

IN THE SUPREME COURT OF PAKISTAN

(Original Jurisdiction)

PRESENT:

MR. JUSTICE IFTIKHAR MUHAMMAD CHAUDHRY, C.J

MR. JUSTICE IJAZ AHMED CHAUDHRY

MR. JUSTICE GULZAR AHMED

CONSTITUTION PETITION NO. 67 OF 2011

AND C.M.A. NO. 1656 OF 2012

Khawaja Muhammad Asif

.... Petitioner

Versus

Federation of Pakistan and others

.... Respondent

Petitioner

In Person

For M/o Law & Justice

Mr. Muhammad Munir Peracha, Sr.ASC

On Court Notice:

Pir Masood Chishti, Former Secretary

M/o Law & Justice

Dr. Riaz Ahmed Sr. J.S.

For M/o Finance

Mr. Waqar Masood Khan, Secretary

For M/o W&P

Mr. Anwar Ahmad Khan, Secretary

For PEPCO officials

Ch. Abdus Sattar, ASC

Mr. M. S. Khattak, AOR

Date of hearing

10.6.2013

ORDER

In response to our earlier order dated 28.5.2013 following statement (CMA 3673/2013) has been filed jointly by the Secretary Finance and the Secretary Water & Power :

"2. In compliance, we Waqar Masood Khan, Secretary Finance, and Anwar Ahmed Khan, Secretary Water and Power respectfully submit as follows:-

- a. *The machinery/equipment lying at Karachi Port has not been released/shifted to the site due to following reasons:*
- b. *Withholding of original Bill of Lading by the Syndicate of the Local Banks;*
- c. *The EPC Contractor is not lifting the machinery for reason (i) above and service of notice of termination of the contract agreement;*
- d. *Payment of demurrage/detention charges payable to Karachi Port.*

(2) *Ministry of Finance has immediately spoken to the Syndicate of local Banks and has resolved the issue connected with the release of equipment as far as the banks are concerned. The Banks have agreed to release the Bill of Lading of provision of extension in the period of waiver from Prudential Regulation and acceptance of the Term Sheet. Both these conditions have been complied as the State Bank of Pakistan has approved the extension of Prudential Regulation-8 and acceptance of the Term Sheet has also been conveyed to the Banks. (Annexures-I, II, III).*

(3) *Ministry of Water & Power has taken the following measures:-*

- a. *Submission of the Summary to the ECC for seeking approval of additional financing and waiver of demurrage charges (Annexure-IV);*
- b. *Submission of Revised PC-1 for approval of the ECNEC;*
- c. *Negotiation with the EPC Contractor for re-mobilization and resumption of the work to be concluded within a week;*
- d. *Directions have been given to the Project authorities for coordination with the banks for shifting of the equipment and machinery from the Karachi Port to the period site.*

(4) *As soon as the ECC is constituted the Summary referred to at para-3 (i) ante will be taken up for approval. Necessary letter of comfort by the Ministry of Finance will be issued to the Banks for increased cost of production (From about Rs.23 billion to about Rs.57 billion). Ministry of Water & Power in the meantime will seek approval of the ECNEC, or seek anticipatory approval of the Chairman ECNEC, in the case of delay in the approval of revised PC-1.*

3. *The above position is submitted for the kind information and perusal of the Honourable Supreme Court as desired.*

*Sd/-
(Waqar Masood Khan)
Secretary
Ministry of Finance, Islamabad.*

*Sd/-
(Anwar Ahmad Khan)
Secretary
Ministry of Water & Power, Islamabad."*

2. Petitioner, Khawaja Muhammad Asif, stated that the statement so filed may be accepted as he is confident that the project of Nandipur shall be completed as early as could be possible and as a result thereof 450MW electricity shall be added in the system for supply to the consumers. Petitioner further stated that as far as 2nd project Chichokimallian is concerned, there was no commitment for its completion, therefore, the Government, if desire, may review the same.

3. It is to be noted that petitioner Khawaja Muhammad Asif having been elected as Member of the National Assembly has been appointed as Minister for Water & Power, if need be, he can himself take up the project of Chichokimallian at the departmental level.

4. Notices be issued to the following officers/officials of the Ministry of Law and Justice Division, who have not made their appearance before this Court, and their names have been supplied by the Ministry itself through its Deputy Legislative Advisor:

1. Dr. Zaheer-ud-Din Babar, the then Law Minister
2. Mr. Justice Agha Rafiq Ahmed Khan, the then Secretary Law
3. Mr. Justice (R) Riaz Kiyani, the then Secretary Law
4. Ms. Uzma Akhter Chughtaai, Addl. Draftsman
5. Ms. Shamila Mahmood, Consultant Research

5. Mr. Muhammad Munir Peracha, learned ASC has appeared on behalf of the Minister of Law and stated that he may be allowed to take instructions from the incumbent Minister of Law.

Adjourned to a date in office after 10 days.

Chief Justice

Judge

Judge

Islamabad
10.6.2013
(Zulfiqar)