

IN THE SUPREME APPELLATE COURT, GILGIT-BALTISTAN
(Original Jurisdiction)

SMC No. 02/2011
(Law and Order Situation in Gilgit-Baltistan)

Before:

Mr. Justice Rana Muhammad Arshad Khan, Chief Judge.
Mr. Justice Raja Jalal-ud-Din, Judge.
Mr. Justice Muzaffar Ali, Judge.

Present:

Mr. Asad Ullah Khan, Advocate General Gilgit-Baltistan.
Dr. Ata-ur-Rehman, Home Secretary Gilgit-Baltistan.
Mr. Ali Sher, DIG, Crimes and Investigation Branch, Gilgit.
Mr. Mehmood DIG, Headquarters, Gilgit.
Mujeeb Alam, Deputy Secretary, Home Department, Gilgit.

Date of hearing: 03.09.2013.

JUDGMENT

Rana Muhammad Arshad Khan, CJ: Muhammad Tahir an employee of the Chief Court, Gilgit-Baltistan was done to death by some unknown persons and a news item was published in a largely circulated newspaper "Daily K2" to the effect that on account of murder of Muhammad Tahir the people of the area in the shape of rally started protest claiming the arrest of the culprits. Muhammad Sharif father of the deceased made an application in the name of Chief Judge, Supreme Appellate Court, Gilgit-Baltistan narrating therein the story of the murder of his son and made a request for taking of Suo Moto Notice regarding the target killing of the innocent person in Gilgit. He asserted further in the application that target killing of different persons has become the routine matter and the administration of the area does not take any measure to control this situation as no efforts, whatsoever, have been made to find out the real culprits of the son of applicant. The

applicant at the end of his application made a request to the effect that the police officers be directed to investigate the case fairly, justly and strictly in accordance with law.

2. The Assistant Registrar, Incharge, HR Wing of Supreme Appellate Court, Gilgit-Baltistan on the basis of news item published in "Daily K2" and application dated 24.11.2011 prepared a note to the effect that Muhammad Sharif, father of deceased Muhammad Tahir (employee of Chief Court, Gilgit-Baltistan) made an application in the name of Hon'ble Chief Judge, Supreme Appellate Court, Gilgit-Baltistan stating therein that his son was brutally murdered by some unknown assailants on 22.11.2011 in the area of Khomer Chowk, Jutial, Gilgit, whereas the real nephew of the applicant sustained bullet injuries during the incident who was got admitted in the hospital. The main emphasis of the applicant was that stern legal action be taken against the accused persons and the investigation of the case be ordered to be carried out fairly and in a transparent manner and the culprits be brought to the court of law to meet the ends of Justice.

3. The narration in the application and note put up by the official of this Court is indicative of the fact that the target killing of the innocent persons was gradually increasing in the Gilgit City and the administration had completely failed to control the law and order situation in the area and it was recommended that this court may please to take *Suo Moto* action regarding the law and order situation in Gilgit City for taking effective measures to control such deteriorating situation of law and order situation, since, the administration has not taken any serious notice of it and ultimately the situation has become worst. It was

further recommended that report may be called from the concerned

quarter pertaining to this particular incident.

4. On the note put up by the Assistant Registrar (Judicial), the

Registrar of this Court approved the same as such and it was placed

before the then Hon'ble Chief Judge, Supreme Appellate Court, Gilgit-

Baltistan on 24.11.2011. The then Hon'ble Chief Judge passed the order

which reads as follows: -

“Fix it with the case already pending on the subject as proposed. It has been noticed that in Gilgit within a period of one month, three four murders have taken place and there was an incident of hand grenade throwing as a result of which three person were injured. The DIG Crime will appear with report of IG and explain the position.”

5. Meanwhile this Court had already taken a suo moto notice of

the murder of Mir Haq Nawaz Khan Advocate and on 15.03.2011, the

Chief Secretary Gilgit-Baltistan, the Home Secretary Gilgit-Baltistan and

Deputy Inspector General of Police, Investigations, Gilgit had submitted

their separate reports regarding the law and order situation and the

progress in the investigation of the said murder case. The Chief Secretary

in his report had expressed that iron hands will be used against the

menace of sectarian violence and had also given the details of the

measures taken by the administration in the matter pertaining to the law

and order situation, which reads as under: -

- i. “Immediate cognizance of the situation was taken.
- ii. Raiding party was formed which arrested suspect named Mr. Ijala Hussain 2:00 pm.
- iii. Decision was made to take strict disciplinary action against the police personnel who were reported nearly the scene of incident but did not act promptly (all six of them were dismissed from service within next 48 hours.)
- iv. There has not been any instance of such strict action against police officials in Gilgit-Baltistan.
- v. Police Department in Gilgit City has been intensified by calling additional force from other parts of Gilgit-Baltistan (for detail, IGP report is attached.)
- vi. Gilgit-Baltistan Scouts and Rangers are also put on high alert to control the spread of sectarian vileness.
- vii. It has also been decided to introduce the system of video surveillance in Gilgit City at a cost of over rupees 60 million (it

- would take 180 days after award of contract which is currently under scrutiny).
- viii. On the request of aggrieved family of Mir Nawaz Khan, the inquiry of the case has been interested to Mr. Ali Sher, SSP, District Diamer.”

