

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

W.P.No.2106/2009

Zaver Petroleum Corporation Limited  
**Versus**

Federation of Pakistan through Secretary, Ministry of Petroleum  
and Natural Resources and others.

**Date of Hearing:** 08.03.2018  
**Petitioner by:** Shahzada Naeem Bukhari, Advocate.  
**Respondents by:** Mr. Mir Aurangzeb, Advocate.

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**MIANGUL HASSAN AURANGZEB, J:-** Through the instant writ petition, the petitioner, Zaver Petroleum Corporation Limited, challenges the refusal by the respondents to grant the petitioner benefit under paragraph 2.1.5(a) of the Petroleum Policy, 2007 framed by the Government of Pakistan (Ministry of Petroleum and Natural Resources).

2. The record shows that in order to attract private sector investment for improving the petroleum supply and infrastructure in Pakistan, the Government of Pakistan, on 28.10.1997, framed a petroleum policy ("the 1997 Policy"). Under the said policy, major incentives in upstream and downstream petroleum sectors, were offered by the Government of Pakistan so as to attract private sector investment in the exploration and production of indigenous mineral oil and natural gas. Since there was a need to develop strong indigenous exploration and production activities so that exploratory efforts are sustained at a reasonable level during periods in which foreign investment is minimal, the following incentive was provided to local exploration and production companies in clause 2.1.5(a) of the said policy:-

***"2.1.5. Incentive for Local E&P Companies:***

*There is a need to develop a strong indigenous base in exploration and production activities so that the exploratory effort is sustained at a reasonable level during periods in which foreign investment is minimal. Therefore, the following incentives are being provided to local E&P companies:*

- a. *A local E&P company investing with a minimum of 5% working interest during exploration phase will be assigned an*

*additional share out of GOP's Working Interest after Commercial Discovery. Provided, however, that if two or more local E&P companies participate in a joint venture, then the GOP will assign a maximum of 5% working interest out of its share to such companies on a pro-rata basis. However, such E&P companies should neither be affiliated, associated, holding or subsidiary companies of each other. Except for this and other incentives mentioned in this policy, local and foreign E&P Companies will be treated equally."*

3. A similar representation was also contained in the Petroleum Policy, 1994.
4. On 29.12.1999, Mehar Petroleum Concession Agreement ("Mehar P.C.A.") was executed between (1) the President of Pakistan, (2) the Federal Government through Government Holdings, and (3) Orient Petroleum Inc. ("O.P.I."), a company organized under the laws of the State of the California, U.S.A. The latter two parties were the working interest owners under the Mehar P.C.A. On the same very date, an exploration licence for the Mehar Petroleum Concession Area was granted by the President of Pakistan to O.P.I. and Government Holdings. The participation of the Federal Government in joint ventures for petroleum exploration and production activities was to be handled through Government Holdings, which was later incorporated as Government Holdings (Pvt.) Ltd (respondent No.3). Respondent No.3 is wholly owned and controlled by the Federal Government.
5. Vide the Mehar P.C.A., the President granted to O.P.I. and respondent No.3, petroleum concessions and other rights including but not limited to conducting or causing to be conducted petroleum exploration, prospecting, development and production operations including the transportation, storage, terminalling, export and sale of petroleum, etc. subject to the provisions of the said P.C.A.
6. Initially, when the Mehar P.C.A. was executed, Government Holding's share was 5% (carried), whereas O.P.I.'s share was 95%. Subsequently, through a deed of assignment dated 11.05.2000, O.P.I. assigned 75% of its working interest along with operatorship to Petronas Carigali Pakistan Ltd. Vide letter dated 31.03.2000, respondent No.2 conveyed Government of Pakistan's approval to

the assignment of O.P.I.'s 5% working interest in Mehar Petroleum Concession Area to the petitioner. On 20.10.2000, a deed of assignment was executed between the President of Pakistan, respondent No.3, O.P.I., and the petitioner, whereby O.P.I. assigned 5% of its working interest in Mehar Petroleum Concession Area to the petitioner. O.P.I. is the petitioner's subsidiary. Consequently, the new working interest under the Mehar P.C.A. was as follows:-

