

A

IN THE HIGH COURT OF SINDH AT KARACHI

Constitution Petition No. D-1734 of 2020

Mst. Irum & Others Petitioner:

Province of Sindh & Others Respondent:

ORDER

Date

Order with signature of Judge

19th September 2024

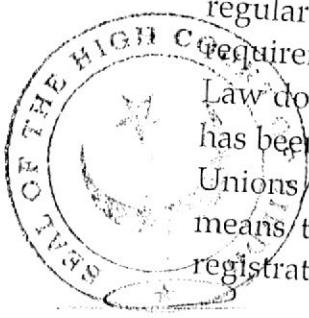
Mr. Inayat Ali Mirani, advocate for the Petitioners in CP.No.D-1734/2020.
Petitioner in person in CP.No.D-7279/2024
Mr. Shaharyar Mehar, AAG.
Mr. Ghulam Asghar Pathan, advocate for SESSI
Mr. Anas advocate.
Mr. Samiullah, advocate.

Salahuddin Panhwar, J.- Pursuant to order dated 30.09.2021 in CP.No. D-1734/2020 and order dated 05.09.2024 passed in CP.No.D-4279 of 2024, Commissioner SESSI has filed a compliance report providing details of compliance, specifically as directed by this Court in the case reported as **TELENOR MICROFINANCE BANK LIMITED** through authorized representative vs. **PROVINCE OF SINDH**, through Secretary Labour and Human Resource Department and 3 others [PLC 2023 186].

2. Being relevant, some portions of the response/comments of the direction/observation are hereby reproduced herewith:

From page 8

"The fact of matter is that SESS Act 2016 (Amended 2018) does not authorise the SESSI management to enforce and compel the employers to get all workers secured. The SESSI administration faces no issue of less registration of workers or shortfall in contribution where commercial establishments are complaint of ILO requirements or where they have to undergo regular compliance audits. Where employers is not bound by such requirements, they tend to report less number of workers. The Law does allow inspection of record but no enforcement authority has been delineated. SESSI management has started meeting Trade Unions/Associations and creating awareness through different means to raise demand from workers' side in order to increase registration of the workers.



From page 10

The new Commissioner, in the light of the directions of the Honourable High Court, soon after assuming the charge, has immediately withdrawn investment from non-profit making schemes and have got approval of the Governing Body to invest the funds only Government Treasury Bills and Pakistan Investment Bonds in short, medium and long tenors.

From page 13 & 14 List of awareness raising meeting & seminars held by Public Relation Wing SESSI from 2019 to date is attached. Press clipping regarding functioning and benefits of SESSI are also attached. The present commissioner has held meetings with Federation of Pakistan Chamber of Commerce and Industries, and Chambers at Noriabad, Kotri and Hyderabad to emphasize them to get all workers registered. On 14th August 2024, almost all newspapers printed SESSI banners addressed to Employer and Workers of maximum benefits in terms of medical facilities and other cash benefit.

Awareness drives are continuously undertaken to inform the workers of their rights and benefits.

**Digital Mobile Application for Registration of Workers
(Mazdoor Registration Portal)**

In compliance with the directions of the Honourable High Court's order, it is respectfully submitted that the Institution has developed a Digital Mobile Application "Mazdoor Registration Portal" that enables workers to digitally register themselves through the Portal and avail benefits under the Social Security Scheme. This Digital App "Mazdoor Registration Portal" has been live with Google Play Store since 15th November 2023.(The screenshots of the Digital App "Mazdoor Registration Portal" are attached.)

At this juncture, it is relevant to reproduce paragraphs No. 23 and 25 of the referred judgment hereunder:-

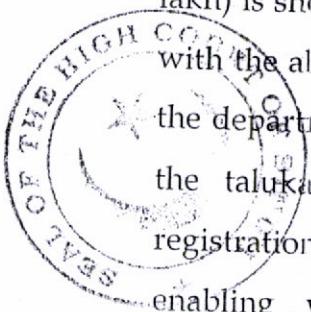
"23. The Social Security Institution shall also work for registration of the domestic worker under The Sindh Home Based Workers Act, 2018 for which necessary publication(s) shall be made thereby informing the domestic workers of their rights in case they get themselves registered as well shall take all other steps, including those pointed out in the report and it is agitated by the SESSI (Respondent) that they are making awareness among the workers, who are liable to be registered with Social Security Institution. Admittedly, a less number

is registered with SESSI and Worker Welfare Board, hence, all Deputy Commissioner(s) shall provide every help to the SESSI Officers, they shall adopt all modes to ensure that every secured worker is registered with SESSI. SESSI shall issue publication in local newspapers and shall introduce digital modes and mobile application for registration enabling employees and self-employed workers to fill the required forms for issuance of card.

25. Therefore, the Government of Sindh shall establish Social Security Courts at all places wherever such Courts are not notified/constituted. It has come on record that in whole province there is not a single court under Social Security Act, however, Government has notified two Labour Courts as Social Security Court. We feel that the Government has not taken serious efforts in favour of workers (Labours), admittedly Labour Courts are already small in number and overburdened, hence, in all divisions at least one Social Security Court and in Karachi at least four courts are the need of the time. The same, hopefully, shall help in determining the issues of the most unprivileged class i.e. workers/labours hence same should be established without much loss of time. This process shall be completed within least practicable period. The report in this regard shall be submitted through MIT within a period of two (02) months."

Accordingly, learned Additional MIT-II shall ensure compliance of the above-referred judgment, which also reflects that "*Samiullah's Commission on Workers in Sindh*" shall be uploaded/flashed on the website. Besides, learned District & Sessions Judges shall direct the learned Magistrates all over Sindh, who shall visit hospitals, schools under the domain of SESSI including offices to ascertain whether the same are working/functioning within their mandate and providing due relief to the workers and registration mechanism.

4. The Chairman SESSI shall also submit a district-wise list of workers registered with SESSI. Moreover, it is pertinent to mention that every worker, whether in any sector or home-based/industries, is required to be registered with SESSI. Apparently, the number of registered workers with SESSI (seven lakh) is showing that the department has failed to perform its duty and comply with the above-referred judgment. Hence, there shall be a serious campaign by the department, with the help of Deputy Commissioners, to establish camps at the taluka level and in town headquarters to provide information for registration as well as establish registration desk for a week on a quarterly basis, enabling workers to get registered. Furthermore, Labour Department, Government of Sindh, shall issue a notification regarding the establishment of



camps covering the entire Sindh as a range for the registration of workers. As the law provides that home-based workers are also in the same category, therefore, there is no cap over the maximum or minimum numbers, and every individual is to be registered and benefited. Besides, SESSI Act provides for the establishment of a trust; hence, the Chairman shall submit details whether such trust has been established under the relevant laws. In case of non-establishment, the same shall be established within two months.

To come up on 14th November 2024.

SD/. JUDGE
SD/. JUDGE

Certified to be true copy

Assistant Registrar (Writ)
C.P.No.D-1734/2020

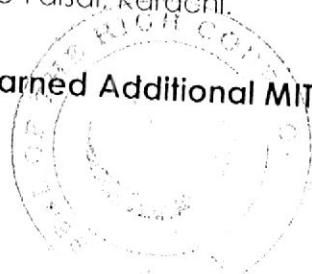
Karachi Dated 28.09.2024

Copy of above order forwarded for information and necessary
compliance to:

Respondents

1. Province of Sindh, Through Secretary, Labour Department, Sindh Secretariat, Karachi.
2. Sindh Employees Social Institution (SESSI) To be served through its Commissioner, Aiwan-e-Mehnat Kash ST-17 Block-6 Rashid Minhas Road, Gulshan-e-Iqbal, Karachi.
3. Employees Old Age Benefits Institute (EOBI) House No.190/B/1 Block-7 PECHS Karachi.
4. Sindh Workers Welfare Board (SWWB) To be served through its Secretary, 8th Floor Marine Faisal Building 10-A Block-6 PECHS, Nursery Shara-e-Faisal, Karachi.

✓ The Learned Additional M.I.T-II of this Court.



Assistant Registrar (Writ)

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Introduction

This report is prepared in compliance of the order dated 09.12.2019 passed by the Honourable High Court of Sindh in Constitution Petition No.D-5342 of 2019 (**Niaz Muhammad V/S P.O Sindh and others**) appointing undersigned as commission for visiting all Hospitals, Dispensaries, Offices of SESSI and Workers Welfare Board, Examine the record and submit report in terms that:

1. Whether existing mechanism, fixing wages, is implemented in its letter and spirit?
2. Whether ordinary worker is aware about the SESSI, Wages Board, and Workers Welfare Board and have access to it?
3. Whether mechanism to avail facility is easily accessible so as to ensure timely help or needs improvements? If so, what steps could further make it more convenient and easy accessible?
4. Whether methods adopted by the SESSI and Welfare Boards compelling the masters, failing within such definition of acts, are comprehensive so as to get registration of workers with the SESSI and payment of the fix amount as provided under the act and rules? If not, what steps needs to be added?
5. Whether the mechanism of distribution of budget (funds) is, *prima facie*, eliminating possibilities of illegalities?
6. Whether there is any *prima facie*, illegality, requiring auditing of the utilization of budget or criminal negligence on the part of SESSI and Workers Welfare Board?
7. Also examine any malfeasance committed by SESSI and Workers Welfare Board.

The above order was received to undersigned vide letter No. 3746/MIT II/CP-D-5642/2019 Dated 17-12-2019 through worthy District and Sessions Judge.