6. The report further contained the measures taken by the law enforcing agencies in order to maintain the law and order situation in the area. The measures are read as follows: -

- a. Rejuvenatin of Grand Aman Jirga.
- b. Formation of Peace Committees.
- c. Programs to boast religious harmony.
- d. Close liaison with intelligence agencies.
- e. Head money for proclaimed offenders.
- f. Sound liaison with ATC.
- g. Professional training of Police officers/officials.
- h. Posting/transfer of the Officers/officials in various districts.
- i. Immediate termination of officers/officials involved in sectarianism.”

7. The perusal of the report of Home Secretary transpired that there was sectarian motive behind the murder of the said advocate. The Joint Investigation Team comprising representatives of Inter Services Intelligence (ISI), Military Intelligence (MI) and Police had been constituted, whereas, Peace Committee also had already been formed for the maintenance of peace and tranquility in the city.

8. The Deputy Inspector General of Police had reported the occurrence as under: -

“on 26.06.2011, one Muhammad Nabi s/o Ghulam Nabi r/o Mughulpura, Gilgit lodged a complaint with City Police Station stating that he alongwith Muhammad Karim s/o Advocate Mir Nawaz Khan, resident of same Mohallah were busy in talking with some Police personnel on mobile duty on the road near Mughalpura, they heard firing shots at about 2030 hrs near Raqs Chowk

Soon after the firing, two motorcycles appeared from Raqs Chowk riding two person on each motorcycle. Reaching near them they fired three shots but escaped the attack unhurt. He identified one of the motorcyclist as Ijlal Hussain s/o Sultan r/o Altaf Mohallah, Nagaral when his motorcycle fell down on a speed breader, while fleeing towards Nagaral. He informed the Police personnel on mobile duty of the area about the incident but they did not show any response. After some time Ijlal Hussain alongwith a companion again appeared on motorcycle and told them that

someone had fired on them and then it was learnt that Advocate Mir Nawaz was attached who later died at DHQ Hospital, Gilgit.

The complainant further stated that Advocate Mir Nawaz Khan, was shot dead by Ijlal Hussain and his companions who, of interrogated will disclose their names. He also stated that Advocate Mir Nawaz Khan and his family has no enmity with anyone in the Mohallah and termed the incident as an act of sectarian terrorism. On the complaint of Muhammad Nabi s/o Ghulam Nabi, Police registered case FIR No. 60/2011, u/s 302/324/34 PPC, 6/7 ATA against the nominated accused at PS City Gilgit and investigation started by IP Abdul Latif.”

9. The DIG had started giving day to day report and progress of the investigation being carried out and had shown that a number of persons had been identified as suspect and had been arrested and the investigation was in progress in the right direction. The report also contained the detail of a few cases of similar nature and the details of law and order situation was also given in the report. He made certain suggestions regarding the measures which are required to be taken for maintenance of peace in the city Gilgit.

10. The Chief Minister Gilgit-Baltistan had also deputed Mr. Ali Sher, AIG/SSP Diamer as head of the Joint Investigation Team to dig out the crime of the murder of Mir Haq Nawaz Khan Advocate. The AIG/SSP informed the Court that the Joint Investigation Team, by associating its members in investigation, would leave no stone unturned to find out the truth of the matter and had undertaken that day to day progress of the investigation would be brought to the knowledge of the Lawyers Action Committee and to the complainant of the case who is father of the deceased. On the other hand the Lawyers Action Committee and the complainant were fully satisfied with the progress of the investigation and had also shown full confidence in Mr. Ali Sher, AIG/SSP and his working.

11. At this junction, the learned Advocate General Gilgit-Baltistan submitted before the Court that every effective and useful information

had been brought on the record during the course of investigation and it was quite helpful to the effect that investigation Team would definitely succeed to find out the actual accused in due course of time. Malik Haq Nawaz, a Senior Advocate and other members of the Lawyers Action Committee submitted that as it has been envisaged under Section 20 of Anti-Terrorism Act, 1997, maximum period of 30 days is allowed for the remand of the accused person and the police, very conveniently, could conclude the investigation and submit the Challan in the Trial Court within this period.

12. At this stage, the main objection had been raised by Mr. Muhammad Issa, Sr. Advocate, President of Supreme Appellate Court Bar Association to the effect that since the other members of the Joint Investigation Team did not associate with the investigation, resultantly the actual culprits remained at large and the cases had gone untraced. In this respect the head of the investigation team was asked to ensure that all the concerned members of the investigation team would actively participate in the investigation and if any member is found negligent, it would be reported to higher officials for appropriate action.