I.	<i>Petronas Carigali Pakistan Ltd.</i>	75%
II.	<i>O.P.I.</i>	15%
III.	<i>The petitioner</i>	5%
IV.	<i>Government Holdings</i>	5% (carried)

7. Article 5.2 (a) of the Mehar P.C.A. provided *inter-alia* that as of the date of commercial discovery, respondent No.3 shall have a right to increase its working interest up to a maximum of 25% in any discovery area, and respondent No.3 will reimburse the expenditure corresponding to 5% carried working interest related to such discovery area up to the date of commercial discovery out of the commercial production in five annual installments in accordance with the provisions of the 1997 Policy.

8. Admittedly, commercial discovery took place on 13.04.2007. Vide letter dated 13.04.2007, respondent No.3 exercised its right to increase its working interest from 5% to 25% in accordance with Article 5.2 (a) of the Mehar P.C.A. It is also an admitted position that subsequent to the commercial discovery, the working interest of respondent No.3 was enhanced from 5% to 25% in terms of clause 5.2 of the Mehar P.C.A. Consequently, the post commercial discovery revised working interest in the Mehar P.C.A. became as follows:-

I.	<i>Petronas Carigali Pakistan Ltd.</i>	59.21%
II.	<i>O.P.I.</i>	11.84%
III.	<i>The petitioner</i>	3.95%
IV.	<i>Government Holdings</i>	25%

9. After respondent No.3's working interest was enhanced to 25%, the petitioner, vide letters dated 20.04.2007 and 11.05.2007, called upon respondent No.3 and the Directorate General Petroleum Concessions (respondent No.2) to grant 5% working

interest out of respondent No.3's share in accordance with clause 2.1.5(a) of the 1997 Policy. Respondent No.3, vide letter dated 15.05.2017, informed respondent No.2 that the petitioner's said claim was not valid since there was no provision in the Mehar P.C.A. for an increase in the petitioner's working interest after commercial discovery; and that the petitioner was affiliated with O.P.I., which was a foreign working interest owner.

10. Respondent No.2, vide a detailed letter dated 20.11.2007, referred the matter regarding the transfer of up to 5% additional working interest to local companies under clause 2.1.5(a) of the 1997 Policy, to the Law and Justice Division, Government of Pakistan. In paragraph 10 of the said letter dated 20.11.2007, respondent No.2 expressed its opinion to the following effect:-

*"10. In view of the position explained above, the Ministry of Petroleum & Natural Resources is of the opinion that the incentive for the grant of additional interest of upto 5% to local E&P companies as per Clause 2.1.3/2.1.5 (a) of the Petroleum Policies is applicable and valid in accordance with the law whether or not a specific provision was made in the PCA/Assignment Agreement/Lease Deed unless it is otherwise specifically agreed between the parties. Such an incentive was provided legal cover through an amendment in the schedule to 1948 Act (SRO dated 29<sup>th</sup> March 1995 and 27<sup>th</sup> April 2000)."*

11. Respondent No.2 requested the Law and Justice Division to confirm the validity of the abovementioned position. Vide office memorandum dated 22.01.2008, the Law and Justice Division posed a host of questions to respondent No.2. One such question was with respect to the number of the companies to whom an increase in the working interest was granted despite the fact that there was no clause to such an effect in the P.C.A. In its response dated 14.04.2008, respondent No.2 gave a list of the companies to whom additional working interest on the basis of the provisions of the 1997 Policy, had been given. In the said letter dated 14.04.2008, the position taken by respondent No.2 was that by incorporating the incentives of the 1997 Policy in the schedule to the Regulation of Mines and Oilfields and Mineral Development (Government Control) Act, 1948 ("the 1948 Act"), the incentive regarding the increase in the working interest of a local company after commercial discovery,

had become a part of the law. It was also stated that *“even if such a provision is not made specifically in the agreement, the companies will be eligible to get this benefit by virtue of the 1948 Act”*.

