionaries/officers/officials and other persons (Notables) who received such amounts in the name of development schemes cannot be permitted to be benefitted from such funds, and discretion has not been exercised in allocating the funds in a transparent manner.

7. Having considered the above scenario, we direct as under: -

- (i) Notice be issued to the former Prime Minister Raja Pervez Ashraf, whose name is appearing in the list of recipients of funds from PWP-II for development works in the Constituency from where he was elected as Member of the National Assembly with a view to providing him an opportunity of hearing in the matter;
- (ii) Notices to all other beneficiaries of funds of PWP-II including the Parliamentarians, Members of the Provincial Assemblies, Notables, etc., be also issued after obtaining the list from Malik Manzoor Akhter, DG, Audit. The latter is also required to effect service upon all of them at their addresses separately through the executing agencies, details of which are available in CMA No.3974/2013 furnished by him;
- (iii) To ensure service upon all concerned, complete list of the beneficiaries including their names and details of the funds allocated to them be uploaded on the website of Supreme Court of Pakistan (www.supremecourt.gov.pk), enabling them to respond to the notices and put forward their viewpoint/defence, if they so desire;
- (iv) Notices be also issued to Pak PWD, SNGPL, PEPCO as well as the Chief Secretaries of all the Provinces to effect service upon all the executing agencies which allegedly executed the works, after having collected the details from the office of DG, Audit in respect of the schemes executed at the Federal and Provincial levels. The representatives of the Chief Secretaries may, if need be, collect the relevant information from the office of DG, Audit;
- (v) The executive agencies, both Federal and Provincial, shall also submit the details of the status/performance/completion or otherwise of the development schemes, which have been executed out of the funds

allocated for the purpose, enabling this Court to pass appropriate orders;

- (vi) The executing agencies shall not release funds to the contractors/persons etc., who were deputed to execute such development works, etc., nor these funds shall be considered to have been lapsed on account of the close of Financial Year as it has already been ordered on 24.06.2013, pending decision of the case;
- (vii) It is stated that the idea of allocating funds to the Parliamentarians, etc. was introduced by late Dr. Mehboob-ul-Haq, a renowned Economist of his times when Members of the Parliament were elected in non-party elections. Such recommendations/report, if available, be submitted by the Planning Commission for our perusal and a copy thereof be also supplied to the learned Attorney General; and
- (viii) The Secretaries Finance and the Economic Affairs Divisions and all other concerned are directed to provide assistance to the learned Attorney General for Pakistan, so that he may assist the Court in a befitting manner.

8. Adjourned to 16.07.2013.

CHIEF JUSTICE

JUDGE

JUDGE

ISLAMABAD
28.06.2013
[Farrukh]