

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

Present:

Mr. Justice Anwar Zaheer Jamali
Mr. Justice Khilji Arif Hussain
Mr. Justice Ijaz Ahmed Chaudhry

CONSTITUTION PETITION NO. 35 OF 2013
(Multi Billion Scam in the EOBI)

Applicants	:	Mr. Zulfiqar Khalid Maluka, ASC. (In CMA No. 4855/2013)
	:	Nemo. (In CMA No. 4870/2013)
	:	Mr. Muhammad Saleem, In-person. (In CMA No. 4873/2013)
	:	Mr. Khalid Rashid, In-person. (In CMA No. 4968/2013)
	:	Mr. Mohammad Naveed (In CMA No. 5537/2013)
On Courts call	:	Mr. Nasir Iqbal, Staff Report, Daily DAWN.

On Court notice

For Federation of Pak	:	Mr. Sajid Ilyas Bhatti, DAG.
For M/o OP&HRD	:	Nemo.
For EOBI	:	Mr. M. Bilal Sr. ASC. Mr. Babar Bilal, ASC. Mr. Muhammad Ayub, Chairman. Mr. Javed Iqbal, DG HR&GAD Mr. Abdul Latif, Director (Law) Mr. Ahad Ahmed, AD (Estate)
For FIA	:	Mr. Saud Ahmed Mirza, DG. Mr. Qudratullah Khan, Director. Mr. Javaid Ahmed, Director FIA. Mr. Basharat Shehzad, Addl. Dir. Mr. Javaid Hussain, Addl. Dir. Mr. Aftab Bhatti, AD FIA

Ch. Zulfiqar Ali, DD Law.
Mr. Qaiser Masood, DD Law.

For DHA : Mr. Irfan Qadir, ASC.

For Pak Arab Housing Scheme & M/s Vital Enterprises (Pvt) Ltd. : Mr. Ali Sibtain Fazli, ASC.
Ch. Akhtar Ali, AOR.

For Vision Developer (Pvt) Ltd. : Mr. Salman Akram Raja, ASC.

For Eden Housing (Pvt) Ltd. : Mr. Tariq Mehmood, Sr. ASC.
Mr. Atif Amin, ASC.
Mr. Mehmood A. Sheikh, AOR.

For the CDA, Islamabad : Ms. Misbah Gulnar Sharif, ASC.
Raja Abdul Ghafoor, AOR.

For the Dimen Associates: Syed Iftikhar H. Gillani, Sr. ASC.

Date of hearing : 28.08.2013.

ORDER

In the context of various directions contained in the earlier order dated 01.08.2013, we have noticed that today there is no representation on behalf of GEO TV nor there is any reply from their side in the context of directions issued to them in para-2 of the said order, whereby the Chief Executive of the GEO TV was directed to produce CD/DVD of the said program along with its complete transcript before the next date of hearing. Let a show cause notice be issued to the Chief Executive of the GEO TV to explain his position as to why due to his failure in making compliance of directions of this Court, appropriate action may not be taken against him.

2. In terms of para-3 of the order dated 01.08.2013, Mr. Nasir Iqbal, Staff Reporter, Daily "DAWN" was directed to submit the policy, if any, regarding publication of articles in the editorial of DAWN when there is conflict of interest. He is present in Court and states that vide CMA No. 5364 of 2013, compliance of such direction has been made.

3. Mr. Irfan Qadir, learned ASC for DHA has invited our attention to CMA No. 5382 of 2013, which contains the prayer for release of further funds from the frozen bank accounts of DHA. When we have confronted him with the earlier directions of this Court, which were issued by this Court at the time of passing order in CMA No. 505 of 2013 for furnishing of statement of balance, he has candidly stated that as yet no such statement could be filed. In such circumstances, we are not inclined to pass any order on CMA No. 5382 of 2013, which will be considered only after compliance of order dated 01.08.2013 by DHA.