12. On 28.05.2008, the Law and Justice Division gave the following opinion:-

*“There is nothing on the record that law permits the referring Division to give such facility to certain companies by ignoring others which is a clear discrimination and should be rectified, particularly the referring Division in its reply has not shown the circumstances and justification of treating the companies in a different manner. In reply to queries made by this Division, the referring Division miserably failed to differentiate circumstances under which such discrimination has occurred. For the past transactions, this Division is not in a position to concur the act done as proposed by the referring Division. However, in the larger interest of justice and principles of equity before law and equal protection of law, it deem fit and proper that in future it would be better to incorporate the said provision in each agreement to avoid from any legal complications.”*

13. Even after the said opinion of the Law and Justice Division, the petitioner was not given the benefit of an enhancement in its working interest out of respondent No.3's share. After addressing a number of letters seeking the said benefit under clause 2.1.5 (a) of the 1997 Policy, the petitioner, on 25.09.2009, filed the instant writ petition.

14. Learned counsel for the petitioner after narrating the events leading to the filing of the instant writ petition submitted that the petroleum policies of 1994 and 1997 contained representations made by the Federal Government in order to attract investment in the petroleum sector; that in reliance on the said representations and induced thereby, the petitioner acquired 5% working interest at the initial stage of the exploration phase; that the 1997 Policy did not require for the incentives contained therein to be incorporated in petroleum concession agreements; that in terms of clause 2.1.5 (a) of the 1997 Policy, after commercial discovery, an additional share out of Government Holdings' share in the working interest was to be assigned to the petitioner; that the petitioner does not become disentitled to the said incentive simply because it is affiliated with a foreign exploration and production company; that although O.P.I. is the petitioner's subsidiary, the former, being a

foreign entity, is not claiming any additional share in the working interest under clause 2.1.5 (a) of the 1997 Policy; that respondent No.2's letters dated 20.11.2007 and 14.04.2008, to the Law and Justice Division, clearly show that a number of local exploration and production companies were granted an increase in their working interest in terms of clause 2.1.5 (a) of the 1997 Policy, even though a provision to the said effect was not incorporated in the P.C.As; and that the petitioner was similarly placed as the local companies to whom the said benefit was granted, the petitioner was being discriminated against. Learned counsel for the petitioner prayed for the writ petition to be allowed and for a direction to be issued to the respondents to extend the benefit of an enhancement in the petitioner's working interest in Mehar Block in terms of clause 2.1.5 (a) of the 1997 Petroleum Policy.

15. On the other hand, learned counsel for respondents No.2 and 3 submitted that the Mehar P.C.A. overrides the 1997 Policy; that there is no provision in the Mehar P.C.A. entitling the petitioner to an additional share in the working interest out of respondent No.3's share after commercial discovery; that the incentives in the 1997 Policy are merely guidelines, and not binding on the respondents; that the incentive in clause 2.1.5 (a) of the 1997 Policy is not applicable where a local company is affiliated with a foreign company; that since the petitioner is admittedly affiliated with O.P.I., which is admittedly a foreign entity, the petitioner cannot claim an additional share in the working interest out of Government Holdings share in terms of clause 2.1.5 (a) of the 1997 Policy; that the benefit of an additional 5% share in the working interest under the said clause can only be granted if there are two or more local companies participating in the joint venture; and that since the petitioner was the only local company in the Mehar P.C.A., it could not be granted the benefit under clause 2.1.5 (a) of the 1997 Policy.

16. Learned counsel for respondents No.2 and 3 further submitted that the disputes and differences between the petitioner and respondent No.3 could only be resolved in accordance with the dispute resolution mechanism contained in Article XXVIII of the

Mehar P.C.A.; that the parties to the Mehar P.C.A. had agreed to submit their disputes to the International Center for Settlement of Investment Disputes ("I.C.S.I.D."); that it was also agreed that if I.C.S.I.D. fails or refuses to take jurisdiction over the disputes, they shall be resolved by arbitrators under the Rules of Arbitration of the International Chamber of Commerce; and that the disputes between Pakistani working interest owners or between Pakistani working interest owners and the President of Pakistan were agreed to be resolved through arbitration in accordance with the provisions of the Arbitration Act, 1940. Learned counsel for respondents No.2 and 3 prayed for the writ petition to be dismissed.