13. The Home Secretary also had informed the Court about the measures taken by the administration to maintain law and order in the city. He submitted that Police and Rangers Check Posts had been established, the carrying and brandishing of arms at public as well as sensitive places was prohibited, contingents were deployed at various places and surveillance of anti peace elements was also being carried out. In addition to that, the political Peace Committees had been constituted and the search operations were also carried out in the city. The local committees of noteables of different areas had also been

constituted for maintenance of peace. The Court had also been informed to the effect that the six Police officials were proceeded against who were present near the place of occurrence of the murder of Muhammad Akram but they did not bother to make any effort while preventing the crime or apprehending the culprits. The actions taken by administration to activate law enforcing agencies, by intensifying Police deployment in Gilgit City, calling force from other districts including Gilgit-Baltistan Scouts and Rangers, conducting the search operations, establishing the Check Posts and installing the video cameras at different places, were remarked appreciable.

14. The Court observed that the Chief Secretary would also circulate among the government servants and employees of government controlled organizations and other autonomous bodies in Gilgit-Baltistan to the effect that if, they were found directly or indirectly involved in such activities prejudicial to the peace, tranquility and security which is a poisonous element to disturb the peace and create law and order situation, which comes within the ambit of not only crime but also misconduct under the disciplinary rules, would face the disciplinary action.

15. The Chief Secretary was further warned that the proper arrangement would be made for the training program of Police officers and subordinate officials at National Police Academy, Islamabad and necessary measure would also be taken for inter district transfer of Police Officials including the posting out of their home town in order to improve efficiency of Police department. The IGP and DIG would also make surprise visits at different time and different places.

16. It is not out of place to mention here that the position explained in the reports of Chief Secretary, Home Secretary and IGP

regarding administrative measure taken to maintain peace and to curb the lawlessness in the area were appreciable and satisfactory and the necessary ingredient in all that was to create a confidence in the people that the situation might change.

17. Another aspect was also brought in the notice of the Court by members of the Bar Association that the Police officials mostly conduct the cases in the Court as prosecutors resultantly, criminal cases remain unsuccessful on account of some technical defects and prosecution flaws, whereas, certain posts of prosecutors were lying vacant for the last about two years and the prosecution of the cases was badly suffering in the Courts which was also one of the reason for law and order situation but the concerned authorities for the reasons best known to them had withheld the appointments, whereas, this Court had given a direction in a Judgment (2010 GBLR 160), for appointment of the prosecutors from Bar Associations in each district. Non compliance of the Judgment tantamounts to impair the jurisdiction of the Court. In this view of the matter the Law Secretary was directed to submit the report explaining the reason for not making the appointments against the vacant posts of prosecutors.

18. At this point of time, the Home Secretary had informed the Court that the selection for the appointment of Prosecutors had been finalized and only formal notification was required to be issued and the same shall be issued shortly. The IGP was directed that he would place on record the list of cases untraced particularly registered under Anti-Terrorism Act, 1997 and would bring on record the list of cases in which the final Challan had not been submitted and also the list of cases pending disposal with the Courts. It was stated that the Anti-Terrorism

Court No. 2 at Gilgit had not then been established which had caused the delay in disposal of cases as the Court No. 1 of Anti-Terrorism at Gilgit was already overburdened. The Secretary Home was directed to inform the Court on the next date of hearing, the reason of not making appointment of Special Judge.

19. At this stage, Mr. Shakeel Ahmed Advocate brought to the notice of the Court that a case was registered at his instance as the culprits had mounted an assault on him but the case was pending in the Police Station unattended and he felt insecure at the hands of his opponent. The DIG present in the Court was asked to look into the matter and he would direct the concerned SHO to explain his position in this regard before the Court on the next date.

20. One astonishing feature had also been brought to the notice of the Court that some accused persons appeared in the Courts alongwith their arms and at the same time extend threats to the witnesses and the advocates also by displaying their arms. The Home Secretary and IGP were directed to take preventive measures and would make proper arrangements in this regard ensuring the safety of witnesses as well as the advocates. The IGP was asked to inform the Court on the next date of hearing with regard to the measures taken by the administration.

21. The learned Advocate General submitted that the investigation of the case of Mir Haq Nawaz was almost complete and only two accused/suspects were statedly arrested. On the conclusion of the investigation the final report under Section 173 Cr.PC would be prepared and the same would be submitted within the shortest possible time.

22. On the other hand, the complaint of Mr. Shah Nawaz, brother of the deceased categorically stated that he had full confidence in the

head of investigation team and also had no complaint whatsoever, with regard to the progress of the investigation but with one exception that the master mind of this occurrence had not yet been arrested and he sought direction to the effect that the investigation should not be transferred and entrusted to any other Police Officer.

