

**IN THE SUPREME COURT OF PAKISTAN**

(Original Jurisdiction)

**PRESENT:**

Mr. Justice Iftikhar Muhammad Chaudhry, CJ

Mr. Justice Jawwad S. Khawaja

Mr. Justice Gulzar Ahmed

Mr. Justice Mohammad Ather Saeed

Mr. Justice Sh. Azmat Saeed

**SUO MOTO CASE NO.16 OF 2011 ETC.**

(Implementation proceedings of Judgment of  
this Court reported as PLD 2011 SC 997)

For the petitioners:

Mr. Ghulam Qadir Jatoi, AOR  
(in CrI.O.P.96/12)

Nemo (in CrI.O.P 29/13)

For Federation:

Mr. Muneer A. Malik,  
Attorney General for Pakistan  
Mr. Ashiq Raza, DAG assisted by  
Mr. Faisal Siddiqui, Advocate

For Govt. of Sindh:

Mr. Khalid Javed Khan, AG.  
Mr. Shahadat Awan, PG,  
Mr. M. Sarwar Khan, Addl. A.G.  
Mr. Adnan Karim, Asst. A.G  
Mr. Muhammad Ejaz Chaudhry, CS,  
Mr. Muhammad Shoaib Siddiqui,  
Commissioner, Karachi

For Sindh Police:

Mr. Shahid Nadeem Baloch, IGP  
Mr. Ghulam Qadir, Addl. IGP, Karachi  
Mr. Sultan Khawaja, DIG, CIA  
Mr. Tahir Naveed, DIG East.  
Dr. Amir Shaikh, DIG South.  
Mr. Arif Haneef, DIG West.  
Mr. Shahid Hayat, DIG Special Branch.  
Mr. Ali Sher Jakhrani, AIGP Legal

For DG Rangers:

Mr. Shahid Anwar Bajwa, ASC  
Maj. General Rizwan Akhter, DG  
Major Ashfaq Ahmed, DA JAG,

For Board of Revenue: Mr. Yawer Farooqui, ASC  
Syed Zulfiqar Ali Shah Member.

For Frontier  
Constabulary: Mr. Inayatullah Farooqui, DO, FC

For Customs Deptt: Mr. Muhammad Yayha,  
Chief Collector, Enforcement.  
Mr. Nasir Masroor, Chief Collector.  
Mr. Khawar Fareed Manika,  
DG Afghan Transit.

Date of hearing: 30.8.2013.

**ORDER**

**IFTIKHAR MUHAMMAD CHAUDHRY, CJ.-** In

continuation of our order dated 29<sup>th</sup> August, 2013, the Chief Collector of Customs stated that the message of this Court has been conveyed to Mr. Ramzan Bhatti, Former Member Customs, who due to shortage of time could not attend the proceedings. The Chief Collector explained, that he has prepared a report wherein he has highlighted the difficulties being faced by his department in preventing the smuggling of arms, ammunition and other contraband items in the country and one of the reason is the non-availability of resources financial and manpower etc. However, it has been emphasized to him that he should, at present, focus on the smuggling of illicit arms and ammunition through both the ports i.e. Bin Qasim and Karachi wherefrom allegedly arms, ammunition and contraband items are being smuggled by making mis-

declaration or with the connivance and assistance of the prevention staff or appraisers and for this purpose generally launches are also used but there is no check. It is to be noted that not only in the Karachi City but in the entire country there is an uncontrolled flow of smuggled arms and ammunition, which is definitely being used by the unscrupulous elements for criminal activities. We are mindful of the fact that on account of practical difficulties, it may not be possible only for the Customs Department to control smuggling. The illegal trafficking of such arms and ammunition through ports or by means of ships or launches etc can be controlled by the Customs, Coast Guards and Maritime Security Agency. He has not come out with a concrete reply in respect of the directions issued to him on the last date of hearing as to the number of containers, through which items were brought through Karachi and into Pakistan by mis-declaration. Reportedly, a colossal loss of Customs Duty and other revenues is caused by the importers, who manage to evade the duty by adopting illegal means, therefore, he was directed to place before us a report for the period commencing from 1<sup>st</sup> June, 2013 to 30<sup>th</sup> August, 2013, showing the number of ships, vessels and launches, which arrived as per their record and the Custom

and the other revenue calculated upon goods carried. However, he is directed to do so during the course of the day and submit this report to the Registrar of this Court so we can go through the same. In the meanwhile, the Chief Collector Customs, DG Coast Guards as well as DG, Maritime Security Agency may hold a joint meeting and submit their report in this behalf.

2. DG Rangers on our directions, explained that there are so many ways and means through which arms and ammunition are smuggled into the country. However, he also explained that in Karachi, it is also necessary that there should be a verification of arms and ammunition dealers because without their facilitation or assistance, it is not possible to control the flow of arms and ammunition. However, we observe that in this behalf let the Provincial Government as well as the Federal Government take necessary steps. He stated that in the past with the connivance of the then Minister of Shipping, a shipload of arms and ammunition was brought into Karachi and the whereabouts of such arms and ammunition has never been ascertained. He has further stated that to maintain the record of persons holding licenses for keeping arms and ammunition they must be registered with the NADRA so after the commission of a crime, there should be no difficulty to

identify the person involved in a case. In this behalf it is to be noted that learned High Court of Sindh has already passed a judgment, as it is pointed out by the learned Advocate General and on the basis of the same, NADRA has already been brought on board for the purpose of registration of persons, who had obtained the license. We are of the opinion that such directions must be implemented and carried out throughout Karachi as early as possible.

