

**IN THE SUPREME COURT OF PAKISTAN**

(Original Jurisdiction)

**PRESENT:**

*MR. JUSTICE IFTIKHAR MUHAMMAD CHAUDHRY, C.J*

*MR. JUSTICE JAWWAD S. KHAWAJA*

*MR. JUSTICE SH. AZMAT SAEED*

**Constitution Petition No.35 of 2013**

*(Multi Billion Scam in the EOBI)*

Voluntary Appeared: Mr. Huzaifa Rehman, Special Correspondence  
(Investigation), Capital TV)

**On Court Notice:** Mr. Sajid Ilyas Bhatti, DAG

For M/o OP & HRD: Mr. Munir Qureshi, Secretary

For EOBI: Mr. M. Bilal, Sr. ASC  
Mr. Babar Bilal, ASC  
Mr. Parvez Ahmed, Director General (Audit)  
Mr. Asif Azad, Director (Investment)  
Mr. Abdul Latif, Director (Law)

For FIA: Mr. Muhammad Azam Khan, Addl. D.G.  
Mr. Qudrat Ullah Khan, Director, Punjab  
Mr. Jamil Ahmed Khan Mayo, A.D. FIA

For DHA, Islamabad: Mr. Ahmar Bilal Soofi, ASC  
Mr. Mehmood A. Sheikh, AOR

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

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

For Capital T.V.: Mr. Tariq Mehmood, Sr. ASC (Voluntarily appeared)

Date of hearing 19.7.2013

**ORDER**

On the last date of hearing we have passed the following order. Paragraph 2 of the same is reproduced as under:-

“2. Mr. Ahmar Bilal, Soofi, learned ASC for DHA, controverted the stand and stated that title of plots have been conferred upon the owners by executing allotment letters in their favour. It is to be noted that transfer/proprietary rights of the plots cannot be conferred merely on the basis of allotment letters, unless there is proper documentation as per Transfer of Property Act, Stamp Act and Registration Act. Be that as it may, to watch the interest of the old age employees, who are the contributories to this fund and contribution is being deducted from their monthly salaries, we direct that pending decision of this Constitution Petition, the DHA shall

*deposit the amount noted above with the Registrar of this Court on or before 19<sup>th</sup> July, 2013, who shall invest the same in some profit bearing scheme.”*

2. Mr. Muhammad Azam Khan, Additional D.G. FIA has submitted a report in respect of 321 kanals land and plots purchased in Sector F, Phase-I, DHA Islamabad, Rawalpindi. Details of the amounts have been mentioned as follows:-

**I “Purchase of 321 kanals land by EOBI from DHA, Islamabad**

- a. *EOBI invested an amount of Rs.15.473 billion for purchase of 321 kanal commercial land from DHA Islamabad through an agreement in January, 2012. The entire amount has been paid by EOBI to DHA in lieu of allotment letters of the plots but nothing is in physical possession of EOBI, as the said area has not been fully developed so far.*
- b. *The property under reference was got evaluated by M/s Diamen Associates by EOBI. The employee of the evaluator when confronted during enquiry, it transpired that the land was actually evaluated by one Shujja, a rep of the company based at Islamabad, who had no relevant qualification/experience of evaluation of property involving such heavy amount as he had always been working in a pharmaceutical company and it was his first experience.*
- c. *It is interested to note that EOBI got assessed 93 properties purchased by them from M/s Diamen Associates and paid an amount of Rs.44 millions for the said job.*
- d. *During enquiry, various persons voluntarily appeared before the inquiry officer and claimed that the title/ownership of the property, which has been purchased by EOBI from DHA is still not clear, for which the revenue authorities and CDA have been asked to confirm the reality.*
- e. *The purchase has not been found in accordance with PPRA Rules as neither any advertisement was given nor bids were invited, hence, the transparency was seriously compromised in this shady deal.*
- f. *In terms of Clause 3.1 of the agreement dated 18.01.2012, the DHA was bound to given possession of land to EOBI after receipt of the payment of total consideration, however, the said possession has not been delivered to EOBI so far.*
- g. *According to the agreement, DHA was supposed to complete the development work within 03 months of the signing of agreement dated 18.1.2012, however, the same has not still been completed.*
- h. *Col. ® Tariq Mahmood, ex-Director DHA produced a copy of an agreement signed by DHA Islamabad, Bharia Town Ltd (BTL) and Habib Rafique Ltd. (HRL) on 2.6.2009. On perusal of the said agreement, it appears that according to various*