THE HIGH COURT OF SINDH AT KARACHI

No.: 3146/MIT-II/C.P. No. D-5642/2019.

December 17, 2019

From:

Member Inspection Team-II,
High Court of Sindh, Karachi.

To,

1. Mr. Samiullah Qureshi,
Senior Civil Judge, posted at Shikarpur.
Through learned District and Sessions Judge, Shikarpur.
2. The Secretary,
Government of Sindh,
Labour Department,
Karachi.
3. The Secretary,
Workers Welfare Board,
Karachi.
4. The Commissioner,
SESSI,
Karachi.
5. The Chairman Wages Boards,
Govt. of Sindh,
Karachi.

SUBJECT: CONSTITUTIONAL PETITION NO. D-5642/2019.

Please find enclosed herewith copy of order dated 09-12-2019 passed by this Hon'ble Court in the subject case for your information and necessary compliance, in its letter and spirit.


(ABDUL RAZAQ)
MEMBER INSPECTION TEAM-II

Enclosed as above.

IN THE HIGH COURT OF SINDH AT KARACHI

Constitutional Petition No D- 5642 of 2019

Niaz Muhammad Petitioner

VERSUS

Province of Sindh and others Respondents

ORDER

09th December 2019

Mr. Shahadat Awan, advocate for respondent.

Mr. Zahoor Shah, Deputy Prosecutor General.

Mr. Mukhtar Ahmed, Deputy Secretary Labour, Mr. Kashif Gulzar
Shaikh, Commissioner SESSI. Mr. M. Aziz-ur-Rehman, Law Officer
SESSI.

Mr. Jibran Nasir, advocate files *Vakalatnama* on behalf of petitioner;
taken on record, and seeks time to examine the reports and contends that
yet it is very sorry state of affairs that factory owners did not allow police
officials to visit /inspect the site where incident was occurred in which six
persons lost their lives; yet JIT is not constituted.

(6) 8
2. In contra, learned counsel for the respondent/accused contends that
investigation was carried out and factory owners have provided all funds to
the Labour Department and they have cooperated with the police and site
was inspected.

3. Compliance report is submitted by Secretary to Government of Sindh,
Labour Department with regard to universalization of labours/workers.
According to notification terms of reference are that:-

- (i) Approval of Request for Proposal before the issuance.
- (ii) Short listing of the Consultants, responding to the Request
for Expression of Interest, where application, in accordance
with criteria mentioned in Request for Expression of Interest.
- (iii) Evaluation of technical and financial proposals, according
to selection method and evaluation criteria, mentioned in the
Request for proposal.
- (iv) Finalization of recommendation based on evaluation as
mentioned at sub-rule (3) above.

4. The 'industry' of a nation is always backbone of its economy which
normally depends upon *labour class* therefore, the rights and interests of the
labour needs to be given due weight and importance. Things, however,
regret to admit have been otherwise. This Court, being the ultimate guardian

of *fundamental rights* hammered and shall continue hammering, as and when noticed / needed for proper enforcement of *secured rights* of such *huge class of people* till the time things on papers are not materialized in true spirit thereof. Accordingly, it is expected that Labour Department will complete its task preferably within three months which, too, without any excuse in discharge of its *bounden obligations* i.e to ensure rights of the *labour*.

5. Commissioner SESSI submits report pursuant to earlier order of this Court dated 11.11.2019 comprising on details of expenditures of last ten years as well details of staff and hospitals in their domain and further their affiliated departments. At this juncture, he further contends that on the demised of any labour (Secured Worker) and illness etc., Workers Welfare Board is existing under Worker Welfare Board Act and they have also their separate budget. Such claim, *prima facie*, is worth appreciating but such facility must always be in easy access because *labour class* normally does not have sufficient means to stand well with unexpected incident, therefore, importance and role of the budget of Workers Welfare Board and SESSI can't be denied. It has never been the *benefits* in booklets or books which matters but realization thereof, thus, judicial propriety demands, Commission comprising on Judicial Officer Mr. Samiullah Qureshi, Senior Civil Judge posted at Shikarpur, who shall visit all hospitals, Dispensaries, offices of SESSI and Workers Welfare Board, examine the record including submitted record and shall submit report in terms that:

- 1) Whether existing mechanism, fixing wages is implemented in its letter and spirit?
- 2) Whether ordinary worker is aware about the SESSI, Wages Board, Workers Welfare Board and have access to it?
- 3) Whether mechanism to avail *facility* is easily accessible so as to ensure *timely* help or needs improvements? If so, what steps could further make it more convenient and easy accessible?
- 4) Whether methods adopted by the SESSI and Workers Welfare Boards compelling the Masters, falling within such definition of Acts, are comprehensive so as to get registration of Workers with the SESSI and payment of the fix amount as provided under the Act and Rules? If not, what steps needs to be added?

- 5) Whether the mechanism of distribution of budget (funds) is, *prima facie*, eliminating possibilities of *illegalities*?
- 6) Whether there is any *prima facie* illegality, requiring auditing of the utilization of budget or criminal negligence on the part of SESSI and Workers Welfare Board?
- 7) Also examine any malfeasance committed by SESSI and Workers Welfare Board.

6. Here, it is also worth adding that since, incident in factories normally happen while dealing with the inflammation material, chemicals and other mechanical instruments which *normally* revolves round *negligence* or *lack of required facilities* (security measures) unless otherwise so surfaces, therefore, investigation / inquiry into such incident is not an ordinary task which can be undertaken by the ordinary police officer who *normally* is not trained for that. Thus, it is expected that Labour Department shall come forward and submit mechanism with regard to investigation of incidents, happened in factories, shops, stores and other places falls within the term of industry. All the relevant departments including Labour, SESSI and Workers' Board shall cooperate and provide every assistance. Commissioner SESSI and Secretary Workers Welfare Board shall be accompanied with learned Judge during his visits ; accordingly, learned counsel for the respective parties would be competent to submit their proposals. Adjourned to 10th February 2020 at 11:30 a.m. On that date Chairman Wages Board and Secretary, Workers Welfare Board shall be in attendance alongwith complete details of their mechanism and benefits extended by their department in favour of laborers.

> b. 2
This order shall communicate to Mr. Samiullah Qureshi learned Senior Civil Judge, Shikarpur and learned MIT shall ensure compliance of this order in its letter and spirit.

Sd/- Judge
Sd/- Judge

Certified to be true

Assistant Registrar Writ.

CP No D- 5642 of 2019

Karachi Dated 16.12.2019

Copy of order is forwarded for information and Compliance to:

- The learned MIT-II of this Court
 The Mr. Samiullah Qureshi,
Senior Civil Judge, Shikarpur

Assistant Registrar Writ

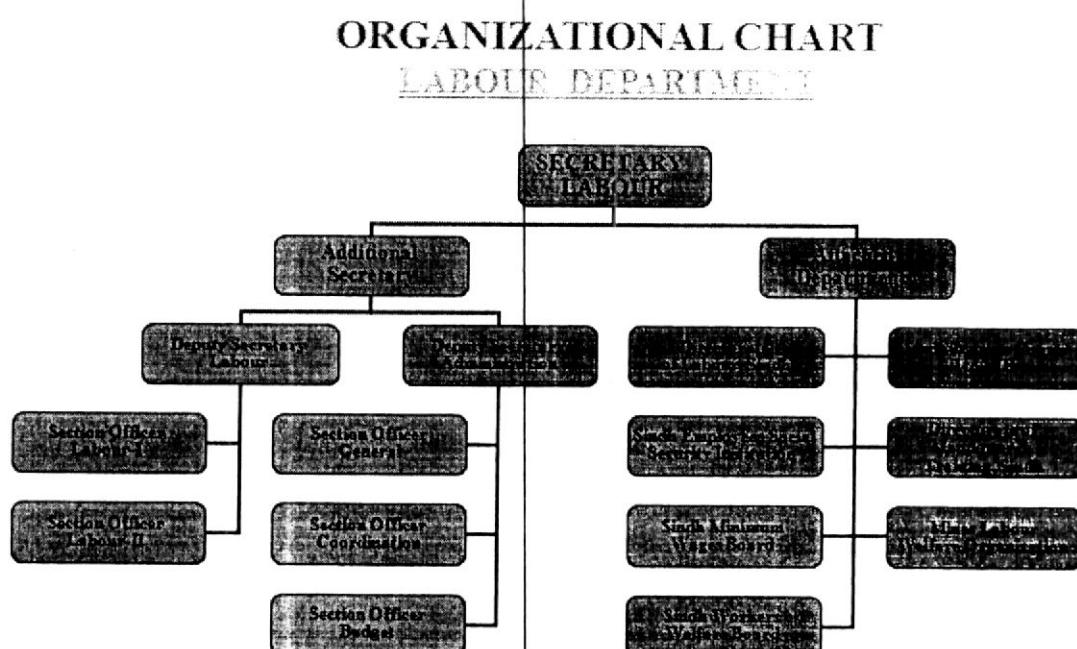
Sindh Labour Department

Sindh Labour Department works under the supervision of Government of Sindh. Its main functions are given as under

Functions

- To implement Labour Laws.
 - To maintain industrial peace.
 - To manage Labour Courts.
 - To provide social security cover for secured workers.
 - To impart vocational & technical training to youth.
 - To provide jobs through Employment Exchanges.
 - To fix minimum wages of skilled and un-skilled workers.
 - To improve welfare conditions of Industrial and Mines Laborers.