17. I have heard the contentions of the learned counsel for the contesting parties, and have perused the record with their able assistance.

18. The facts leading to the filing of the instant writ petition have been set out in sufficient detail in paragraphs 2 to 13 above, and need not be recapitulated. It is an admitted position that the petitioner held 5% working interest ownership during the exploration phase in the Mehar Petroleum Concession Area. The petitioner had acquired the said 5% share from O.P.I. by virtue of the deed of assignment dated 20.10.2000. It is also not disputed that commercial discovery was made in the Mehar Block on 13.04.2007. Thereafter, in terms of Article 5.2 (a) of the Mehar P.C.A., respondent No.3's share in the working interest was enhanced to 25%, whereas the petitioner's share was reduced to 3.95%. The vital question that needs to be answered is whether the petitioner, being a local exploration and production company, is entitled to the benefit of an enhancement in its working interest by 5% from respondent No.3's share in terms of clause 2.1.5 (a) of the the 1997 Policy.

19. One of the incentives given under the 1997 Policy to local exploration and production companies having a minimum of 5% working interest during exploration phase in a petroleum concession block was that after commercial discovery, an additional share would be assigned to it out of Government of

Pakistan's working interest. If there were two or more such local companies participating in a joint venture, then the collective share of such companies would be enhanced by 5% on pro-rata basis. It was explicitly provided in the said Policy that such exploration and production companies should neither be affiliated, associated, holding or subsidiary companies of each other.

20. Although O.P.I. is admittedly the petitioner's subsidiary, the former, is neither claiming nor is it entitled to the benefit envisaged under clause 2.1.5 (a) of the 1997 Policy. Such benefit is only meant for the local petroleum exploration and production companies. The petitioner is admittedly a company incorporated under the provisions of the Companies Ordinance, 1984, and engaged in the business of petroleum exploration and production. The said clause in the 1997 Policy does not provide that if a local company with a 5% working interest is affiliated with a foreign company, the benefit under the said clause would be denied to such local company. Therefore, the denial of the benefit under clause 2.1.5 (a) of the 1997 Policy to the petitioner on the ground that it is affiliated to a foreign entity is not tenable.

21. Two or more local companies participating in a joint venture can collectively claim a total of 5% working interest from the Government of Pakistan's share after commercial discovery, but the quantum of the share to which a single local company would be entitled to in terms of clause 2.1.5 (a) of the 1997 Policy, has not been specified therein. The said clause entitles a local company to *"an additional share"* out of Government of Pakistan's working interest after commercial discovery. Annexed at Page-271 of this petition is a facsimile dated 21.06.2004, from respondent No.3 to the petitioner in which the former has expressed its agreement to assign 2.5% share out of its working interest to the petitioner with effect from the date of commercial discovery in the Mirpur Khas Block. The petitioner's letter dated 17.12.2007, shows that in good faith, it agreed with the proposed assignment of 2.5% of respondent No.3's working interest in the said Block. Be that as it may, the petitioner cannot be given any more or any less (in terms of



quantum and percentage of the benefit) than what the respondents have given to other similarly placed local companies pursuant to clause 2.1.5 (a) of the 1997 Policy.

22. As regards the question whether the petitioner could be denied the benefit under clause 2.1.5 (a) of the 1997 Policy on the ground that a provision to the said effect had not been incorporated in the Mehar P.C.A., it is an admitted position that respondent No.2, in its letters dated 20.11.2007, and 14.04.2008, to the Law and Justice Division, had taken the position that the benefit of the said clause in the 1997 Policy had been given to certain local companies even though a provision to the said effect had not been incorporated in their petroleum concession agreements. Respondent No.2 annexed a long list of companies to whom additional working interest was given on the basis of the said incentives provided in the Petroleum Policies of 1994 and 1997.