23. The SSP, present in the Court, who is Incharge of the investigation stated that if, any information is given by the complainant party or collected by himself or from any other source regarding the involvement of any person in this case, he would investigate the same accordingly and he had ensured that the investigation was not being changed from him. The complainant and lawyers action committee of the Bar Association of this Court had shown their full satisfaction and confidence in SSP. In this view of the matter, it was directed that the investigation would not be changed and the SSP would submit final report before the Court without any loss of time.

24. So far the untraced cases are concerned, the IGP Gilgit-Baltistan had very frankly stated that there were as many as 53 cases, registered under the Anti-Terrorism Act, 1997 which were pending investigation with the Police out of which 18 were murder cases and it was on account of non-cooperation of the people of the area due to the division between them on the basis of sectarianism and also due to short of police officials.

25. Further, according to the IGP, as many as 250 posts of constables had been created for recruitment from each district on the basis of ratio of population and that a percentage of these posts had also been fixed for recruitment on open merit on the basis of whole of Gilgit-Baltistan. He had shown his satisfaction that since, he had taken over the charge, the crime rate had reasonably been reduced and he had

shown his hopes that in consequent to the reformation and reorganization in Police Department by way of inter-district transfers and transfers out of home town, the crime rate would further be reduced. He made a submission that the criteria for recruitment of constables has been prescribed at par to the Punjab Police and Islamabad Police particularly, in physical fitness and standard of test and interview. The IGP stated further that certain complaints had also been received from different quarters that some subordinate police officials were said to have been involved in sectarianism, therefore, in the light of the order dated 15.03.2011, passed by this Court, necessary disciplinary actions would be taken against the delinquents who would be found involved in such like activities. He was directed for the submission of the report regarding untraced cases before Anti-Terrorism Court, with the reason of declaring these cases untraced and he himself ensured to the Court for filing of report within two months.

26. It had also been brought to the notice of the court that the additional force was also deployed for betterment of law and order situation in the area.

27. It had further been brought to the notice of the Court that the investigation was being carried out under the control of DIG Investigation in order to ascertain causes of untraced cases of sectarian killing and it was assured that if, any case had gone untraced because of inefficiency and negligence of the Police Officers/officials, the departmental proceedings would be initiated against the concerned officials and the Chief Secretary would also be kept informed.

28. It was stated further that due to lack of proper training and investigation, the cases remain untraced and also remain unsuccessful before the Courts.

29. The measures adopted by the IGP regarding the maintenance of law and order situation in the area through the reformation and reorganization of the police were quite satisfactory and the court felt obliged to appreciate the efforts for maintaining normal law and order situation and creating a peaceful atmosphere for the public at large of the area.

30. The Deputy Secretary, Home Department and Deputy Commissioner, Gilgit had stated that in certain cases compensation had been paid to the aggrieved persons in which untraced murder cases were also included but they were without the details of the cases with them. It was directed that Home Secretary would submit the list of the cases (traced or untraced) in which the compensation had been defrayed to legal heirs of the deceased victims of target killing or sectarianism on the next date and if, the compensation had not been paid in such like cases, he would take the matter with the competent authority for the approval for payment of compensation equal to one diyat to the legal heirs of each deceased in terms of the notification issued by the Ministry of Interior, Government of Pakistan on the subject.

31. In order to uproot the sectarian hatred, the Deputy Commissioner and Deputy Secretary Home informed the Court that in pursuance of the order dated 15.03.2011, the area-wise peace Committees would be reconstituted in which the social, political and religious noteables and influential people including members of legal fraternity who were residing in the area would be included with their prior consent for this purpose. They asserted that these committees would definitely be helpful in resolving the social and administrative problems in the area in the interest of policy of good governance.

32. The participation of the noteables and influentials of the area in the matter concerning with the law and order problem and unnatural division of the people into religious sects would certainly prove helpful for creating harmony in the society as a permanent solution to maintain the peace in the city.

33. So far the progress for the appointments of prosecutors was concerned, the Deputy Commissioner stated that the Deputy Secretary Home was away to Islamabad and he was unable to give the details. The Deputy Secretary Home was directed to give the details in this respect on the next date of hearing.

34. The learned Advocate General on instructions of SP stated that the investigation in the case of bomb plantation near the suspension bridge Amphari was being conducted and the police officials made all efforts to effect the arrest of accused. The SP would submit the challan on the completion of the investigation of the case.

35. So far the case of Mr. Shakeel Advocate, complainant in the case of attempt on his life, is concerned, on account of non-cooperation in the investigation could not be concluded. The investigation had then been entrusted to a police official of the rank of Inspector.

36. As the *Suo Moto* case was initiated, the concerned quarters had taken all appropriate measures for search and surveillance of the under-trail on bail or in custody accused to avoid any incident in the premises of the courts and this arrangement was ordered to be continued on permanent basis. The installation of video cameras for search and surveillance of the elements involved in anti law activities was in the process and same would be completed shortly and it would be very helpful to curb the perversion of crime.