The organizational chart of labour department is also given as under:-



The Sindh Employees' Social Security Institution (SESSI)

In Pakistan, Social Security Scheme was launched on 1st March, 1967, under West Pakistan Employees' Social Security Ordinance No. X of 1965, with the assistance of the International Labour Organization. The Sindh Employees' Social Security Institution (SESSI), however, came into being on 1st July, 1970 when the Scheme was reorganized on provincial basis after the dissolution of One-Unit. Initially, the Scheme was designed for coverage of textile industry workers of Karachi and Hyderabad. On getting encouraging results later on the Scheme was extended to all other industries and commercial units. SESI is an autonomous body, the general direction and superintendence of the affairs of the Institution vest in a tripartite Governing Body. In its functioning, the Institution is guided by such instructions on questions of policy as may be given to it from time to time by the Government.

Functions of SESI

The main functions of SESI is to provide medical care and cash benefits to secured workers and their dependants in the event of sickness, maternity, employment injury, death grant, iddat, disablement gratuity, disablement pension, survivors' pension and ex-gratia grant.

Directorates Function: The main functions of Directorates are collection of Social Security Contribution, payment of Cash Benefits, Registration of employers and workers and Survey of new establishments.

Medical Circles Function: The main function of Circles is to provide medical care facilities to the secured workers and their dependants through dispensaries and medical centers.

Hospitals Function: The main functions of the hospitals are to provide specialists medical care to secured workers and their dependants through OPD and IPD. Further, laboratory tests, X-ray, ultrasound, dialysis, endoscopy, etc. are performed. Necessary operative treatment also provided here.

Sindh Workers Welfare Board

Sindh Worker Welfare Board is constituted under the **SINDH WORKERS WELFARE FUND ACT, 2014**. Worker Welfare Board Sindh (WWBS) provides following facilities to secured workers:-

- Housing facilities, education to children, financial assistance (grants in aid for marriage, death and scholarship) to those workers/labors who are registered by SESSI or EOBI.

The Sindh Minimum Wages Board

The Sindh Minimum Wages Board was established in 1974, in terms of Minimum Wages Ordinance, 1961 and after 18 th amendment it was reconstituted under the provincial enactment as **The Sindh Minimum Wages Board Act, 2015**. The Board is an attached office of the Provincial Labour Department and its jurisdiction extends to the entire Province of Sindh. The Board is a tripartite body, having representation of employers, workers and the Government and has the following compositions:

- i. Chairman appointed by the Government.
- ii. Independent Member representing the Government.
- iii. Member representing Workers of the Province.
- iv. Member representing Employers of the Province.

FUNCTIONS

- To fix the minimum wage rates of workers of Industrial units/ commercial establishments.
- To provide effective participation of Employers, Workers and the Government in fixing the Minimum Wage standard of workers

Sindh Directorate of labour

Direktorate of Labour performs the following functions :-

- **Registration of Trade Unions and other allied matters.**
- **Determination of collective Bargaining Agents and holding of Referendums.**
- **Settlement of Industrial Disputes.**
- **Enforcement of Labour Laws relating to Factories, Shops, Commercial and Industrial Establishments**

Labour Rights in the Constitution

The Constitution of Pakistan contains a range of provisions with regards to labour rights found in Part II: Fundamental Rights and Principles of Policy.

- **Article 11** of the Constitution prohibits all forms of slavery, forced labour and child labour;
- **Article 17** provides for a fundamental right to exercise the freedom of association and the right to form unions;
- **Article 18** proscribes the right of its citizens to enter upon any lawful profession or occupation and to conduct any lawful trade or business;
- **Article 25** lays down the right to equality before the law and prohibition of discrimination on the grounds of sex alone;
- **Article 37(e)** makes provision for securing just and human conditions of work, ensuring that children and women are not employed in vocations unsuited to their age or sex, and for maternity benefits for women in employment.

Following laws are applicable in Sindh regarding Labours

1. Sind Industrial Relations Act, 2013
2. Sindh Employees' Old-Age Benefits Act, 2014
3. Sindh Differently able persons (Employment, Rehab & Welfare) Act, 2014
4. Sindh Workers Welfare Fund Act, 2014
5. Sindh Workers' Compensation Act, 2015
6. Sindh Minimum Wages Act, 2015
7. Sindh Employees' Social Security Act, 2016
8. Sindh Companies Profits (Worker's Participation) Act, 2015
9. Sindh Terms of Employment (Standing Orders) Act, 2015
10. Sindh Shops and Commercial Establishment Act, 2015
11. Sindh Factories Act, 2015
12. Sindh Bonded Labour System (Abolition) Act, 2015
13. Sindh Prohibition of Employment of Children Act, 2017
14. Sindh Payment of Wages Act, 2015
15. Sindh Prohibition of Corporal Punishment Act, 2016
16. Sindh Home Based Worker's Policy, 2017
17. Sindh Occupational Safety and Health Act, 2017
18. Sindh Labour Policy, 2018
19. Sindh Home-Based Workers Act, 2018
20. Sindh Maternity Benefits Act, 2018

OFFICE OF THE COMMISSION/ 2ND ASSISTANT SESSIONS JUDGE, SHIKRUPUR.
No.2nd. ASJ/ /2020
To, Shikarpur dated 30.01.2020

THE SECRETARY
Sindh Workers Welfare Board,
Government of Sindh
Karachi.

SUBJECT. CONSTITUTIONAL PETITION NO. D-5642/2019

You are hereby required by this Commission, constituted by Honorable High Court of Sindh Karachi vide order dated 09.12.2019, to submit your detailed reply against the queries mentioned below, duly singed and stamped, on or before **03.02.2020 at 11.00 a.m**, which is the next date of hearing before the Commission:

1. What is the criterion for appointment of Governing Body? Provide names of the members of the Governing Body (enclose their notifications/appointment letters).
2. What is basic source of funding to SWWB? Mention the yearly break up of amount has been transferred to the workers' participation funds under sindh companies profit (**Workers Participation**) Act 2014. For last five years.
3. Furnish yearly details of income in respect of investments made by the Board for last 10 years.
4. What is the procedure/policy for allotment of plots, flats and houses in labour colonies?
5. Details of voluntarily contributions in shape of money, building, land etc., received for last 10 years by Sindh Workers' Welfare Board.
6. Furnish the District/Region wise details of plots/Lands distributed to the labours on ownership basis hitherto.
7. How many flats/houses have been constructed for workers, per District and Region, until now and how many of them are lying vacant after and before their allotment.
8. How many District/Region wise flats, houses are illegally occupied in different labour colonies? What redressing measures have been taken by S.W.W.B to remove the encroachers/illegal occupants?
9. Furnish District/Region wise yearly detail of amount spent/allocated on rehabilitation of schools and labour colonies throughout Sindh.
10. Furnish District/Region wise details of the provision of clean drinking water facilities installed across the Sindh in labour colonies and schools.

11. Furnish District/Region wise details of provision of financial aid extended to the legal heirs of deceased (including number) workers for last 10 years.
12. Furnish District/Region wise detail of workers' children/students has been getting education from Workers' Schools.
13. Furnish District/Region wise details of students who received scholarships for higher education during last 10 years mentioning therein number of students and the details of the relevant Universities or colleges or institutions.
14. Furnish District/Region wise detail of workers who received marriage grant during last 10 years mentioning the amount of individuals therein.
15. Provide the detail of age-wise pending applications of marriage grant so far and death grant. Besides, explain the reasons of delay in disposal of applications, if any.
16. Furnish the details of industrial homes/vocational institutions run by SWWB for last 10 years and the yearly amount spent on such institutions.
17. Submit the details of on going projects by SWWB up to December, 2019 with amount allocated/spent for the said projects alongwith current status.
18. Furnish the details of amount spent on purchase of school uniforms, books, school bags, shoes Stationary etc, provided to the children's of workers during last 10 years. Also mention the year wise budget allocated for the same.

Sd/-
(Samiullah Qureshi)
Commission/2nd Assistant Sessions
Judge, Shikarpur

OFFICE OF THE COMMISSION/ 2ND ASSISTANT SESSIONS JUDGE, SHIKRUPUR.
No.2nd. ASJ/ /2020 Shikarpur dated 30.01.2020
To,

THE COMMISSIONER (SESSI)
Government of Sindh
Karachi.

SUBJECT. CONSTITUTIONAL PETITION NO. D-5642/2019

You are hereby required by this Commission, constituted by Honorable High Court of Sindh Karachi vide order dated 09.12.2019, to submit your detailed reply against the queries mentioned below, duly singed and stamped, on or before **03.02.2020 at 11.00 a.m**, which is the next date of hearing before the Commission:

1. What is the criterion for appointment of Governing Body? Provide names of the members of the Governing Body (enclose their notifications/appointment letters).
2. Whether the Governing Body plays its role effectively thereby exercising its powers provided under the law?
3. What is source of funding of **SESSI**? Mention the procedure for monitoring of the funds. In case of deficit, if any, what measures are taken by the administration in this regard?
4. Provide detailed list of pending cases of medical reimbursement of workers. (District-wise/Region-wise so also mention the payable reimbursement amount and reasons for delay thereof).
5. Give reasons for deficit in collection of contribution, mentioning total deficit amount for last 10 years.
6. Give detail of ailing workers referred for medical treatment out of the **SESSI** hospitals and the expenses occurring on their treatment. Justify non-availability of the treatment facilities within **SESSI** hospitals besides explaining as to what measures have been taken to over-come the referral.
7. Whether an ordinary worker is aware/sensitized of the **SESSI** mechanism. Detail the district-wise and region-wise awareness programs, so far, conducted by the **SESSI**. Besides, explain the reasons of left over areas.
8. How many home based workers are registered with **SESSI** -particularly Bangle workers; brick kiln workers and coal mining workers-? Furnish details of every connected fact to such issue.
9. Whether the mechanism to avail facility of **SESSI** benefits is easily accessible to every secured worker so as to ensure timely help? What improvements you suggest for more easy access to each worker?

