

JUDGMENT SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD.
JUDICIAL DEPARTMENT.

I.C.A. No.544 of 2014

Muhammad Rafique

Versus.

**Federation of Pakistan through Secretary, M/o Petroleum and
National Resources and others**

Date of Hearing: 09.11.2016
Appellant by: Mr. Muhammad Anwar Dar, Advocate,
Respondents No.1 to 3 by: Syed Masood Raza, Advocate,
Mr. Israr-ul-Haq, learned Standing
Counsel.

MIANGUL HASSAN AURANGZEB, J:-Through the instant intra court appeal, the appellant, Muhammad Rafique, an 85 year old resident of Village Langah, Tehsil and District Chakwal, impugns the order dated 08.09.2014, passed by the learned Single Judge-in-Chambers, whereby Writ Petition No.3908/2014, filed by the appellant, was dismissed for want of jurisdiction.

2. The learned Single Judge-in-Chambers was of the view that since four of the six respondents against whom relief was sought in the writ petition, were stationed at Karachi, Lahore, Chakwal and Rawalpindi, the dominant object fell beyond the territorial jurisdiction of this Court. In the said writ petition, the petitioner had sought the fulfillment of the social welfare obligations contained in the Petroleum Concession Agreement ("PCA") between the Federal Government and Pakistan Petroleum Limited/respondent No.3.

3. Essentially the appellant's case was that the Federal Government/respondent No.1 had granted a license to respondent No.3 for carrying out oil and gas exploration activities in an area within District Chakwal; that on account of the exploration activities carried out by respondent No.3, discoveries of oil and gas had been made in the said area; that Village Langah is within a five kilometer radius of the wells producing oil and gas; that Village Langah is highly impoverished and in dire need of basic developmental projects; that respondent No.3's heavy vehicles plying on the village road have

deteriorated its condition; that it is respondent No.1's duty to ensure the fulfillment of respondent No.3's contractual obligations under the PCA to carry out social uplift activities in the locality where the oil and gas exploration activities take place.

4. Learned counsel for the appellant in his submissions reiterated the stance taken by the appellant in the writ petition. Furthermore, the learned counsel for the appellant drew the attention of the Court to the case reported as PLD 2014 SC 350 (Re: Application by Abdul Hakeem Khoso, Advocate), and submitted that respondent No.1, through the Directorate General, Petroleum Concessions ("DG-PC") was duty bound to ensure the diligent monitoring of the social welfare obligations of the Exploration and Production Companies ("E&P Companies"). Respondent No.3 was one such company, and the appellant, (as one of the potential beneficiaries of the social welfare obligations of respondent No.3), was well within his rights to file a constitutional petition to voice his grievance against the inaction on the part of respondent No.1, through DG-PC, to ensure that funds are allocated for the social welfare activities in his village.

5. On the other hand, learned counsel for respondents No. 1 to 3 defended the impugned judgment by submitting that it was strictly in accordance with law. However, the learned counsel could not come up with any details as regards the fulfillment of the social welfare obligations carried out in the area where Oil and Gas Exploration activities were being carried out by respondent No.3. Furthermore, learned counsel prayed for the appeal to be dismissed.

6. The arguments of the learned counsel for the contesting parties have been heard.

7. It is well explained in the judgment of the Hon'ble Supreme Court in the case of Abdul Hakeem Khoso (*Supra*), that respondent No.1 through DG-PC regulates and oversees the grant of permits, licenses and leases for exploration, development and production to E&P Companies; that such licenses and leases are in respect of blocks covering specific geographical areas located in various districts in Pakistan; that

the E&P Companies operating in Pakistan are contractually obliged to make specified payment in lieu of exploration rights and privileges granted by the Federal Government to E&P Companies; that millions of dollars are paid by the E&P Companies for social uplift and developmental activities to be carried out in the areas where oil and gas exploration takes place; that these amounts are vested beneficially in the people of Pakistan; that it was important to properly and rigorously monitor the enforcement of contractual commitments of the E&P Companies in relation to the social welfare obligations etc.; that the Federal Government and DG-PC were responsible to recover the committed amount from the E&P Companies and ensure its spending on social welfare in the most efficient and optimal manner for the benefit of the people.

8. In the said judgment, the Hon'ble Supreme Court expressed its disquiet over the E&P Companies not meeting their social welfare obligations in accordance with the provisions of the PCAs and the applicable Petroleum Policy. Emphasis was also laid on the directive issued by the Prime Minister of Pakistan on 15.09.2003, requiring the provision of natural gas facility to villages falling within a five kilometer radius of the gas field. Furthermore, the Hon'ble Supreme Court gave elaborate directions to respondent No.1 and DG-PC to ensure the optimal utilization of the social welfare funds, production bonuses and others sums as are generated on account of the contractual obligations of the E&P Companies. The Hon'ble Supreme Court also gave a direction to the Federal Government to frame guidelines so that the social welfare obligations could be monitored and the expenditure of funds could be examined in an open and a transparent manner.

9. The said judgment was rendered by the Hon'ble Supreme Court on 27.12.2013 whereas the appellant instituted Writ Petition No.3908/2014 on 04.09.2014. The Federal Government and the E&P Company (Pakistan Petroleum Limited) had been arraigned as respondents in the said writ petition. It was indeed the Federal Government's duty to ensure that the directions given by the Hon'ble Supreme Court in the said judgment were

fulfilled in letter and spirit by ensuring that E&P Companies pay the amount under the social welfare obligations in terms of the provisions of the PCAs and the relevant Petroleum Policy, and that the said amount is utilized in an optimal manner for the social uplift of the people where the petroleum exploration activities or the oil and gas extraction was taking place. Since respondent No.1/Federal Government (Ministry of Petroleum and Natural Resources) is well within the jurisdiction of this Court, and since respondent No.1 is duty bound to ensure that funds paid by the E&P Companies are utilized for the uplift and developmental activities in an area where the relevant E&P Company operates, we are of the view that the writ petition could not have been dismissed simply because respondents No.3 to 6 happened to be beyond the territorial jurisdiction of this Court. It is the fundamental right of the people residing in the areas where petroleum exploration or oil and gas extraction activities are taking place to gain the benefit of utilization of the funds paid by E&P Companies to respondent No.1 for the developmental projects and social uplift in such areas.

10. In view of the foregoing, this appeal is allowed and the matter is remanded for adjudication on merits. It is pertinent to observe that the appellant in prosecuting his writ petition shall confine himself to the relief sought against respondent No.1, which is within territorial jurisdiction of this Court. There shall be no order as to costs.

(ATHAR MINALLAH)
JUDGE

(MIANGUL HASSAN AURANGZEB)
JUDGE

ANNOUNCED IN AN OPEN COURT ON _____/2017.

(JUDGE)

(JUDGE)

Qamar Khan*

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