37. The DIG was directed for submission of report regarding the progress in the cases referred above and payment of compensation to the

legal heirs of deceased victims and the Deputy Secretary Home was directed to inform the Court about the appointment of the Prosecutors etc. on 28thof that month. The copy of this order was ordered to be supplied to all concerned.

38. The Home Secretary placed on record the list of cases onward 2005 in which the compensation had been paid as per the policy of the government to pay the same to the legal heir of the victims of target killing and injured, he submitted further that the record of payment from 1988 to 2005 having been lost in riots was not available. The Home Secretary stated that in 317 cases compensation was paid and the record of 73 cases from the concerned quarters was awaited, whereas, 68 cases in which 53 were untraced cases, were in progress. The Home secretary informed that on the day when the incident of the murder of Mir Haq Nawaz Khan Advocate had occurred, two other persons namely Akhtar Ali and a Tractor Driver Sakhi Muhammad were also killed in the dubious manner by some unknown person and all those cases were under investigation but SP could not satisfy the court with regard to the progress of the investigation. The SP was ordered to appear before the court on the next date of hearing.

39. The Home Secretary stated that notwithstanding the progress of the investigation, he would initiate the process of payment of compensation as per policy of the government. The Home Secretary and IGP were directed to hold inquiry in order to differentiate the case of target killing from personal enmity and would also process the cases in which the compensation had not been paid. It was further directed that Chief Secretary in consultation with Secretary Law and Home Secretary would finalize the appointment of Prosecutors and the Special Judge

Anti-terrorism Court No. 2 Gilgit on priority basis and would send the progress report to the Registrar of this Court.

40. It was ordered that the case would be taken up alongwith

Cr.PLA No. 04/2011 on 29.03.2011.

41. The DIG Investigation assisted by the SP Investigation and SP

District Police collectively stated that three murder cases of Sakhi

Muhammad, Haji Nageen and Akhtar Ali and four cases of attempt to

murder were under investigation and in all these cases the Challans

would be submitted within stipulated time. They submitted further that

the Bomb planting case of Amphry Bridge was also under active

investigation and the investigation was being carried out with full

concentration and the Challan in this case would soon be submitted.

42. On instructions, the DIG Investigation stated that the proper

security measures had been taken for the security of the bridges in Gilgit

District. On submission of the Challan before the Anti-Terrorism Court in

Amphari Bridge Bomb Plantation Case, the intimation would also be sent

to the Registrar of this Court within a month.

43. The representative of the lawyers committee of the Chief

Court as well as of this Court made submission to the effect that inspite

of lapse of considerable period and direction of this Court, the concerned

authorities had not finalized the cases of appointment of the Prosecutors

and Special Judge of the Anti-Terrorism Court No. 2, Gilgit with the

result that the cases pending in Anti-terrorism Court were lingering on.

They pointed out further that 84 posts of Public Prosecutors were

sanctioned by the competent authorities for Gilgit-Baltistan but only 5

cases of the Public Prosecutors had been finalized which showed lack of

interest of those sitting at the helm of affairs in Gilgit-Baltistan. The

Secretary Home submitted that the appointment of the Judge of Anti-

Terrorism Court falls within the domain of Law Secretary. He would be in a better position to appraise the court with regard to the said appointment. So far the appointment of the Public Prosecutor was concerned, the process of the appointment of the Public Prosecutor was almost completed by the Selection Committee and the matter was pending with the Law Department for finalization.

44. Secretary Law was directed to attend the Court on the next date of hearing to apprise the court about the delay occasioned in the appointment of Anti-Terrorism Judge and 84 Public Prosecutors.

45. The DIG submitted that two persons were arrested in the murder case of Mir Haq Nawaz Khan Advocate and the Challan of the case was already submitted in the Court. However, two other accused persons were still at large and the raids were being conducted for their arrest and he had ensured that they would soon be arrested. So far in the case of Haji Nageen and attempt to murder case of one Jaffar Ullah, the accused had also been arrested and the investigation was being conducted and on conclusion of the same, the Challan would be submitted in the Court. As per statement of the Police Officers, no arrest had been made in murder case of Sakhi Muhammad, Akhtar Ali and Dawaran Khan, however, the Police very actively and vigilantly made efforts to get the clue of the culprits. The bomb case of suspension bridge was also said to be in progress and after completion of investigation the

Challan of the same would also be submitted in the court.

46. The DIG stated that despite of lack of training and other equipments, the Gilgit-Baltistan Police was trying best to root out the menace of terrorism, target killing and sectarianism from the area. Regarding the payment of compensation to the legal heirs, the details of families of 73 cases was provided to DIG Investigation who after proper

scrutiny would contact the legal heirs of the victims. The father of Akhter Ali filed an application for the arrest of accused person of murder of his son and payment of compensation. Both the issues were under active consideration with the concerned quarter as such application was disposed of. The case was adjourned for further proceedings on 03.05.2011.