10. Furnish details of cash benefits provided to, district and region wise, workers for last 10 years. So also enlist total pending applications of the like nature with age of their pendency.
11. Furnish the details of defaulting establishments mentioning the amount of recoverable arrears. So also disclose reasons for non-recovery so far along with the actions taken against the defaulters?
12. How many workers are presently registered with SESSI so also render the year wise break upon the registered workers with SESSI during last ten years? So also explain the measures taken to enhance the registration of workers?
13. How many disablement claims have been decided in past 10 years so also give the number of such claims pending up to date with their age of pendency?
14. Furnish details of investments made by SESSI mentioning the institutions where the investment is made thereby disclosing the investment amount. So also mention the profit received by SESSI for last 10 years with year wise break up.
15. Provide the details of District-wise Medical facilities mentioning the areas where the facilities are not available and reasons of non-availability so also explaining what measures have been taken so far.
16. What measures have been taken to coup up the shortage of Medical and para medical staff in order to provide maximum facilities to the registered workers

Sd/-
(Samiullah Qureshi)
Commission/2nd Assistant Sessions
Judge, Shikarpur

OFFICE OF THE COMMISSION/ 2ND ASSISTANT SESSIONS JUDGE, SHIKRUPUR.
No.2nd. ASJ/ /2020 Shikarpur dated 30.01.2020
To,

THE CHAIRMAN,
Minimum wages board
Government of Sindh
Karachi.

SUBJECT. CONSTITUTIONAL PETITION NO. D-5642/2019

You are hereby required by this Commission, constituted by Honorable High Court of Sindh Karachi vide order dated 09.12.2019, to submit your detailed reply against the queries mentioned below, duly singed and stamped, on or before **03.02.2020 at 11.00 a.m**, which is the next date of hearing before the Commission.

1. What is the criterion for appointment of Governing Body? Provide names of the members of the Governing Body (enclose their notifications/appointment letters).
2. Furnish the details of meetings of the board held in 2019 along with their minutes (of meeting) so recorded.
3. What are the current minimum wages of **skilled and un-skilled** workers?
4. Furnish the details of inspections conducted so far along with copies of inspection reports, commencing from the oldest inspection.
5. What actions have, so far, been taken against and penalties imposed upon the establishments violating provisions of **Sindh Minimum Wages Act 2015**? Submit complete list if any.
6. Whether existing mechanism fixes wages in its letter and spirit. If not, give the reasons.

Sd/-
(Samiullah Qureshi)
Commission/2nd Assistant Sessions
Judge, Shikarpur

OFFICE OF THE COMMISSION/ 2ND ASSISTANT SESSIONS JUDGE, SHIKRUPUR.
No.2nd. ASJ/ /2020 Shikarpur dated 30.01.2020
To,

THE SECRETARY
Labour and H.R department,
Government of Sindh
Karachi.

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You are hereby required by this Commission, constituted by Honorable High Court of Sindh Karachi vide order dated 09.12.2019, to submit your detailed reply against the queries mentioned below, duly singed and stamped, on or before **03.02.2020 at 11.00 a.m**, which is the next date of hearing before the Commission:

19. Give number of District-wise registered establishments **under section 2 (ix) (xvi) of Sindh Industrial Relation Act 2013?**
20. Provide detail of district-wise contractors –those who provide labour- working in establishment?
21. Whether inspection book, of visits to establishment factories, is being maintained by officer/officials of labour department if not what action has been taken so far?
22. Provide details of District-wise factories (establishments) maintaining health and safety measures so also disclose names of factories observing not the health and safety measure **under Sindh Occupational Safety and Health Act 2017?**
23. Provide details of establishment's not observing minimum wages. What procedure has been adopted to monitor the minimum wage **under Minimum Wages Act, 2015**, if any what action(s) have been initiated against delinquent establishments?
24. How many establishments maintain canteens having more than 250 workers? List should be submitted district wise if not, what action has been initiated against violators?
25. How many fatal accidents have occurred in last past 10 years and reported by the establishments to the labour department, so also provide detail of the actions taken in this regard?
26. How many cases are pending **under Sindh Workers Compensation Act, 2015** across the Sindh enlisting the pendency district and Region wise?
27. How many **TRIPARTITE** committees have been nominated so far **under Sindh Labour Policy, 2018** (enclose notification of constitution of such committees and minutes of meetings conducted so far)?
28. Provide names of district-wise officers designated for hearing of Worker Compensations **under section 25 of Sindh Workers Compensation Act 2015?**

29. How many workers are compensated under **Sindh Workers Compensation Act, 2015**? The number of workers should given District wise with amount compensated.
30. Whether any case has reported or the cognizance of same has been taken with regard to child-worker of prohibited age **under Sindh Prohibition of Employment Children Act 2017** if yes, what action has been taken so far?
31. As per the sindh home based worker policy certain short term, medium term and long term measures were supposed to be taken by labour department Govt of Sindh. In this regard how many home based workers (**HBWs**) have been recognized, identified, and registered with social security benefits so far?
32. Whether any case has been reported regarding bonded labour and what action has been taken **under Sindh Bonded Labour System (Abolition) Act 2015**?
33. How many district-wise establishments are not maintaining weekly holidays and what action has been taken if any?
34. How many establishments have been registered under **Sindh Shops And Commercial Establishment Act 2015**? Give district wise details alongwith amount received thereby for registration. Provide the copies of such Registration Certification (**form-C**)
35. Provide the notifications of appointments of Chief Inspector, Deputy Chief Inspector and Inspectors within the meaning of **Section 25 of Sindh Shops And Commercial Act, 2015**.
36. What measures have been taken for health and safety of **coal mine workers** by labour department if yes give details.
37. How many accidental deaths have been reported regarding coal mine workers? Whether how much compensation was paid to the legal heirs of the deceased if any?

Sd/-
(Samiullah Qureshi)
Commission/2nd Assistant Sessions
Judge, Shikarpur

ANSWERS TO QUERIES REFERRED TO COMMISSION

1. Whether existing mechanism, fixing wages, is implemented in its letter and spirit?

The Government of Pakistan passed first constitutional law for minimum wages in the year 1961 as "**The Minimum Wages Ordinance 1961**". In consequence thereof, the Provincial Government Constitute Minimum Wages Board under section (3) of the Minimum Wages Ordinance 1961 to decide the wages of labours.

From past few decades, minimum wages issue has been highlighted which indicates that the actual minimum wage of labour/worker is a problem in developing countries. In this regard, declaration for minimum wages was passed by International Labour Conference in 2008, which favored policies dealing with wages, salaries, environment of work and the working hours. The purpose of this declaration was to emphasize an equal opportunities and a decent wages for all employees, especially the most vulnerable. In 2008-2009, Global Wage Report was published by International Labour Organization (hereinafter to be referred as 'ILO') wherein it was provided that it is better for Governments to build the purchasing power of people to encourage internal consumption. The 'ILO' reports reached at the conclusion that minimum wage is still a debating issue on policy agenda of all economies.

In the above backdrop, in Pakistan, after devolution of powers in 18th Amendment, Provincial Assembly of Sindh passed the Act in 2015 named as "**The Sindh Minimum Wages Act 2015**" (hereinafter referred to as The Act, 2015). Section 2 (xv) of the Act, 2015 defines minimum wages as under:-

"Minimum wages" means minimum rates of wages announced, declared, adopted or notified by Government from time to time which shall include the basis pay and statutory allowances that is

to say cost of living allowance, dearness allowance and adhoc relief ”

While **Section 2 (xix)** defines the terms “**wages**” as under

“**wages** means all remuneration, capable of being expressed in terms of money, which would, if the terms of the contract of employment, express or implied, were fulfilled, be payable, whether conditionally upon the regular attendance, good work or conduct or other behavior of the person employed or otherwise, to a person employed in respect of his employment or of work done in such employment and includes basic pay and all statutory and non-statutory allowances, any bonus or other additional remuneration of the nature aforesaid which would be so payable and any sum payable to such person by reason of the termination of his employment, but does not include –

- (a) any contribution paid by the employer to any pension fund or provident fund;
- (b) any traveling allowance or the value of traveling concession;
- (c) any sum paid to the person employed to defray special expenses entailed on him by the nature of his employment; or any gratuity payable on discharge.

Thereafter, under the Act, 2015, “**The Sindh Minimum Wages Board**” was reconstituted, which is functioning, its process of fixing the Minimum Wages for unskilled Workers under section (4), and for other categories of workers i.e. semi-skilled, skilled and highly skilled workers under Section (5). In 2019 budget, Government of Sindh has raised the Minimum Wage from Rs.16200/- to Rs.17500/- per month vide **Notification No.L-II-13-3/2016** Karachi dated 19-9-2019.