23. Section 3B of the 1948 Act, is reproduced herein below:-

*“3B. Concessions to petroleum exploration companies.- (1) Notwithstanding anything contained in any other law for the time being in force, every company, whether incorporated in Pakistan or outside Pakistan, to whom a licence or a lease to explore, prospect and mine petroleum is granted under this Act, not being a company such as is referred to in sub-section (1) of section 3A, shall be entitled to the concessions specified in the Schedule in addition to any concessions for the time being admissible to it under any other law or the rules made under this Act.*

*(2) The Federal Government may, by notification in the official Gazette, amend the Schedule so as to add any concessions thereto or to improve any concessions therein.*

(Emphasis added)

24. As mentioned above, vide deed of assignment dated 20.10.2000, O.P.I. (to whom the exploration licence for the Mehar Petroleum Concession Area was granted by the President of Pakistan on 29.12.1999), transferred/assigned 5% of its working interest in the *“Concession Documents”* to the petitioner. The licence is included in the meaning of *“Concession Documents”* as defined in Article 1.3 of the said deed of assignment. Since a right in the exploration licence in the Mehar Petroleum Concession Area had been assigned in the petitioner’s favour, with the approval of respondent No.2, the petitioner would be entitled to the

concessions specified in the schedule to the 1948 Act. At first, paragraph 15 of the said schedule provided as follows:-

*“Initial participation by the Federal Government in exploration shall be to such extent as may be agreed upon between the Federal Government and the licensee.”*

25. The said paragraph was amended through S.R.O.No.254 (1)/95, dated 29.03.1995, so as to read as follows:-

*“Participation by Federal Government or its hundred percent owned holding company in exploration and petroleum production and other terms and conditions and incentives shall be as is specified in the Petroleum Policy in vogue at the time the license is granted.”*

(Emphasis added)

26. Paragraph 15 of the schedule to the 1948 Act was in the abovementioned form when the Mehar P.C.A. was executed, and when the exploration licence in the Mehar Petroleum Concession Area, was granted i.e. 29.12.1999. The said paragraph 15 of the schedule to the 1948 Act was further amended, vide S.R.O. No.86(KE)2000, dated 27.04.2000, so as to read as follows:-

*“Participation by the Federal Government or its hundred percent owned holding company in exploration and production and other terms and conditions and incentives shall be as specified in the Petroleum Policy in vogue and as incorporated in any agreement with the Federal Government including production sharing agreement at the time the license is granted. The taxation of income of participating companies shall be governed by the provisions of Income Tax Ordinance 1979.”*

(Emphasis added)

27. The respondents are denying the petitioner's claim for the grant of an additional share in the working interest out of respondent No.3's working interest primarily on the ground that the incentive given to local companies in paragraph 2.1.5 (a) of the 1997 Policy had not been incorporated in the Mehar P.C.A. Indeed, paragraph 15 of the schedule to the 1948 Act provides *inter-alia* that the incentives “*shall be as specified in the Petroleum Policy in vogue and as incorporated in any agreement with the Federal Government*”. The respondents appear to have lost sight of the fact that this requirement was inserted in paragraph 15 of the schedule to the 1948 Act on 27.04.2000 i.e. after the execution of the Mehar