47. The report submitted by the DIG Crimes in respect of investigation of the cases was not found satisfactory. He was asked to complete the investigation and submit the Challan in the Court within fortnight time.

48. So far as the case of appointments of 84 Public Prosecutors was concerned, the Secretary Law and Prosecution stated that the posts of Public Prosecutors were reduced from 84 to 47 posts, out of which 24 posts were of Deputy Public Prosecutors and Assistant Public Prosecutors and Special Prosecutors. He stated further that the process for selection of 6 Deputy Public Prosecutors and one Special Prosecutor was complete and only final notification was to be issued by the competent authority, whereas, the summary for 13 posts of Assistant Public Prosecutors and 04 Deputy Public Prosecutors had already been submitted to competent authority for further action. This case will be treated on priority basis and process shall be completed before 30th June 2011. In view of the explanation given by the Secretary Law and Prosecution, the Court directed that the Chief Secretary would take necessary steps for expeditious disposal of the cases of appointment of 6 Deputy Public Prosecutors and one Special Prosecutor and also expedite the process of sanction of 13 posts of Assistant Public Prosecutors and 04 posts of Deputy Public Prosecutors. The Secretary law informed the

court that in the case of appointment of Special Judge Anti-Terrorism Court, only the interview of the candidates was to be undertaken and thereafter the notification of appointment of passing candidate would be issued.

49. On 01.06.2011, the learned Advocate General submitted that as per position explained by the Secretary Law on the last date of hearing, the notification regarding the appointment of 07 District Public Prosecutors and 02 District Attorney Generals had been issued on 09.05.2011 and they had also joined their duties. It is to be noted that all these appointments were made on contract basis as stop gap arrangement and the regular appointment would be made through the process of Public Service Commission. He submitted further that the case of the appointment of Special Judge, Anti-Terrorism Court No. 2, Gilgit and case for interview is matured for calling the candidates on a date to be given by the Chairman, shortly. Home Secretary had stated that he had issued the orders/directions to the concerned Police officers for verification of the legal heirs of every deceased for payment of compensation and on the receipt of the report the payment would be made to the legal heirs. It is also submitted that the record had already been completed for verification of the legal heirs of the deceased in untraced cases but it was observed that the verification by the police official might not be true and the Deputy Commissioner would be the proper authority to do the needful.

50. The question regarding the genuineness or otherwise of the legal heirs of deceased is necessarily to be determined by the Deputy Commissioner of the concerned District after hearing Police and it would be the duty of the police to provide necessary information. The request

for minimum period of two weeks was made to complete the process and thereafter, two weeks would be required to complete the process of the payment of compensation and report to that effect would be submitted. The case was ordered to be relisted on the receipt of the report. It had also been brought to the notice of the court that the Challan of the cases of Mir Haq Nawaz and Akhtar Ali had been submitted in the Court whereas, the investigation of the case of Sakhi was in progress and two weeks time was required to complete the same. The Challan of untraced cases had already been submitted in the Court of Anti-Terrorism. The Special Judge was asked for the submission of report to the effect that on what basis these cases had been declared untraced and what action had been taken by the court in these cases. The report was asked to reach within two weeks.

51. On 10.08.2011 the report was submitted by the Special Judge, Anti-Terrorism Court that 20 cases of Police Station City Gilgit and 37 cases of Police Station Cantt, relating to the period from June 2004 to March 2011 within the jurisdiction of Special Court, were pending with Police in which the Challan had not been submitted. Under Section 19 of the Anti-Terrorism Act, 1997, the investigation would have been completed within 07 days and the Challan would have been submitted within next 7 days but despite repeated reminders, the Police had not bothered to submit the Challan. Non submission of Challan was gross negligence on the part of Police and it had aggravated law and order situation in the City. The DIG investigation was asked to submit the report containing the reason of non submission of Challan and what action has been taken against the delinquent officials. It was directed that the report supplied by the Special Judge would be sent to DIG

Investigation for necessary action and the report would reach to this Court within three weeks. The Home Secretary would also make a report showing the reason of delay in making appointment of Deputy Public Prosecutors and Assistant Public Prosecutor in various districts of Gilgit-Baltistan and also appointment of Judge of Anti-Terrorism Court No. 2 Gilgit. The process of payment of compensation would also be brought to the notice of the Court by the DIG, Investigation.

52. Vide Order dated 14.09.2011, the learned Advocate General had submitted that the Challans of 7 cases had already been submitted and presently, except the fresh cases under investigation, no old case is pending with the Police for submission of Challan and there was nothing on the record showing that the Challans of untraced cases had been submitted. He stated that the DIG was on leave, he would be in a position to explain the reason and he was likely to return to duty within a week. The appointment of Prosecutors had already been made as stated by the Home Secretary and the appointment of Special Judge was under process. He had shown his inability to give any information regarding the payment of compensation.