*clauses of the said agreement (clause 4.12, 5.4, 5.7 etc) DHA had surrendered all rights of dealing with, marketing, promoting and selling of the said land (which is now a part of the sale agreement executed between EOBI and DHA) Similarly, according to clause 8.5, 8.52 (a,d), the DHA agreed that 70% proceed of the sale of the said commercial area will go to Bahria Town. In order to verify the existence of the said agreement, the officers of DHA, the management of HRL and Malik Riaz Hussain, who was one of the signatory of the agreement on behalf of Bahria Town Limited have been examined. All the three parties have stated that subsequent to the agreement dated 2.7.2009 it was mutually allowed to DHA to sell the land in question to EOIB. This aspect needs further verification during enquiry.*

- i. The purchase of property has been made without approval of the trustee, as pointed out in the audit report.*

Similarly regarding purchase of Phase No.1, DHA following details have been furnished:-

## **II Purchase of property in Phase-1, Sector F, DHA, Rawalpindi**

- a. The said purchase including 23 commercial plots (08 marlas each), 12 residential plots (02 kanal each), 162 defence villas of 03 bedrooms and 29 defence villas of 05 bedrooms.*
- b. The deal made on 5.3.2013 in lieu of consideration of Rs.6.825 billion without prior approval of the BOT.*
- c. M/s NESPAK has been requested for evaluation of the said property as per market value, Similarly, CDA and ICT Revenue Authorities approached for the determination of the title/ownership of the property.”*

When we inquired from learned counsel appearing for DHA as to whether in compliance of direction of this Court amount of rupees 22.295 billion received from EOBI by DHA, have been deposited with the Registrar of this Court pending decision of the case, he explained that DHA has transferred title of the plots to EOBI by issuing provisional allotment letter. We have examined the same. *Prima facie*, this document by no standard can be considered to be a transfer deed under the Transfer of Property Act read with Registration and the Stamp Act, etc. However, he further stated that the amount received from the EOBI was spent in clearing the liabilities of the DHA and out of 22 billions

about 12 billions have been paid to Bahria Town, Pvt. Ltd. for development purposes. Be that as it may, we are not concerned about merit of the transaction between DHA and Bahria Town because, *prima facie*, we noted that both EOBI and DHA have entered into transaction which is not transparent, as our concern is to watch and protect the interest of the old age employees, who are the contributories to this fund and contribution is being deducted from their monthly salaries.

2. Therefore, under the circumstances, we direct that all the amounts lying in the accounts of DHA Islamabad Rawalpindi respectively shall stand frozen henceforth till the amount of Rs.22.295 is deposited with the Registrar. As far as the transaction towards the receipt of the amount is concerned, no fresh account shall be opened and the already operating accounts shall remain accumulating towards the amount noted herein above. However, during course of the day learned counsel shall supply the complete account numbers maintained by DHA, Islamabad and Rawalpindi with the Banks (Financial Institutions) alongwith Balance in each account, to the Registrar. The concerned banks having accounts of DHA shall be sending daily report to the Registrar about the amount which is being received. In the meanwhile, whenever, both the DHAs agree to deposit the amount an application shall be moved for passing appropriate orders. In view of the facts and circumstances, the FIA shall continue its inquiries and proceed against those persons whosoever are responsible both from EOBI and from the DHAs, etc.

3. The FIA in Enquiries Nos.233/2013 FIA ACC. Lahore and No.237/2013 FIA ACC. Lahore with regard to Eden Housing Scheme Pvt. Ltd., have made following observations:-

*“The detail of the schemes of the Eden Housing Ltd, in which the EOBI has invested a sum of Rs.1.90 billion, has been made in five schemes of the Eden Housing Pvt. Limited on exorbitant price. One Scheme is situated in Faisalabad and 4 housing Schemes are situated in Lahore. Mr. Zia Altaf, present Chief Executive/Director of M/s Eden Housing joined enquiry on*

6.7.2013 and submitted an Undertaking on Stamp Paper, duly attested by the notary public, the relevant para of the same is reproduced as under:-