P.C.A. and the grant of the said licence. The said requirement brought in through S.R.O./notification dated 27.04.2000, cannot be given retrospective effect. It is well settled that notifications, instructions, circulars, etc., issued by the Government or statutory bodies would operate prospectively and not retrospectively. Reference in this regard may be made to the law laid down in the cases of Gondicalo Hypolito Constancio Noronha Vs. Damp Devji etc (PLD 1954 PC 22), Sh. Fazal Ahmad Vs. Raja Zia Ullah Khan etc (PLD 1964 SC 494), Adnan Fazal Vs. Capt. Sher Afzal (PLD 1969 SC 187), Income Tax Officer Investigation Circle-I Dacca Vs. Sulaiman Bhai Jiva (PLD 1970 SC 80), Rafiuddin Vs. Chief Settlement and Rehabilitation Commissioner (PLD 1971 SC 252), Islamic Republic of Pakistan Vs. Mazhar-ul-Haq (1977 SCMR 509), Mahmood Shah etc Vs. Additional Settlement Commissioner Revenue etc (PLD 1979 L 709), Trustees of Port of Karachi Vs. Zaffar Zaid (1988 SCMR 810), Army Welfare Sugar Mills Limited Vs. Federation of Pakistan (1992 SCMR 1652), Hashwani Hotels Limited Vs. Federation of Pakistan (PLD 1997 SC 315), Taj Mahal Hotel Vs. Karachi Water and Sewerage Board (1997 SCMR 503), Federation of Pakistan Vs. Shaukat Ali Mian (PLD 1999 SC 1026), Secretary to the Government of Pakistan Ministry of Finance Vs. Muhammad Hussain Shah (2005 SCMR 675), and Imtiaz Ahmad Vs. Punjab Public Service Commission etc (PLD 2006 SC 472).

28. Therefore, for the respondents to assert that the petitioner cannot claim the benefit under clause 2.1.5 (a) of the 1997 Policy simply because the incentives for the local companies set out therein had not been incorporated in the Mehar P.C.A., is untenable and misconceived.

29. The Mehar P.C.A. contains a clause providing for stabilization of the applicable laws. In this regard Article 29.6 of the Mehar P.C.A. reads as follows:-

*“This Agreement sets forth the entire agreement reached between the Working Interest Owners and THE PRESIDENT and it shall remain and continue in force and shall be binding upon each of them throughout its duration without any amendment, revision or alteration thereto except as may hereafter be mutually agreed by the Working Interest Owners with the approval of THE PRESIDENT.*

**The Rules, Income Tax Ordinance 1979, Regulations of Mines and Oilfields and Mineral Development (Government Control) Act, 1948 and other laws as are in force on the Effective Date shall remain applicable for purposes hereof, whether or not they are subsequently amended or revised; provided that where any matter is not specifically dealt with in this Agreement or where there is any conflict between the provisions of this Agreement and the laws, such matter shall be governed in accordance with the applicable provision of the Rules, Income tax Ordinance, 1979, Regulations of Mines and Oilfields and Mineral Development (Government Control) Act, 1948 and other laws as are in force on the Effective Date of this Agreement.**

(Emphasis added)

30. Since paragraph 15 of the schedule to the 1948 Act, as amended vide S.R.O./notification dated 29.03.1995, had provided for the participation of respondent No.3 in exploration and petroleum production to be as specified in the petroleum policy in vogue at the time the licence is granted; and since the petroleum policy in vogue on 29.12.1999, was the 1997 Policy, providing for the incentives to the local companies contained in clause 2.1.5 (a), the petitioner's entitlement to an additional share out of respondent No.3's working interest can be said to be based not just in a policy of the Federal Government, but a policy which is given statutory recognition. An essential factor and incidence in respondent No.3's participation as a working interest owner in the Mehar Petroleum Concession Area was that an additional share out of its working interest had to be given to a local company having a minimum of 5% working interest during exploration phase, after commercial discovery. This was an explicit commitment of the Federal Government set out in a policy. This commitment was made by the Federal Government to lure indigenous investment in the exploration and production of petroleum in Pakistan. The denial by the Government to extend the benefit under its own policy to an individual/entity, who qualifies for the grant of such benefit, engenders suspicion and distrust in Government policies.

31. The Government would be entitled to keep on changing its policies according to the socio-economic needs from time to time. When the Government is satisfied that change in the policy is necessary in the public interest, it would be entitled to revise the

policy and lay down new policy. The Government cannot be bound by a particular policy for all the time to come. The Government must apply its policy uniformly and not in a discriminatory manner. The case in hand is not that of a change in policy, but the Government (respondent No.2) and an entity wholly owned and controlled by the Government (respondent No.3) not fulfilling their commitment under a policy.