In order to keep a continual eye on, “whether application of minimum wage has been observed as set down by the Government of Sindh”, the inspectors have been appointed **under section 14 of the Act, 2015**. The purpose of appointing Inspectors is to carry out inspections under **Rule 22 of West Pakistan Minimum Wages Rules 1962** which states that if any Inspector during the inspection detects any irregularity on the part of employer do advise management of establishment to rectify the same and in case of further violation of minimum wages, such establishment are to be prosecuted in the Court of Law. For the sake of convenience, Section 14 of the Act, 2015 and Rule 22 of West Pakistan Minimum Wages Rules 1962 are reproduced hereinbelow:-

Section 14. An Inspector notified under the Factories Act, 1934 or Shops and Establishments Act, 1968 shall also be an Inspector for the Inspector for the purpose of this Act; provided that a Shop inspector shall visit only those shops and establishments where the numbers of workers are nine or less.

Under Rule 22 of West Pakistan Minimum Wages Rules 1962, An Inspector shall be deemed to be a public servant within the meaning of the Pakistan Penal Code and shall for the performance of his duties under the Ordinance, have the following powers:—

- (a) to enter at any time any premises which any employer of workers to whom minimum rates of wages fixed under the Ordinance apply, carries on his business and to require the production for examination of any register, wage books, records or payments made to home or out-workers by persons giving out-work and any other records or documents relating to the calculation or payment of wages, and take on the spot or otherwise such evidence of any person as he may deem necessary for carrying out the purposes of the Ordinance ;**
- (b) to examine, either alone or in the presence of any other persons, as he thinks fit, with respect to any matter under the Ordinance, any person whom he has reasonable cause to believe to be or to have been a worker to whom minimum rate of wage applies or was applicable or the employer of any such person or a servant or agent of the employer employed in the employer's business, and to require every such person to be so examined and sign a declaration of the truth of the matters in respect of which he is so examined**

During the visits of Commission across the Sindh, it has been observed by the Commission that several posts of Inspectors within the meaning of **Section 14 of the Act, 2015** are lying vacant. Besides, when it was asked from **Secretary Labour Department and Chairman Minimum Board** as to whether any violation of minimum wages has been detected. In response, they denied the fact regarding violation of Sindh Minimum Wages Act. Incharge Chairman Minimum Wage Board Mr. Saeed Saleh Jumani, simultaneously, functioning as Directorate Labour on a query regarding imposition of penalty remained silent. He told that in case of any violation of Minimum Wages, such establishments are prosecuted in the court of law. His vogue statement as well as non-furnishing of details of prosecution or penalties infers that **till today neither any prosecution against violators has been initiated nor has any**

penalty been imposed. As per data, submitted by labour department (Annexure-A-Page-4) in Sindh, (**8662**) Factories are registered under Sindh Factories Act, 2015 while (**46875**) establishments are registered under Shops & Commercial Establishments Act 2015. Thus as per Sindh Labour Department in total establishments viz. (**55,537**), there is no violation of Sindh Minimum Wages Act, 2015. It does not appeal to a prudent mind that till today no violation has been committed by any establishment regarding minimum wages of labours especially during visits of commission along-with officials of labour department, hundreds of workers/labours made complaint in presence of their employers or their representatives that they are not getting minimum wage at the rate declared by Government of Sindh.

As depicted here-in-above, it can safely be concluded that although there is a mechanism of fixing wages as provided under the relevant statutes; however, same has not been implemented in letter and spirit. No doubt, Government of Sindh time and again has been fixing minimum wages of labours/workers as per inflation rates, but all the concerned departments from top to bottom are not paying any heed to the serious implementation of existing laws regarding fixing and receiving of minimum wages to the labours/workers. On the contrary, the incumbents seem least interested in invoking the relevant laws supposed to benefit the poor labors, for the reasons best known to them.

2. Whether ordinary worker is aware about the SESSI, Wages Board, and Workers Welfare Board and have access to it?

Under the Section 2(m) of **The Sindh Workers Welfare Fund Act, 2014** & Section 2(xx) of **The Sindh Minimum Wages Act, 2015**, worker is defined as:

"any person not falling within the definition of employer who is employed in an industrial establishment or industry for hire or reward either directly or through a contractor whether the terms of employment be expressed or implied, and for the purpose of any proceeding under this Act in relation to an industrial dispute includes a person who has been dismissed, discharged, retrenched, laid off or otherwise removed from employment in connection with or as a consequence of that dispute or whose dismissal, discharge, retrenchment, lay-off, or removal has led to that dispute and shall include the family viz. spouse, unmarried sons, daughters and dependent parents but does not include any person—

- (a) Who is employed mainly in a managerial or administrative capacity; or
- (b) Any person responsible for direction, administration, management and control of the industrial establishment".

According to 2(29) of SESSI Act 2016, defines a secured person /worker as
"Secured person means a person in respect of who contribution are or were Payable under this Act"

In my humble opinion, "worker" can be divided under two major categories. One is "**Ordinary Worker**" may be termed as a worker/labor who is not registered with SESSI or EOBI " and second is "**Secured Worker**" who is registered with SESSI or EOBI, hence it can safely be said that apart from Secured worker all other workers fall under the category of Ordinary worker.

As per record furnished by the **SESSI 65,1364/-** workers are registered with them in throughout the province of Sindh meaning thereby, they are entitled to all the benefits provided by SESSI or Sindh Workers Welfare Board and they are well aware regarding minimum wages too. (**Annexure B page 469**)

Presently, in Sind, tentatively, labour force is constituted upon at least 0.5 Million persons / workers, through independent sources available on net. This

suggests only 12.5% of workers are registered with SESSI who are eligible to obtain Social Security Benefits and they are aware of the same, whereas, 88.5 % workers are falling in the class of "**ordinary workers**" who are not registered with SESSI due to lack of awareness by them or due to **unwillingness of Employers**. In either of the cases, it is the **Sindh Labour Department and Sindh Employees Social Security Institute** responsible for non-registration of ordinary workers so that they can also enjoy status of Secured Worker.

Sindh is still home to the largest group of population left without any kind of protection against social risks. Ordinary workers still face daunting challenge of extending social security benefits to all workers; obviously the need for efficient protection mechanisms that can reduce their particular vulnerability to various shocks and stresses.

It will not be out of place to mention here that during visits of Commission focal person of SESSI Dr. Saadat Memon, apprised the Commission that project of "**Universalization of SESSI**" is soon to be started so the "**ordinary workers**" may also register with the SESSI without any cumbersome process of filling forms through employer on the contrary they will register themselves online and avail the full benefits of Social Security.

The formal workers/ secured worker are aware about SESSI, Wages board and Workers welfare board and also they have access to it. But ordinary workers/ unregistered workers are not known to the said departments and they are deprived of the fruits of registration by their employer(s) in connivance of Sindh Labour Department and SESSI.

3. Whether mechanism to avail facility is easily accessible so as to ensure timely help or needs improvements? If so, what steps could further make it more convenient and easy accessible?

Before describing mechanism to avail facility it would be appropriate to mention here that SESSI provides following facilities to secured workers:-

- (i) **Medical Care facility,**
- (ii) **Cash benefits including** sickness, maternity benefits, death grants and Iddat benefits, injury benefits, disablement pension, disablement gratuity, survivor's pensions.

Apart from above, **Sindh Worker Welfare Board Sindh (SWWB)** provides following facilities to secured workers:-

- (i) **Housing facilities, education to children, financial assistance (grants in aid for marriage, death and scholarship)** to those workers/labors who are registered by SESSI or EOBI.

So far as mechanism of availing above facilities is concerned, there is a manual and cumbersome process for getting any facility either by SESSI or by SWWB. For example, in order to obtain medical facility by SESSI, a worker/labour has to approach concerned dispensary or hospital (where he is registered) and if required facility is not available in concerned dispensary or hospital, he will be referred to any other hospital which is on panel of SESSI. Besides, SESSI also provides reimbursement to a worker if he gets treatment from any hospital which is not on panel of SESSI. So far as availing reimbursement benefit, a worker/labour has to show firstly, that he got medical treatment from hospital not on the panel of SESSI, and then will apply for reimbursement along-with requisite documents before Chief Medical Officer (CMO) who is authorized to reimburse an amount which is up-to Rs.5000/- From Rs.5000/- to above, the matter will be referred to Medical Advisor based at Head Office Karachi who is authorized to reimburse an amount of Rs:5000/- to Rs.10000/-. From Rs.10000/- to Rs.25000/-, matter will be referred to Vice Commissioner SESSI based

at Head Office Karachi. And if a claim is exceeding Rs.25000/- then Commissioner SESSI is authorized to reimburse the amount to worker/labor. **As per SESSI officials, the process of reimburse takes at-least 2 months' time.** It is a matter of record that **168 applications amounting Rs. 11.431 Million for reimbursement are pending before SESSI, since at least 3 years.** (Annexure-B-Page No.131.)

As for other benefits i.e. Marriage, Death grant and Scholarships, housing facilities provide by SWWB, a worker/labour has to submit an application on prescribed proforma then the same will be forwarded to Karachi Head office. Again he has to go through hectic and time taking procedure till he gets the fruit of his application. **The efficiency of Workers Board is evident from the data furnished by them that at present 1142 applications pending for marriage grant while 536 applications for death grant are pending decision. Even most of the applications for grants are pending since 6-7 years.** (Annexure-C-O/15)

Likewise thousands of constructed flats/ houses in several cities i.e. Sukkur, Shaheed-Benazirabad, Hyderabad, Larkana, Kotri, Karachi are lying vacant and workers welfare board failed to allot the same with some transparent procedure.