53. The Court observed that it was sad that despite repeated observations made by this Court, the appointment of Special Judge, Anti-Terrorism Court No. 2, Gilgit was unnecessarily being delayed and in that manner neither the law and order situation could be improved nor proper results had been achieved. The Chief Secretary was directed to ensure early appointment of Special Judge of Anti-Terrorism Court. The DIG would also apprise the Court regarding the payment of compensation to legal heirs of the deceased. The Home Secretary was

directed to take necessary steps for payment of Diyat/Compensation, in implementation of the Judgment titled the State v. Azam.

54. On 20.10.2011, learned Advocate General was present in the Court and had produced a letter addressing to the Registrar of this Court prepared by the Crime Branch, wherein, it was stated that out of 157 cases pertaining to the jurisdiction of Anti-Terrorism Court, Challans of 57 cases had been submitted and out of remaining 103 cases 36 were untraced till date and culprits could not be brought on surface, moreover, the IO had recommended for closing of investigation in these cases and in 5 cases Judicial Magistrate Gilgit has passed the orders accordingly whereas, the remaining cases were pending in investigation. But strangely, nothing was mentioned in the letter regarding the payment of compensation in compliance of the order of the Court. He with reference to Section 14 of the Anti-Terrorism Act, 1997 had submitted that the appointment of Special Judge, Anti-Terrorism Court could not be finalized as the Special Judge could not be appointed without prior consultation with the Federal Government. The plain reading of sub-section (2) and (3) of Section 14 of Anti-Terrorism Act, 1997 would show that these provisions relate to the establishment of Anti-Terrorism Court under Anti-Terrorism Act, 1997 and does not deal with the appointment of Special Judge, Anti-Terrorism Court. In this view of the matter, the Secretary Law was asked to appear to explain the reason of delay in appointment of special Judge of the Anti-Terrorism Court No. 2 established under Anti-Terrorism Act, 1997 at Gilgit. The question relating to the payment of compensation in terms of orders of the Court was entirely different from issue of submission of Challan in untraced cases. So, the Home Secretary was directed to appear on the

next date of hearing to explain the reason of non-payment of

compensation to the legal heirs of the deceased.

55. On 17.11.2011, all the concerned were present in the Court and informed that out of 157 cases about 106 were mature in all respect for payment of compensation and in some cases the compensation had already been paid and in other cases the payment would be made in due course of time, whereas, the remaining cases were under scrutiny and were subject to necessary verification. The DIG Crime Branch stated that so far the untraced cases were concerned, the departmental action had already been initiated against the officials who were found responsible for not tracing the culprits and intimation of action taken against these officials would be sent to the Chief Secretary and Home Secretary and action proposed after inquiry would be taken within reasonable time.

56. The Secretary Law had informed the Court that in view of the legal position explained in order dated 20.10.2011, passed by this Court, he had sent the case to the Chief Secretary Gilgit-Baltistan for appointment of Special Judge Anti-Terrorism Court No. 2 at Gilgit.

57. The DIG had informed that the accused who had thrown the hand grenade in the Punial had been arrested and the investigation is in progress and the Challan would be submitted before the Anti-Terrorism Court within stipulated time. In view of the submission of the Secretary Home and DIG, the case was adjourned to be fixed by the office with the direction that the detail report would be submitted regarding the payment of the compensation and the action proposed and taken against the officials who remained negligent in performing the duties diligently.

58. On 28.11.2011 the DIG assisted by SP Gilgit had given the details of the occurrence in which Muhammad Tahir an employee of Chief Court had been murdered and he had informed the Court, that the

accused of this case had been arrested and the investigation was said to be in progress. He informed the Court further that so far the case of hand grenade was concerned, the accused had been arrested and the investigation of the Joint Investigation Team was in progress. The investigation of the case in which two innocent persons were murdered was also statedly at advance stage. He, during the proceedings, ensured the Court that the Challan of all these cases would be submitted very soon.

59. The DIG crimes had informed the Court that except the senior officers and Police Officers above the rank of Inspectors and sub inspectors, strength of Police in Gilgit was about 700 and all these Police officials belong to Gilgit District, whereas, in all other Districts, the total strength of Police force is almost 450 but still there was a problem of law and order situation. The DIG Crime pointed out that unless, the Police force was not reorganized by inter-district transfers of police officials of the rank of sub inspectors and above, and the transfer of subordinate officials out of home town, as observed by the Court in the order dated 17.11.2011, the law and order situation would not improve. He ensured that the orders of the Court shall be given effect in its letter and spirit. The DIG Crimes conceded before the Court that apart from other factors, posting at Home Station is the major issue of bad law and order situation especially in District Gilgit and that was because of sectarian hatred and terrorism, which led the situation uncontrollable. The Home Secretary present in Court had been directed to take necessary and immediate steps for inter-district transfers and transfers out of home town in the Police department in the interest of Law and Order situation in the Gilgit City.