3. In order to further ascertain the correct position about the smuggling of arms and ammunition as well as evasion of the duty on different items at the Ports of Karachi and Bin Qasim, we are of the opinion that there must be a strict check and full duty should be recovered because on account of evasion of custom duty, black money is also generated, which allegedly flows inside the country particularly in the city of Karachi and is used by the accused persons in order to promote their criminal activities throughout in the country. Therefore, in this behalf, we appoint Mr. Ramzan Bhatti, as a one Man Commission with the observation that he should ascertain:-

- (a) As to whether arms or ammunition are brought or smuggled through the sea and what are the possible measures and ways to be adopted to stop it.**

- (b) Who can be held responsible for the smuggling of the arms and ammunition in the country through ships, vessels as well as launches and what are the reasons for not preventing the smuggling of the same.**
- (c) As to whether the Customs officials posted at the Ports of Bin Qasim and Karachi manage to recover hundred percent custom duty and the revenues or there are certain mechanisms on the basis of which these duties are evaded, which cause loss to the public exchequer and ultimately such black money is used for illegal activities and promoting crimes in the country.**
- (d) To enquire into the allegation that a shipload of arms and ammunition was brought into Karachi with the connivance of the then Minister for Shipping, as stated by the DG Rangers and to propose what action should be taken against the persons responsible.**

He may submit his report within seven days. The Chairman, FBR is directed to provide him all logistic facilities and also settle with him the fee of the Commission according to his stature.

4. It is important to note that control of the smuggling of arms and ammunition is one of the most important aspects to control the law and order situation in Karachi as well as other parts of the country. Therefore, in this context, while delivering the judgment reported as Watan Party v. Federation of Pakistan

(PLD 2011 SC 997), following observation relating to the Karachi were made:

“Further observe that Karachi is full of arms and ammunition of prohibited and non-prohibited bores including licensed and illicit, therefore, Karachi has to be cleansed from all kinds of weapons by adhering to the laws available on the subject, and if need be, by promulgating new legislation. All licensed arms genuinely required for security concerns and personal safety may be retained but these must also be registered with NADRA. All other licenses, where such need cannot be shown, or where multiple licenses have been issued to the same individual (as distinct from security firms) if not justified, or which are used for unnecessary display at ceremonies or elsewhere for aerial firing should be cancelled after summary and expeditious proceedings in accordance with law.”

5. We feel that despite lapse of a period of about two years no progress in this behalf has been made so far. However, the learned Advocate General has pointed out that on 1<sup>st</sup> March, 2013 the Sindh Arms Act, 2013 has been promulgated and necessary steps shall be taken.

6. The learned Attorney General, who had sought time to make statement, appeared and stated that in pursuance of written statement, which has been filed by him in the Court, the Federal Government with the cooperation of the Provincial Government has assured the protection of the life, property and liberty of the citizens in Karachi and all possible support shall

be extended to the Provincial Government under the provisions of Article 148(3) of the Constitution of the Islamic Republic of Pakistan, 1973 and to achieve the objects a meeting of the Federal Cabinet has already been scheduled in Karachi on 3<sup>rd</sup> of September, 2013 and all important decisions required to maintain law and order and to provide protection to the citizens of Pakistan and ensure the enforcement of their fundamental rights under the Constitution would be taken, therefore, since important decisions are likely to be taken by the Federal Government, the matter may be postponed.

7. In this behalf, Mr. Khalid Javed Khan, learned Advocate General has also placed on record a statement (CMA No.535-K of 2013), concluding para there from is reproduced herein before

“The Provincial Government once again unreservedly expresses its resolve and commitment to its constitutional obligation to protect the lives, liberty and property of the citizens as guaranteed under Articles 9, 14, 15, 18 and 24 of the Constitution of Pakistan, 1973. The Provincial Government would also appreciate any assistance that may be rendered by the Federal Government at the request of Provincial Government in terms of Article 148(3) of the Constitution”.

After having gone through the report submitted by the learned Advocate General, we are of the opinion that as now both the Governments i.e. Federal and Provincial are on board,



and have decided to provide protection to and secure the life, property and liberty of the citizens, therefore, we have opted to exercise judicial self restrain and adjourn this case. However, it is clarified that we expect the Governments both Federal and Provincial to implement the directions already given in the judgment handed down in the case of Watan Party v. Federation of Pakistan (PLD 2011 SC 997),

8. In the meanwhile, the learned Attorney General and the Advocate General shall inform the Court about the steps which have been taken by both the Governments in order to fulfill their commitment, as has been noted hereinabove.

9. Before parting with the order, we may observe that the Provincial Government shall under take the completion of surveillance system i.e. CCTV Cameras etc as early as possible and, if need be, they may seek the assistance and the help from the experts of other concerned departments so that the system is completed, installed and activated before the next date of hearing.

10. On behalf of Frontier Constabulary, a report has also been submitted wherein details have been mentioned for operational assistance being provided by the FC to Sindh

Police. The same be placed on record for further consideration on the next date of hearing.

11. To be fixed on 18.9.2013.

Chief Justice

Judge

Judge

Judge

Judge

**Karachi, the**  
**30<sup>th</sup> August, 2013**  
*M. Safdar Mahmood/\**