It is obvious to conclude that to avail any of the facilities a worker/labour has to undergo a lengthy and time consuming process. In this scenario, **following steps are required to be taken in order to improve the system of availing facility either by SESSI or by SWWB:-**

- (i) **Manual system be abolished at once and Computerized system is required to be introduced for registered workers so that any application of worker/labour be transmitted to concerned without any delay.**
- (ii) **SESSI is required to enhance medical facilities within their hospitals/dispensaries so that matters will not be referred to other hospitals.**

- (iii) As per SESSI, 42 dispensaries and 5 hospitals are working under their supervision; however, during visit of commission, it is observed that in many areas like Sajawal, Tharparkar, Umerkot and Dadu, there is no medical facility available by SESSI. In this backdrop, SESSI is required to develop/construct hospitals/dispensaries in those left over arrears so that medical facilities will be available to a worker/labour conveniently at his door step.
- (iv) As observed above, hundreds of applications of workers/labours are pending before SESSI and SWWB for availing facilities provided by them. In this view, a time limit is required to be fixed which should not be more than 14 days for deciding applications of workers/labours in respect of any facility so that timely help of needy be ensured.
- (v) So far as house allotment policy is concerned, during visits of commission, it has been observed that hundreds of flats are lying vacant. In this regard, a transparent mechanism is required to be made so that houses/flats be allotted to entitled workers/labors timely without any delay.

4. Whether methods adopted by the SESSI and Welfare Boards compelling the masters, failing within such definition of acts, are comprehensive so as to get registration of workers with the SESSI and payment of the fix amount as provided under the act and rules? If not, what steps needs to be added?

When an establishment is registered with SESSI, the employer of establishment is liable to pay social security contribution to the institution (SESSI) in respect of every worker/labour which falls within the meaning of employee as defined in **section 2(9) of Social Security Act 2016** which reads as under:

Section 2(9) "Employee means any person employed, whether directly or through any other person for wages or otherwise to do any skilled or unskilled, supervisory, clerical, manual or other work in or in connection with the affairs of an industry or establishment, under a contract of service or apprenticeship, whether written or oral expressed or implied but does not include.

- a) Persons in the service of the state, including members of the Armed Forces, Police Force and Railway Servants;
- b) Persons employed in any undertaking under the control of any Defense Organization or Railway Administration;
- c) Persons in the service of a local council, a municipal committee, a cantonment board or any other local authority;
- d) Any person in the service of his father, mother, wife, son or daughter, or of her husband;
- e) Any person employed on wages exceeding the upper-wage limit determined under section 75;

Provided that an employee shall not cease to be an employee for the reason that his monthly wages exceeds upper-wage limit determined under section 75.

The rate of social security contribution whether employed by him directly or through any other person at the rate of 6% of his wages provided that an

employee shall not cease to be an employee for the reason that his monthly wages exceed.

Presently, social security contribution is received by the SESSI from the employers at the rate of minimum wages. The payment of social security contribution by an employer is a statutory responsibility and it is not subject to demand by the institution (SESSI). The social security contribution for the preceding month is payable in the following month. If any employer fails to pay social security contribution to the institution by the due date, the contribution payable by him increases day by day at the rate of $\frac{1}{2}$ percent (0.5%) per day subject to the maximum of 50% of the amount due as per section 24(1) of SESSI Act 2016 which is reproduced herein below for ready reference:

Section 24(1):- if any employer fails to pay, on the due date, the contributions payable by him under sub-section (1) of section 20, the amount so payable by him shall be increased by such percentage or amount as may be prescribed.

Provided that in no case shall such increase exceed fifty per centum of the amount due:

Provided further that no part of such increase shall be payable by; or the liability to pay the same be passed on by the employer to his employees:

Sindh Workers Welfare Fund was initially collected by Federal Board of Revenue, however after 18th Amendment; Sindh Worker Welfare Fund has been collected by Sindh Revenue Board under section 5(1) and (2) Sindh Workers Welfare Fund Act 2014. For ease, same are being reproduced here-under:

Section 5(1):-every industrial establishment located in the province of Sindh and the total income of which in any year of account commencing on or after the date of closing of account on or after 31st December 2013, in this behalf is not less than five hundred thousand rupees, shall pay to the fund in respect of that year a sum equal to two percent of so much of its total income declared and the difference based on the assessed total income, if any, made at the higher or lower side of such total income at the time the difference in tax is paid, or total income, which would have been assessable but for the exemption under the income tax ordinance based on the return of income or statement in respect of total income or before that date of filing of return and the additional amount on assessment of income by the taxation officer or officer of inland revenue;

Section 5(2):- every industrial establishment, which is liable under sub-section(1), shall pay the amount due from it to the Sind Revenue Board for the purpose of this Act.

Having gone through the relevant laws as quoted supra, one can visualize that a comprehensive procedure is available which is compelling the employers to get registration of workers with the SESSI; however, again the implementation of the procedure in its true spirit as provided under the relevant laws is a *question mark* upon the authority. The data given by SESSI (**AnnexureB-Page.469**) shows that registration of workers with SESSI instead of increasing has been reducing yearly. For the sake of convenience, data given by SESSI is reproduced as under:-

Sr.	Period	Number of Secured Worker
1.	2012-2013	672,427
2	2013-2014	720,164
3	2014-2015	759,339
4	2015-2016	440,631
5	2016-2017	625,032
6	2017-2018	625,527
7	2018-2019	654,518
8	2019- up to October 2019	651,364

The above statistics are sufficient to show the performance of SESSI department. One more significant aspect which cannot be ignored at this juncture is that SESSI department has failed to collect the contribution from employers. In this regard, it would be appropriate to give the figures of outstanding amount in shape of contribution against employers(**Annexure-B-Page:-511**)

Sr.	Name of Directorate	Amount Recoverable
1	Site West Karachi	53230815.49
2	Site East Karachi	40408352.00
3	City-1 Karachi	68354516.00
4	City-II, Karachi	93,958,291.00
5	Federal B Area, Karachi	60939826.00
6	Landhi, Karachi	78290528.94
7	Korangi, Karachi	47,339,651.68
8	Hyderabad	43,023,094.00
9	Kotri,	32,051,800.32
10	Sukkur	60,203,046.79

	Total Amount recoverable by SESSI is	577,799,923.12
		About 577 Millions

In view of above shocking statistics, one can say that if SESSI has been failed to recover their due amount from employers then how can they compel the employers to get the workers registered with SESSI. This aspect leads to a presumption that SESSI officials are in connivance with employers and serious action is required to be taken against all the concerned officials without any discrimination of their grades/posts.

Steps needs to be taken:

Presently, an amount of Rs.577Millionsis outstanding against defaulting establishments which is to be recovered, which prima facie shows that “masters / establishments” are not being compelled by SESSI for the payment of outstanding dues. Even the SESSI has never taken any coercive measure for recovery of amount. Further it is also evident from the facts and figures that SESSI is not taking any effort for enhancing the registration of workers. In this view, following steps may be taken:

1. **Stern action may be taken against defaulting establishments for recovery of outstanding amount.**
2. **Since SESSI field directorates have been miserably failed to compel the masters/ establishments in order to get the registration of workers with SESSI; therefore Commissioner SESSI is required to take action against delinquent officials of SESSI so that in future no one will dare to commit such like delinquency.**
3. **For the purpose of registration of workers with SESSI, Commissioner SESSI may be required to constitute a committee on war footing which ensure 100% registration of workers with SESSI**

5. Whether the mechanism of distribution of budget (funds) is, *prima facie*, eliminating possibilities of illegalities?

The transfer and monitoring of funds of SESSI is controlled by Internal Audit Department of SESSI headed by Director Finance SESSI in accordance with Section 29 of SESSI Act 2016, which reads as under:

Section 29:- Employees' Social Security Fund;

- (1) All contributions paid under this Act, and all other moneys received by or on behalf of the Institution shall be paid into the Fund, which shall be held and administered by the institution for the purposes of this Act.**
- (2) The institution may accept grant, donations and gifts from any Government or from a local authority or other body for all or any of the purposes of this Act.**
- (3) All moneys accruing or payable to the Fund shall be paid into such scheduled bank as may be approved by the Governing Body, or to any office of the Institution.**
- (4) The Institution shall maintain separate accounts for administrative expenses, and for such branches of social security and such other purposes as may be prescribed.**

All the funds transferred to any field offices for purpose either for provision of cash benefits or Medical facilities are based on their needs and in accordance with the budget allocations passed by Governing body of SESSI. The department of SESSI controls fund by a chain of Audit officers deputed in all field offices who reports to head office on monthly basis. Thereafter, every year governing body also monitors the budget allocation and expenditures incurred by the department.