32. Respondent No.2, took a fair position in its letter dated 14.04.2008, to the Law and Justice Division, by stating that even if the incentives for local companies set out in the said petroleum policy were not made a part of the agreement, such companies will be eligible to get the benefit by virtue of the 1948 Act. Furthermore, respondent No.2, in its letter dated 20.11.2007, to the Law and Justice Division took the position that even though the concession as envisaged by clause 2.1.5 (a) of the 1997 Policy was not made as part of the model petroleum concession agreements, but whenever commercial discovery took place, such a right was granted as per the said policy and the 1948 Act.

33. The mere fact that S.R.O./notification dated 27.04.2000, had required the incentives contained in a petroleum policy to be incorporated in an agreement, implies that prior to the introduction of the said requirement, the right of a local company to seek the benefit of the incentive like the one set out in clause 2.1.5 (a) of the 1997 Policy, was not contingent or preconditioned on the incorporation of such an incentive in a Petroleum Concession Agreement or an exploration licence. Furthermore, the 1997 Policy did not make the grant of the incentives contained therein conditional on their incorporation in the petroleum concession agreements.

34. As mentioned above, respondent No.2, in its letter dated 14.04.2008, to the Law and Justice Division, had taken a position that the benefit under clause 2.1.5 (a) of 1997 Petroleum Policy was granted to several local companies. The Law and Justice Division, in its opinion dated 28.05.2008, has noted that the discrimination between such companies should be rectified, and that they should

not be treated in a different manner. The petitioner would be entitled to the benefit of the concession under the said clause of the 1997 Petroleum Policy in the same manner and in the same quantum/percentage as extended by the respondents to similarly placed local companies listed in respondent No.2's said letter dated 14.04.2008. In the case of Government of the Punjab through Chief Secretary, Punjab Vs. Naseer Ahmad Khan (2010 SCMR 431), it has been held as follows:-

*"4. The doctrine of equality, as contained in Article 25 of the Constitution, enshrines golden rules of Islam. It states that every citizen, no matter how highsoever, must be accorded equal treatment with similarly situated persons. The principle is well settled that a State may classify persons and objects for the purpose of legislation and make laws applicable only to persons or objects within a class. In fact almost all legislation involves some kind of classification whereby some people acquire rights or suffer disabilities whereas others do not. What, however, is prohibited under this principle, is legislation favouring some within a class and unduly burdening others.*

*5. The basic rule for the exercise of such discretion and reasonable classification is that all persons placed in similar circumstances must be treated alike and the reasonable classification must be based on, reasonable grounds in a given set of circumstances, but the same in any case must not offend spirit of Article 25 of the Constitution of Islamic Republic of Pakistan, 1973."*

35. As regards the contention of learned counsel for respondents No.2 and 3 that this petition was liable to be dismissed on the ground that there was an arbitration clause in the Mehar P.C.A., the same does not appeal to me for the simple reason that through the instant writ petition, the petitioner was not seeking the enforcement of any contractual right, but the enforcement of a commitment made by the Federal Government in the 1997 Petroleum Policy. As mentioned above, the said incentive for local companies contained in clause 2.1.5 (a) of the said policy was not incorporated in the Mehar P.C.A. Therefore, it cannot be held that the claim agitated by the petitioner and denied by the respondents was a dispute arising from the terms and conditions of the Mehar P.C.A. Consequently, the said objection raised by the learned counsel for respondents No.2 and 3 is spurned.

36. In view of the above, it is declared that the petitioner has a legal right to claim, and the respondent are under an obligation to grant the petitioner the benefit of an additional share in the working interest of Mehar P.C.A. out of respondent No.3's working interest with effect from the date when commercial discovery took place in the Mehar Petroleum Concession Area; and that the respondents' denial of the petitioner's said right is not lawful. The petition is allowed in the above terms. There shall be no order as to costs.

(MIANGUL HASSAN AURANGZEB)  
JUDGE

ANNOUNCED IN AN OPEN COURT ON 15-03/2018.

(JUDGE)

APPROVED FOR REPORTING

Qamar Khan\*

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