

IN THE SUPREME COURT OF PAKISTAN
(Original Jurisdiction)

PRESENT:

MR. JUSTICE JAWWAD S. KHAWAJA, CJ.
MR. JUSTICE DOST MUHAMMAD KHAN
MR. JUSTICE QAZI FAEZ ISA

Const.Petition No.46/2013

(Application by Abdul Hakeem Khoso)

Civil Misc.Application No. 278-Q/13

(Application by Sardar Abdullah Jan)

Human Rights Case No.36052-S/2013

(Application by Abdul Ghafoor)

Civil Misc. Application No.2696 of 2014

(Application by Abdul Hakeem Khoso)

Civil Misc. Application No.6084/14

(Application by Residents of Village Mitho Khoso
Tando Adam regarding deplorable condition of
Road)

Civil Misc. Application 6104/14 in

(Application by Mr. Maqbool Ahmed regarding
violation of Quota System by Organizations working
in Kamber Shahdad Kot)

IN ATTENDANCE:

For the petitioner(s)/applicant(s):	Mr. Roshan Ali Lakhan, in person (in CMA NO.613-K/13) Mr. Muhammad Asif Khan Dumar (in CMA 278-Q/13)
For the Federation:	Mr. Sajid Ilyas Bhatti, DAG
For Govt. of Balochistan:	Mr. Muhammad Ayaz Swati, Addl. A.G. Mr. Abdul Qadoos Khan, Director
Government of KPK:	Mr. Mujahid Ali Khan, Addl. A.G.
For Govt. of Punjab:	Mr. Razzaq A. Mirza, Addl. A.G. Irfan Javed, SO, (O & G) Energy Deptt.
For Govt. of Sindh:	Mr. Shehyar Qazi, Addl. A.G Mr. Tariq Ali Shah Shah, Director Energy Dep. Mr. Zoahib Mushtaq, ADC-II, Sanghar
For M/O Petroleum & NR:	Mr. Saeedullah Shah, D.G. PC Mr. Nazir Ahmed Malik, Director (L) Mr. Hassan Mehmood, Director Mr. Afzal Malik, Dy. Director

Pirzada Shamsheer Ali, A/O
Mr. Arif Baig, A.D
Mr. Ghulam Akbar, APS to Director (L)

For OGDCL:

Mr. Abdul Rauf Khajak, GM, CSR
Mr. Bashir Ahmed, Asstt. Manager
Mr. Nasir Shabbir, Asst. Law Officer

For SSGC:

Mr. Abid Hassan Minto, Sr. ASC

For UEPL:

Nemo

Date of hearing:

26-27.8.2015

ORDER

Jawwad S. Khawaja, J. Mr. Muhammad Ayyaz Swati, Additional Advocate General of Balochistan, has filed CMA 5752/2015 containing a letter of the Chief Minister, Balochistan dated 15.04.2014, the Summary for the Chief Minister dated 29.03.2015, letter dated 11.07.2015 of the Chief Minister and its reply by the Federal Government dated 13.07.2015. These documents reveal the displeasure of the Province with the Federal Government with regard to the unilateral extension of a natural gas mining lease after its expiry by efflux of time. The Province has rightly drawn the attention of the Federal Government to Article 172 (3) of the Constitution which stipulates that, *"mineral oil and natural gas within the Province or the territorial waters adjacent thereto shall vest jointly and equally in that Province and the Federal Government."* If the Federal Government has disregarded this constitutional provision the Province has rightly aired its grievance. The learned DAG however has referred to letter dated 13.07.2015 of the Federal Minister for Petroleum which states that, *"it is the intent of the Federal Government to take the Government of Balochistan on board"* therefore if time is granted the matter will be resolved. To ensure the functioning of the Federation in accordance with the Constitution we expect that every provision of the Constitution, including Article 172 (3), will be given effect to and the matter resolved by the next date.

2. In the order passed as far back as on 27.12.2013 it had been noticed by the Court that very substantial amounts by way of marine research fees, social welfare obligations and production bonus, which were due and payable by the oil and gas companies, who had obtained prospecting licenses or mining leases, were outstanding and had not been recovered from them despite contractual commitments. As a result of the order in this Suo Moto case, we were informed

yesterday by the Director General Petroleum Concessions ('DGPC') that a total amount of Rs.111 billion, which is equivalent to 109 million dollars, was recovered from the oil and gas companies.

3. In our order of 27.12.2014 we had also directed the DGPC to devise a monitoring mechanism for the projects set up from the aforesaid amounts that had been recovered. The DGPC states that although a mechanism has been devised and receipt of revenues under the heads of social obligations, marine research fee and production bonus are being monitored by himself, it is not possible for him to actually monitor individual projects and the amount being spent on the same. We had also noted that one of the reasons for this was that there are no local governments in place in the three Provinces of Pakistan, other than Balochistan.

4. The DGPC states that 3,400,000/- dollars are lying with the Government of Balochistan from the aforesaid heads, but the same have not been spent, and that the projects which may be implemented would not be monitored. A similar situation prevails in the province of Sindh where an amount of 3.2 billion rupees has been received, but there is no effective monitoring system in place for the purpose of evaluating the projects and the amount spent thereon in the various districts of Sindh. Likewise in Khyber Pakhtunkhwa (KPK) a sum of 1.2 billion rupees has been received, but presently Mr. Mujahid Ali Khan, learned Law Officer is not in a position to state as to how much amount has been spent in the districts from which oil and gas is being extracted. In Punjab a total sum of 437 million rupees has been received by way of production bonus and social welfare obligations. Mr. Razzaq A. Mirza, the learned Law Officer, states that he has filed a report in this behalf. The provinces of Sindh, Balochistan and KPK shall also file reports. These reports should specify in detail the monitoring mechanism for amounts spent and the projects initiated or completed. The Secretary Law and Justice Commission of Pakistan shall also look into the above matters and devise a monitoring and evaluation framework so that the amounts received from the oil and gas prospecting and mining companies are properly spent in accordance with the policies of the Governments.

5. We were also informed that initially the I.T. Department of Government of KPK had taken upon itself the responsibility for devising a mechanism, but it has not fulfilled this commitment. Let DGPC also submit a report in this regard.

6. Copy of this order be sent to the Minister and Secretary, Ministry of Petroleum and Natural Resources, Chief Minister and Chief Secretary, Government of Balochistan.

Re-list after two weeks.

Chief Justice

Judge

Judge

Islamabad, the
27th August, 2015
Nisar /-