Sindh Workers' Welfare Board, observes, monitor and utilize the funds in accordance with Section 11 and section 13 of Sindh Workers' Welfare Fund Act 2015. For better understanding, both the said sections are reproduced here-in-below:

Section 11: Function of the Board: -The functions of the Board shall be –

- (a) To sanction expenditure in respect of administration and management of the board;**
- (b) To invest money held in the fund of the board in securities approved for the purpose by Government or in any financial institution being run under the control of Government;**

- (c) To raise loans and to make measures for discharging such loans;
- (d) To do or cause to be done all acts and things necessary or desirable for the proper administration of the board;
- (e) To do or cause to be done all things ancillary or incidental to any of the above functions;
- (f) To regulate the matters connecting with allotment, cancellation of allotment and fixation of rent, cost of the houses or flats financed by the money allocated from the fund and external maintenance and repairs;
- (g) To take any other measures for the welfare of workers financed by the money allocated from the fund;
- (h) To incur the expenditure in respect of the cost of management and administration of such scheme;
- (i) To recover the rent, cost and arrears of rent or cost of such houses, flats in the manner laid down by the board;
- (j) To do other things necessary for, connected with, or incidental to the discharge of its functions under this act or the rules or scheme made there under;
- (k) To get its accounts annually audited in the prescribed manner; and
- (l) To make regulations to regulate its procedure;

Section 13: Maintenance of books of Account, etc. – The Board shall –

- (a) Cause to be maintained such books of account as may be prescribed;
- (b) Cause to be prepared in the prescribed manner an annual statement of account;
- (c) Cause the accounts of the board to be audited annually by the Director General Audit Sindh; and
- (d) Submit to Government the statement referred to in clause (b) together with the report of the auditor thereon.

Juxtaposing the spirit of above statutory provisions with the physical visits, it can safely be observed that **Sindh Employees' Social Security Institution (SESSI)** and **Sindh Workers' Welfare Board** have the procedure to monitor transfer of funds and also to control / monitor expenditures incurred by the departments and supervise the governing bodies of both the departments. However, automation is required to eliminate the chances of illegalities for the reason that accounting automation would focus on the entire accounting lifecycle, not just one part of financial management.

This means that the entire accounting process, the capturing, manipulating, and interpreting of transactional data, is done by software, with less dependence on manual transactional entries by people. In addition it is high time that accounts information be published on quarterly basis through websites for public information.

6. Whether there is any *prima facie* illegality, requiring auditing of the utilization of budget or criminal negligence on the part of SESSI and Workers Welfare Board?

7. Also examine any malfeasance committed by SESSI and Workers Welfare Board.

Since answers to both the queries are interlinked; therefore same are being discussed together.

Matters Pertaining to SESSI

The commission inquired to SESSI vide letter No. 2nd ASJ/74/2020 dated 30.01.2020 regarding details of investment made by SESSI so also the profit received by SESSI from such investment in past 10 years. In response thereof, SESSI submitted its detailed report (**Annexure B-Page-478 & 481**).

Having perused the report of SESSI it appeared that in the year 2017, SESSI made investment of 410 million in ABL stock fund, NAFA stock fund and Atlas stock fund for unlimited tenure from where no profit has yet been received by SESSI. It is a matter of record that before investing the amount in the said schemes, SESSI has already been invested the amount in other profitable schemes from where they are getting handsome profit. Nothing on record, as to why SESSI department chose to invest a huge amount in aforesaid schemes for unlimited tenure. This aspect not only shows the “*malfeasance*” of concerned SESSI officials but also leads to a presumption that concerned SESSI officials deliberately and intentionally invested a huge amount in aforesaid schemes in order to achieve some ulterior motives.

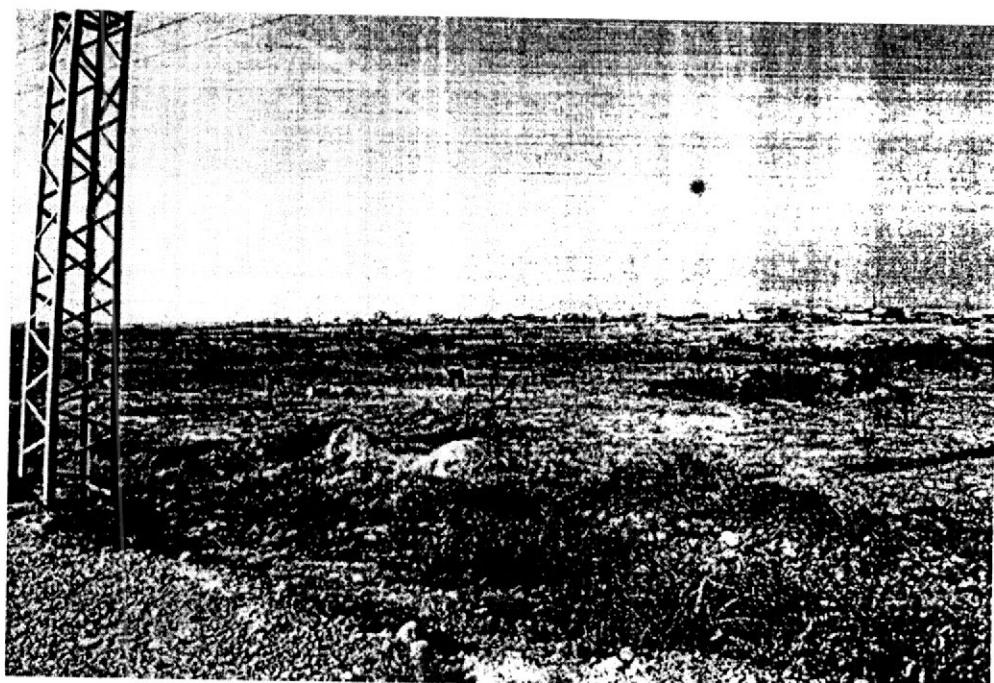
Apart from above, SESSI submitted a huge list of establishments who committed default in respect of contribution of payment of workers (Annexure-B-Page-510) which becomes 577 million rupees in shape of recoverable arrears, which has created budget deficit. In this backdrop, it is necessary to find out as to why the

amount has not been recovered timely from defaulting establishments. It is also necessary to fix the responsibility upon concerned SESSI officials, who made negligence and gave leniency to defaulting establishments and stern action may also be taken against them. Furthermore SESSI directorates may also be audited in respect of contribution received from establishments in respect of workers, through any independent auditing agency.

During visit of commission at Daharki Labour Colony, it has been observed that there was an incomplete structure of Hospital and no work was being carried out on the site. On query SESSI officials informed that the construction work of the hospital was started in May 2018; however, the construction work was stopped in December 2018. When the commission asked as to why construction has been stopped, the SESSI officials remained silent and didn't give any answer. In this scenario, **a thorough inquiry may be conducted for non-completion of the work of the Hospital, after spending a huge amount on its structure.**

Matters pertaining to Sindh Workers Welfare Board

During visits of Commission at Kotri, Sindh Workers Welfare Board, officials pointed out site selected for construction of 1504 flats at DehSonWelhar tapa Bolhari, TalukaKotri District Jamshoro Sindh. Upon queries, Secretary Sindh Workers' Welfare Board stated that land in question is cancelled by Senior Member Board of Revenue, which was previously allotted to Workers Welfare Board. Picture of that land is given below



Upon further queries, commission came to know that the said department has despite the cancellation of land in their name issued work orders to following contractors:

1. M/S J&J Builders and Developers amounting to Rs.543,693,635.34/- (work for external development)
2. Umar Jan & Co amounting to Rs.587, 531, 483.00 for (construction of flats 240 flats)
3. Al-Meo Builders & developer amounting Rs.626,796,798.60/ (construction of flats 240 flats)
4. M/S Nadir khan & brothers amounting to Rs.627,965,962.59/; (construction of flats 256 flats).
5. M/S Nadir khan & brothers amounting to Rs.587, 553, 291.88/ (construction of flats 240 flats)

From perusal of the work orders it appears that they have been issued for the construction of 992 flats and for external development, yet. (**Copies of work orders are Annexed as Annexure-H-Page-19 to 27**) respectively. Record further shows that 225.448 Million spent on mobilization to successful bidders. (Copies of Work orders are annexed at **(Annexure H-Page-17)**)

WORKERS WELFARE BOARD SINDH PRESENT STATUS OF THE PROJECT 2019-20 UPTO DECEMBER 2019										
NEW / ONGOING WORKS										
S.NO	NAME OF SCHEMES	APPROVED / REVISED PC-1 COST	ACTUAL DATE OF START	ACTUAL DATE OF COMPLETION	EXPECTED DATE OF COMPLETION	EXPENDITURE INCURRED	PHYSICAL PROGRESS (As Per Work Done)	FINANCIAL PROGRESS (As Per Work Done)	REMARKS	
1	Construction of 1604 flats Labour Colony at Keen	4204.885	Nov-2018	Nov-2022	Nov-2022	225.448 (Mobilization Advance paid on 18-11-2019)	—	—	<ul style="list-style-type: none"> • The work order was issued on 01-10-2019. • 1st Instalment of Mobilization Advance paid on 18-11-2019 as per contract clause. • Work is stopped at site due to wrongful intervention of Revenue Department as per letter no. AG/1985/2019/Kotl dated 31/12/2019. • Appeal has been filed in the office of the DC, Jamshoro for resolution of Land Dispute. • Appeal no. 817 is pending. • Next date of hearing is 04-02-2020. 	
TOTAL		4204.885	—	—	—	225.448	—	—		

In this regard Commission enquired the status of land from Muktiarkar Taluka Kotri who replied to commission vide letter No.MUK/84/of 2020 Kotri Dated 27.01.2020 that the said land of total area 46-13 acres entered in favor of Secretary Sindh Workers' Welfare Board, but its mother entry viz. entry No.82 dated 27.08.1990 of V.F VII- B has been cancelled by the order of Senior Member Board of revenue Sindh. For the sake of convenience, report submitted by Muktiarkar Taluka Kotri is hereby scanned for ready reference.



OFFICE OF THE
MUKHTIARKAR TALUKA KOTRI.