*'Be that as it may, in order to show its bonafides, Eden unconditionally offers to buy back the sale deeds/transaction and or to accept cancellation for the same and to return the entire sum of money (Rs.1,875,999,938/-) to the EOBI's account in exchange for return of the land by EOBI to Eden.'*

Likewise in Enquiry No.237/2013 FIA ACC LHR, has observed as under:-

**"Enquiry No.237/2013 FIA ACC, LAHORE"**

*"EOBI had purchased land measuring 2162 Marlas comprising (350 residential plots of various sizes) and 339.19 Marlas (comprising 65 commercial plots of various sizes) located at Eden Villas Housing Scheme, Faisalabad from Dr. Mohammad Amjad (Chairman Eden Housing Ltd.) having its office at Eden Tower M-3, 82/E-1, Boulevard, Gulberg-III, Lahore at highly inflated price of Rs.900 Million. During the enquiry process, Mr. Zia Altaf present Chief Executive/Director of M/s Eden Housing joined enquiry on 6.7.2013 and submitted an Undertaking on Stamp Paper, duly attested by the notary public, the relevant para of the same is reproduced as under:*

*"Be that as it may, in order to show its bonafides, Eden unconditionally offers to buy back the sale deeds/transaction and or to accept cancellation of the same and to return the entire sum of money (Rs.1, 876 Million) to the EOBI's account in exchange for return of the land by EOBI to Eden."*

The Additional D.G. FIA stated that according to his information Eden Housing Ltd. has deposited a cheque in the sum noted above in both the enquiries with the Registrar of this Court. In such view of the matter, we direct the Additional D.G. to ascertain as to whether cheques have been deposited in respect of both the transactions noted herein above and if not so the persons responsible on behalf of Eden Housing Pvt. Ltd. be directed to do the needful during course of the day failing which Registrar shall submit a report for passing appropriate orders by one of us in Chambers.

4. In Enquiry No.232/2013 FIA ACCT/LHR the seller has made following statement:-

*"The seller has submitted an affidavit mentioning that, if EOBI deems fit, he is willing to return the full amount and take back his property."*

5. In Enquiry No.234/2013 FIA ACC/LHR, M/s Vision Developers Pvt. Ltd has made following statement:-

*"he has finalized the deal with bona fide intentions but he is voluntarily ready to cancel the deal and ready to pay back the entire amount to EOBI within a reasonable period in lieu of property sold to avoid any dispute."*

6. In Enquiry No.238/2013 FIA ACC, Lahore the following statement has been made by the M/s Vision Developers before the inquiry team:-

*“he has finalized the deal with bona fide intentions but he is voluntarily ready to cancel the deal and ready to pay back the entire amount to EOBI within a reasonable period in lieu of property sold to avoid any dispute.”*

7. In Enquiry No.240/2013 FIA ACC, Lahore an affidavit has signed by the CEO of Pak Arab Housing Scheme in the following terms:-

*“It is submitted that should the EOBI so required Vital Enterprises Pvt. Ltd should be pleased to return the payments received thus far, as per the express provisions of the agreement”*

As above parties have shown interest to deposit the amount as per the statement which has been reproduced herein above for the property solely purchased by them from EOBI and on 17.7.2013 they were to deposit amounts received by them but so far said amounts have not been deposited with the Registrar, therefore, the order of even date which has been passed against the DHA, Islamabad and Rawalpindi shall also operate in the same manners against all of them as well.

8. In respect of transaction of the land measuring 1 kanal 19 marlas situated at Odharwal, District Chakwal, the following observations have been made:-

*“During inquiry, the record from EOBI was procured and the revenue record has also been collected. The statement of Halqa Patwari has been recorded. On perusal of record and statement of Halqa Patwari, the following facts have come on record:-*

- a. *The purchase was made in response to an offer made by one Muhammad Sana ul Haq without observing the PPRA Rules/ EOBI Rules and without seeking approval from BOT. The seller himself has mentioned the price of the land @ Rs.12,00,000/- per marla approx. whereas the deal was finally struck @ Rs.15,50,000/- per marla.*
- b. *The property as per EOBI document was purchased against consideration of Rs.6,04,50,000/- whereas, according to registered deed, the price was shown as Rs.1,17, 00,000/-*
- c. *As per Valuation Table of the Board of Revenue, Punjab, District Chakwal, the price of the commercial land in the said village has been fixed as Rs.60,000/- per marla, whereas, EOBI purchased the said*