4. Mr. Tariq Mehmood, Sr. ASC representing Eden Housing (Pvt) Ltd., when confronted with the contents of para-7 of the order, states that despite deposit of Rs.97,60,00,000/- by his client with the Registrar of this Court, four properties in various housing schemes of his client at Lahore have not been released and for this reason, they have not been able to make compliance as regards deposit of remaining sum of Rs.90,00,00,000/-, and needs more time. He further submits that Eden Housing (Pvt.) Ltd. are being penalized twice for the reason that on the one hand, they had

been directed to deposit the whole amount which they had received towards sale consideration of various plots in their four housing schemes in Lahore from EOBI and on the other hand these properties are still retained by the EOBI. In these circumstances, he submits that the representative of the EOBI may be directed to make a definite statement in Court before the next date of hearing as to whether they intend to retain all the five properties, including the one situated at Faisalabad or they want to surrender these properties in favour of Eden Housing (Pvt) Ltd., and if they do not want to retain these properties, the payment of whole sale consideration amount, received from the EOBI will be made to them so that his clients may be free to deal with these properties in any other suitable manner. He also submits that despite fair conduct of his client in these proceedings, they are being harassed by FIA authorities on one pretext or the other, therefore, the FIA authorities may be directed not to cause harassment to the Management of the Eden Housing (Pvt) Ltd. till further orders. Such request is acceded to in the manner that till next date of hearing FIA shall not cause any illegal harassment to the Management of Eden Housing (Pvt) Ltd.

5. Mr. Salman Akram Raja, learned ASC for Vision Developer (Pvt) Ltd. has also advanced similar arguments. He contends that two transactions, total amounting to Rs.2.6 billion, were entered into between his client and EOBI; one in June, 2012 and second in February, 2013. In case now EOBI is not interested in

retaining these two properties, his client is ready to make immediate payment of Rs.60,00,00,000/- to them while remaining balance will also be paid to them upon release of these properties so that thereafter they may sale these properties to some other prospective buyer to liquidate their assets for further payment. He also brought to our notice lodging of two FIRs No.53 & 54 of 2013 as on the basis of these FIRs, the Management of Vision Developers (Pvt) Ltd is being harassed by FIA authorities. Keeping in view his submissions, the FIA authorities are directed not to take any further action against the Management of Vision Developers on the basis of these two FIRs, till the next date of hearing. This order will, however, not debar any aggrieved party from seeking legal redress before any appropriate forum.

6. Mr. Tariq Mehmood, learned ASC has also invited our attention to CMA No. 5381 of 2013 and made similar complaint regarding harassment to his client by FIA authorities, although total sum relating to disputed transaction has already been deposited by them with the Registrar of this Court. This being the position, the FIA authorities are directed not to cause harassment to M/s Muhammad Yaqoob, Jagu Mal, Gurdas and Arjun Das, till the next date of hearing.

7. Mr. Sajid Ilyas Bhatti, learned Deputy Attorney General states that another interim report bearing CMA No. 5551 of 2013 has been submitted on behalf of FIA. He further requests for time to submit progress report/final report on behalf of FIA

relating to EOBI scam. Interim report filed on behalf of FIA is taken on record with direction that final report be submitted in Court before the next date of hearing.

8. Syed Iftikhar Hussain Gillani, Sr. ASC, who is representing M/s Dimen Associates, has brought to our notice harassment caused to his clients by FIA authorities on the pretext of pendency of these proceedings. For this purpose he has referred to a report of NESPAK, available on record to show that his clients, who are evaluator of some properties sold to EOBI, have been exonerated from the charge of any wrong evaluation, but still harassment to his client has not been stopped. The FIA authorities, keeping in view his submissions, are directed not to cause any harassment to the officials of M/s Dimen Associates till the next date of hearing. The Chief Executive of the Dimen Associates, who is stated to be in custody, may seek appropriate legal remedy for his release before some appropriate forum.

9. Mr. Ali Sibtain Fazli, ASC for Pak-Arab Housing and M/s Vital Enterprises (Pvt) Ltd. has brought to our notice lodging of FIR No.57 against the officials of his clients, which has been registered on 13.08.2013. In this regard as well, the FIA authorities are directed not to cause harassment to the officials of Pak-Arab Housing Society and M/s Vital Enterprises (Pvt) Ltd. till the next date of hearing.

10. Hearing of other Civil Misc. Applications is adjourned along with main case to **17.09.2013**. In the meantime, Mr. M. Bilal

Sr. ASC for EOBI may seek further instruction in the matter as regards various proposals noted above. Other concerned parties are also required to make compliance of various directions contained in this order and the earlier order of this Court.

J.

J.

J.

Islamabad.
28.08.2013.
*Irshad Hussain/**