

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

**W.P. No.3879/2019**

The Jurists Foundation through its Chairman Riaz Hanif Rahi, ASC.

*versus*

Federation of Pakistan through Secretary Ministry of Interior & 5 others

Petitioner by: Mr. Riaz Hanif Rahi, Advocate.

Respondents By: Rai Azhar Iqbal Kharral, Syed Mumtaz Mazhar Naqvi and Ms. Huma Noreen Hassan, Advocates for Ministry of Railways.

Raja Muhammad Aftab Ahmed, AAG.

Muhammad Saleem Khan, Joint Director,  
Ministry of Railways.

Sajjat Butt, D.G. Legal, Headquarters, Lahore.

Khalid Mehmood Khan, Deputy Secretary,  
Ministry of Interior.

Nisar Ahmed, Section Officer, Ministry of  
Interior.

Date of Decision: 18.09.2020.

**JUDGMENT**

**MOHSIN AKHTAR KAYANI, J:-** Through this writ petition, the petitioner has prayed for the following reliefs:

- i. *Direct the respondent No.1 to issue notification under the Pakistan Commission of Inquiry Act, 2017 to hold impartial and independent inquiry with the help of Certified Fire Protection Specialists.*
- ii. *Direct the respondents to pay the compensation to the identified victims of the incident without any further delay and at earliest.*
- iii. *Respondent No.6 may please be required to take resignation from respondent No.5 by following the same principle as demanded from the Minister of PML(N).*
- iv. *Fire fighting & safety equipments including alarms may please be ordered to be installed in all trains.*
- v. *Railway reforms may please be ordered as this Honourable Court may deem fit and proper.*

- vi. *Compensatory cost be also ordered to the respondent No.3, be paid to the petitioner for bringing public interest cause to the Court.*

2. Brief facts referred in the instant writ petition brought in shape of public interest litigation are that on 31.10.2019, an unfortunate incident occurred when fire broke out in two bogies of Economy Class i.e. No.12460 & 12469 together with one bogie of Business Class i.e. 11306 of the "7 Up/Tezgam Express Train" resulting into 74 casualties and 40 injured, though no FIR was registered in the concerned police station i.e. Liaqat Pur (Punjab), rather it was registered in the Railway Police Station Khanpur (Punjab). Later on, Sheikh Rasheed Ahmed, Federal Minister for Railways (Respondent No.5) announced compensation of Rs.1.5 Million and Rs.0.5 Million for the families of deceased and injured, respectively, though no compensation has yet been paid to the identified victims. Hence, instant writ petition.

3. Learned counsel for petitioner contends that all the express trains are being operated without proper security and safety measurements i.e. fire fighting equipments and fire alarms; that Respondent No.5 has announced compensation to be given to the families of deceased persons and injured persons of the 7 Up/Tezgam Express Train but no such compensation has ever been given to the affectees; that independent inquiry under the Pakistan Commission of Inquiry Act, 2017 is essential in the special circumstances of this case, therefore, Respondent No.1 may kindly be directed to issue notification to hold impartial and independent inquiry together with reforms in Railways.

4. Conversely, learned AAG and learned counsel for Ministry of Railways together with representatives of Ministry of Railways and Ministry of Interior opposed the filing of instant writ petition on the grounds that petitioner has no locus standi to file the instant writ petition and is not maintainable for non-joinder of necessary parties, as such, Pakistan Railways has its own mechanism to inquire into the accidents under the Railways Act, 1890 and in this regard,

Federal Government Inspector of Railways (FGIR) has already finalized the inquiry report, which is under review and is likely to be finalized in a few days; that responsible officers/officials of the Pakistan Railways have already been dealt with in accordance with impartial inquiry; that instant writ petition is based on apprehension and want to supersede the provisions of special law i.e. Railways Act, 1890, therefore, same is liable to be dismissed.

5. Arguments heard, record perused.

6. Perusal of record reveals that the petitioner has filed this public interest litigation with multiple prayers mainly on the grounds that a direction be passed to the Federal Government for issuance of notification under Pakistan Commission of Inquiry Act, 2017 to hold an impartial and independent inquiry with the help of certified fire fighter specialists.

7. The representatives of the Pakistan Railways in attendance contend that a proper inquiry has already been conducted by the Ministry of Interior and Ministry of Railways, even FIR No.46/2019, dated 21.10.2019, P.S. Railways Police Shahpur, District Rahim Yar Khan has already been registered. The report available on the incident of outbreak of fire in coaches of 7-Up/Tezgam Express Train on 31.10.2019 between Liaquatpur - Chanigoth Stations on Khanpur - Lodhran (Double Line Section) of Multan Division spells out that the competent authority has inquired into the matter and given the findings, dated 05.12.2019, through Federal Government Inspector of Railways, which highlighted the delinquent officials and negligence observed during the said incident. As a result whereof, 15 officials have been proceeded against in terms of the Railways Act, 1890 and Pakistan Railways Police Act, 1977.

8. This Court, vide order dated 17.02.2020, had also directed Ministry of Railways to submit a report detailing therein the action taken against delinquent officials and compensation paid to the legal heirs of deceased persons died in the fire incident of 7 Up/Tezgam Express Train. In compliance of said order, the

Ministry of Railways has placed on record a report, which reflects that 75 dead bodies have been identified and the families of deceased persons have been compensated in terms of the notified package, however 10 of the dead bodies have not yet been identified due to non-availability of DNA profiles, however it has been ensured by the Ministry of Railway as well as by the Police authorities that as and when any sufficient material, evidence or judgment of the Court is received, the same will be complied with in terms of packages to the bereaved family.

9. On the other hand, learned counsel for petitioner holds a contrary view that majority of the family members are still looking for the death certificates, which have not yet been released by the competent authority. This aspect was also duly noted by the Federal Government Inspector of Railway as well as by the District Administration of the concerned district. In such eventuality, the injured person or family members of any deceased person, who are still not aware of the status of their loved ones, may have to approach the court of competent jurisdiction to get a declaratory decree and may seek declaration to the effect of presumptive death under the law, whereafter the Ministry of Railways shall award the compensation package accordingly.

10. I have also confronted learned counsel for petitioner regarding maintainability of instant writ petition qua the prayer clause (iii) i.e. regarding issuance of direction to the Prime Minister of Pakistan to take resignation from Federal Minister for Railways, but no valid justification has been brought on record by the counsel, except that it is moral obligation of the Minister concerned to resign from such position in the wake of said incident, which occurred due to negligence of Pakistan Railways and its officials.

11. Learned counsel for petitioner has also drawn attention of this Court towards prayer clauses (iv) & (v) i.e. regarding railway reforms, as such, para-wise comments submitted by the Federation of Pakistan reveal that Ministry

of Railways has already taken cognizance of the railways reforms and has taken measures with respect to (i) tenders for 2000 fire extinguishers for all types of fire, (ii) creation of separate directorate of safety in Headquarters Office at Lahore under the Chief Operating Superintendent/Safety (BPS-20) with the role to hold periodical meetings on monthly basis and (iii) conduct safety conferences at Headquarters and Divisional Levels on monthly/quarterly basis to discuss safety related issues.

12. In view of above position, the prayer made in instant writ petition has already borne fruit as reflected from the above referred report and para-wise comments, therefore, instant writ petition stands **DISPOSED OF**.

(MOHSIN AKHTAR KAYANI)  
JUDGE

Khalid Z.