*commercial plot in the same village against Rs.15,50,000/- per marla.*

- d. The title of the property purchased by EOBI is not clear and the litigation is still pending in the Civil Court.*
- e. As per information gathered during enquiry, Mr. Sana ul Haq, seller of the land, is happens to be the brother of Raja Azeem (son in law) of Raja Parvez Ashraf, Ex-Prima Minister, is a political worker of PPP and he was given party ticket for contesting election in NA-60.*
- f. It has also been noticed that the property was purchased from Mr. Sana ul Haq, but the cheques against the price of land were issued by EOBI in the name of one Azhar Hussain on behalf of the owner.*
- g. It is evident from the above mentioned facts that through this fraudulent deal huge loss was caused to the Govt. Exchequer and wrongful gain was given to the seller on political consideration. However, the concurrence officers/officials of EOBI and seller are yet to be examined”.*

Additional D.G. also informed us that in respect of the above case FIR No.26/2013 under Sections 409, 420, 109 PPC read with Section 5 (2) of the Act-II, 1947 has been registered but so far no arrest has been caused. The FIA is directed to cause arrest of the culprits involved in the above scam without any delay.

9. The Additional D.G. further stated that in respect of the purchase of plot measuring 8 kanals located at mouza Kallar Kahar, in the report FIA had made following observations:-

- “a. This property was also purchased without seeking approval form BOT and despite objection from two members of purchase committee for investment in small towns.*
- b. As per sale deed, the property was purchased from one Maqsood ul Hassan, the brother of Sana ul Haq, from whom a land measuring 01 kanal 19 marla in Chakwal was purchased by EOBI.*
- c. The land in question is a joint property, which was purchased for Rs.320,00,000/- (Rs.200,000/- per marla) whereas, according to sale deed, the price of the property is mentioned as Rs.52,80,000/-. On the other hand, according to Valuation Table of the Revenue Department, the commercial property in the said village has been determined @ Rs.30,000/- per marla.*

- d. The cheques for payment in this deal also were issued by EOBI in favour of Mr. Azhar Hussain, who had received the amount of the sale of property purchased by EOBI in Chakwal.*
- e. According to the statement of Halqa Patwari, the possession of the land is still with the seller party.*
- f. It is evident from the above mentioned facts that through this fraudulent deal huge loss was caused to the Govt. Exchequer and wrongful gain was given to the seller on political consideration. However, the concerned officres/officials of EOBI and seller are yet to be examined.*

He stated that FIR in the above case is likely to be registered during course of the day and the accused persons involved in the scam shall also be arrested.

10. So far as the property of Crown Plaza Plot No.5-A, F-7 Markaz, Islamabad is concerned, the inquiry is under process, as evaluation reports have not been received so far.

11. It is further stated by Additional D.G. FIA that an FIR No.25/13 has been registered in respect of the vehicle i.e. Prado Land Cruiser allegedly purchased by the EOBI in violation of rules. He added that the vehicle has been recovered and seized and the person involved namely Wahid Khurshid, Director Investigation, has already in custody in a case registered at Karachi.

12. As far as enquiries with regard to the properties situated in other cities owned by EOBI are concerned, the same are likely to be completed before the next date of hearing.

13. Mr. Huzafa Rehman, Special Correspondent, Capital TV appeared and stated that he was threatened by the son of the owner of Capital T.V., namely, Hassaam Riaz Sheikh. It is to be noted that reportedly action against the persons who had threatened him has already been initiated by the Police. Mr. Tariq Mehmood, learned ASC appeared voluntarily on behalf of the said TV Channel and stated that he is not the only person who has disclosed the instant alleged scam, but it is a team work which is headed by one Abdul Sattar, therefore, Mr.



Huzaifa Rehman who is a youngman, should not claim credit of this news item alone. As far as registration of FIR by the Police against the owner of T.V. Channel is concerned, no action is called for by this Court, as now it is the job of the Police to deal with the issue.

The matter is adjourned to 26.7.2013. All concerned be informed accordingly.

Chief Justice

Judge

Judge

Islamabad, the  
19<sup>th</sup> July, 2013.

*M. Azhar Malik \**