No. Mukh/ 84 / of 2020 Kotri dated 27.1.2020

To,

The Reader,
Hon`able Commissioner/Assistant Sessions Judge
Shikarpur.

**SUBJECT:- CURRENT STATUS OF SURVEY NO. 36, 37, 38, 39, 40, 43, 45, 46,
47, 48, 49, 50 & 51 TOTAL AREA 46-13 DEH SONWALHAR TAPA
BOLHARI TALUKA KOTRI DISTRICT JAMSHORO.**

Reference: Hon`able Court letter No: 2nd A.S.J/63 dated 25-01-2020 addressed to Assistant Commissioner Kotri and received this office vide letter No. AC/125 dated 27-01-2020 of Assistant Commissioner, Kotri.

I, have honour to submit, that according to report furnished by Supervising Tapedar/Tapedar of the beat and perusal of Revenue Record it reveals that as per entry No. 127 dated 13-11-2007 of V.F VII-B deh Sonwalhar, S.No. 36 (02-35), 38 (04-00), 39 (04-00), 40 (04-00), 43 (03-37), 45 (04-00), 37 (04-39), 46 (04-00), 47 (04-00), 48 (03-30), 49 (02-04), 50 (02-28), 51 (02-30) total area 46-13 acres entered in favour of Secretary Sindh Works Welfare Board but its Mother entry viz entry No: 82 dated 07-08-1990 of V.F VII-B is cancelled on the basis of order of worthy Senior Member Board of Revenue, Sindh, Hyderabad.

The relevant papers in all () pages are sent herewith for kind perusal and further necessary action.



Cc to:

1. The Assistant Commissioner, Kotri w/r to his letter NO: cited above for favour of information.

MUKHTIARKAR TALUKA
KOTRI

As per revenue record said entry in the name of Secretary Sindh Workers Welfare Board, was cancelled in the year 2016 such note was also kept on relevant revenue record/page (**Annexure-E-Page-13-15**); despite of that, work orders were issued on 1-10-2019 and huge amount spent on mobilization too. The issuance of work orders and expenditure incurred on the mobilization being done on a cancelled land shows malafide / malfeasance of concerned officials of Sindh Workers Welfare Board. Not only this, these illegal acts of SWWB officials, has apparently caused huge loss to the public exchequer. In this scenario, a full- fledged inquiry is required.

Apart from above, during the visits of commission it has also been observed that due to “**malfeasance**” of Sindh Workers Welfare Board labour colonies thousands of poor families of workers are living in pathetic and oppressive, inhuman conditions. All the labour colonies (in which houses / flats are allotted to workers) have common problems as follows.

- **Illegal Occupations:** Commission during visits also visited labour colonies situated in Jacobabad, Larkana, Shaheed-Benazirabad, Ranipur, Khairpur, Sukkur, Hyderabad, Kotri, Nooriabad, Thatta, Sujawal, Gharo, Lakhra and Karachi. During visits it appeared that most of the houses/flats of workers are illegally occupied by those persons who do not come within the ambit of labor / worker. Not only this Workers Welfare Board has no record as to who is in the illegal possession of flats / houses of workers/labours. On sites such information has been furnished by the respective officials of Sindh Workers Welfare Board particularly Sub-engineers appointed by them at each colony as care taker. In the light of information furnished by them table has been formulated (**given below**).

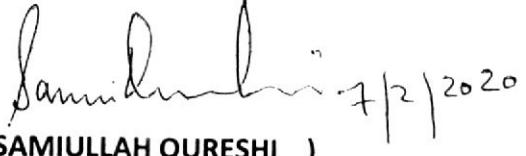
S.NO	NAME OF PROJECT	SCOPE			DATE OF COMPLETION	ILLEGAL OCCUPATIONS			
		HOUSES	FLATS	PLOTS					
A KARACHI REGION									
North Karachi									
1	Construction of 154 Flats at North Karachi Near Godra Camp		154	--	1975	77			
2	200 Plots at North Karachi Near Godra Camp		--	200					
Landhi									
3	Construction of 384 Flats at Landhi Near EPZA Cattle Colony		384	--	1975	259			
4	Construction of 350 Houses at Landhi Near EPZA Cattle Colony	350	--	--	1975	282			
5	Construction of 144 Flats at Landhi Near EPZA Cattle Colony		144	--	1995				
6	Construction of 500 Houses at Landhi Near EPZA Cattle Colony	500	--	--	1996	225			
7	Construction of 600 Flats at Landhi Near EPZA Cattle Colony		600	--	2006	278			
8	Construction of 126 WWBS Employees Plots at Landhi Near EPZA Cattle Colony		--	126	--				
9	800 Plots at F-1 Landhi Sherpao Colony		--	800	--				
10	1800 Plots at F-2 Landhi Sherpao Colony		--	1800	--				
Korangi									
11	Construction of 448 Flats at Korangi Near PTCL Office Bangali Camp Industrial Area		448	--	1975	188			
12	Construction of 248 Houses at Korangi	248	--	--	1975	200			
13	Construction of 480 Flats at Korangi Near Vita Chowangi Sector 32-A Labour Square SITE		480	--	1996	400			
14	Construction of 651 Flats at (3rd, 4th & 5th Floors) Old Labour Square at SITE Near Philips Company Shershah		651	--	1975	585			
15	Construction of 400 Old Nucleus Houses at SITE Near Philips Company Shershah	400	--	--	1975	314			
16	Construction of 400 New Nucleus Houses at SITE Near Gulshan-e-Labour S.I.T.E Karachi	400	--	--	1988	319			
17	Construction of 256 Flats at SITE Near Gulshan-e-Labour Shershah		256	--	1996	217			
HYDERABAD REGION									
18	Construction of 84 Flats at Labour Square Hyderabad Near Custom House		84	--	1975	50			
19	Construction of 200 Houses at Labour Square Hyderabad Custom House	200	--	--	1984	134			
20	Construction of 400 Houses at Labour Square Hyderabad Custom House	400	--	--	1996	318			
Kotri									
21	Construction of 160 Flats at Labour Colony Kotri		160	--	1975	144			
22	Construction of 390 Old Houses at Labour Colony Kotri Phase-1	390	--	--	1996	363			
23	Construction of 200 Houses at Labour Colony Kotri Phase-2	200	--	--	2003	171			
24	Construction of 200 Houses at Labour Colony Kotri Phase-3	200	--	--	2005	170			
Mirpur Khas									
25	Construction of 200 Houses at Mirpurkhas Khayaban-e-Noor, Mawa Roa	200	--	--	2007	160			
C LARKANA REGION									
Larkana									
26	Construction of 100 Houses at Larkana	100	--	--	2004	86			
27	Construction of 50 Houses at Naudero	50	--	--	2002	40			
D SUKKUR REGION									
Sukkur									
28	Construction of 200 Houses at Labour Colony Sukkur Near Ahmed Ghee Mill	200	--	--	1996	149			
Khalipur									
29	Construction of 50 Houses at Labour Colony Khalipur Near IBA College	50	--	--	2002	31			
Dehrki									
30	Construction of 300 Houses at Dehrki	300	--	--	2005	250			
Mirpur Mathelo									
31	Construction of 500 Houses at Mirpur Mathelo, Sindh	500	--	--	2008	480			
Nawabshah									
32	Construction of 100 Houses at Labour Colony Nawabshah Airport Road	100	--	--	2009	100			
	TOTAL ==>	11075			--	5990			

The above table shows that around 5990 accommodations are in illegal occupation and even multi storey buildings have been constructed on the single storey houses / plots. Further many commercial activities are going on the places which are only meant for accommodation of workers / labors and their families. Inhabitants pointed attention on destroyed sewerage lines, damaged internal roads, cracked buildings which became dangerous for residents but Workers Welfare Board has not provides schemes of rehabilitations to them neither they seriously acted to eject illegal occupant; no actions before competent Judicial forums have been taken against them; such fact shows board officials have closed their eyes and authorize their illegal occupation impliedly, in their connivance.

- **Non-allotment of newly constructed flats to workers:** On the one hand Sindh Workers Welfare Board is not taking meaning full actions on the illegal occupants in the labour colonies on the other hand they are not allotting constructed flats amongst workers as per policy, despite the fact that constructions have been finished years ago. Due to these newly constructed thousands of flats at Sukkur, **Shaheed Benazir Abad, Larkana, Hyderabad, Kotri, Sajawal, Jhampir, Gulshan-e-Maymar and Karachi** are lying vacant and depreciating / diminishing their value. Due to this policy of Board, **Ranipur labour colony of 92 houses** has been suffered badly and became inhabitable due to water logging and salinity due to poor management and malfeasance of SWWB .

(Pictures of colonies city-wise/ projects wise are given below with remarks observed during inspections).

- **Schools under the management of SWWB.** Like labour colonies, welfare board is also not paying any heed to the betterment of school systems. The structures of almost all the schools are in horrible conditions expect few schools situated at Hyderabad and Karachi. Pictures below showing the poor conditions of the schools city wise.
- **Clean Drinking Water Facility:** Sindh workers welfare board is also not providing clean drinking water facility to the labour colonies and in schools. Not even a single RO plant is installed for that purpose across the Sindh. This also violates the fundamental right of workers to life which is enshrined in **Article 9 of the Constitution of the Islamic Republic of Pakistan 1973.**


Samiullah Qureshi 7/2/2020
(SAMIULLAH QURESHI)
2nd Senior Civil Judge / Commission
Shikarpur

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