60. The Home Secretary in consultation with DIG was directed to ensure that instead of a Police Officer of the rank of SP a senior officer not below the rank of DIG may be deputed in Gilgit for better administration as an officer of the rank of SP might not be able to have effective control over the subordinate police force to maintain law and order in the city. The IG, being the head of the Police department would submit report containing the reasons of deteriorating law and order situation and the measures taken by Police for the security of a common person in the City.

61. The Home Secretary on query of the Court had submitted that the Cantonment Act, 1975 had not been as such enforced in Gilgit-Baltistan but the court had confronted him with the legal position that by virtue of Article 95 of Gilgit-Baltistan (Empowerment and Self Governance) Order, 2009, all Federal Laws unless a law was specially excluded from operation in Gilgit-Baltistan, were deemed to have been enforced and consequently the cantonment area in Gilgit-Baltistan were to be governed accordingly. In response to that Home Secretary stated that there were no demarcation of the area of cantonment in Gilgit-Baltistan and this was the function of Revenue Department and Chief Secretary being competent authority, could issue necessary directions to the Revenue department for demarcation of the boundaries to separate the cantonment area from municipal area.

62. The learned Advocate General has informed us that presently the whole District Gilgit including cantonment area was in the control of Civil Administration for all intents and purposes and administration of municipal committee was also responsible for the affairs of cantonment

area and for effective control separate administration of cantonment area

was necessary in the interest of law and order situation in Gilgit.

63. It was directed that the Chief Secretary would hold a meeting with all the concerned Military authorities for implementation of Cantonment Act, 1975 in Gilgit-Baltistan and consequent to the decision taken in meeting, would issue necessary directions to the revenue department for demarcation of the boundaries of cantonment and City area in whole of Gilgit-Baltistan for the purpose of effective administration.

64. The Home Secretary in the interest of better law and order situation would ensure that Jail Manual was strictly being followed according to which, the convict involved in serious crimes like sectarian killing and terrorism, could not be kept in jail together with the convicts or under trial prisoners in normal barracks. He was asked to make necessary arrangements on priority for transfer of such convicts to any central jail in Punjab and until, such an arrangement was made the convicts in serious cases must not be kept in the District Jail of their Home District specially in District Jail Gilgit. The Home Secretary in consultation with the Chief Secretary may hold a meeting with all concerned for early construction of Central Jail at Minore. The measures of separation of convicts in serious cases from convict in normal cases and establishment of central jail would certainly improve the law and order situation. The Secretary Home would intimate the Registrar of this Court about progress in the above matter for our perusal in Chamber.

65. The IGP and DIG would also submit the report, in respect of the matters concerning with the Police and Home Secretary would submit report regarding the decision in respect of demarcation of boundaries of Cantonment and City area and also reorganization of

Police establishment in Gilgit-Baltistan particularly in District Gilgit, to the Registrar of this Court within a month.

66. On 14.03.2012, the learned Advocate General had stated before the Court that in the case FIR No. 317/2011 dated 19.11.2011, registered with Police Station City Gilgit under different offences, after registration of the case the investigation was carried out and on the conclusion of the investigation, the Challan of this case was submitted in the Court of competent jurisdiction. He has further pointed out that one accused who had not yet been apprehended has been declared proclaimed offenders, as and when he would be arrested, his supplementary Challan would be submitted before the Court of competent jurisdiction. So far the enforcement of Cantonment Act, 1975 is concerned, he had very categorically stated that the matter is in progress with the relevant authorities and he had sought some time for its accomplishment. He was directed to submit progress report within a month.

67. The learned Advocate General stated further that there were certain criminal cases in which neither accused persons had been arrested, nor investigation was being carried out at the present. He submits further that no Challan with regard to these cases had been submitted in the court of competent jurisdiction rather the police authorities had closed these cases at their own as having been not traced.

68. Learned Advocate General had pointed out that the Court had already taken notice of the aforesaid cases and in pursuance of the order of this Court, the IGP Gilgit-Baltistan had initiated the proceeding against the delinquent officers. All the inquiries regarding these officials were in progress and on the conclusion of these inquiries, the learned

Advocate General Gilgit-Baltistan wanted to bring the conclusion of the inquires on record. In this view of the matter, he sought further time. He would submit report within 30 days. The case shall be re-fixed thereafter.

69. On 24.05.2012, the learned Advocate General Gilgit-Baltistan

instructed by Mr. Nadeem Hussain, AIG Operations, Gilgit-Baltistan submitted the inquiry report against the officers responsible for delay and non submission of Challan in untraced cases was in progress with IGP and no sooner the inquires were completed the relevant report would be submitted in the Court as directed. He stated that the inquires should have been completed so far, but due to deteriorating law and order situation in and around Gilgit City during the last month, the same could not be completed. He, however, stated at bar that there were total 53 untraced cases and out of total cases, 41 cases pertains to Anti-Terrorism Act and remaining 12 cases pertains to ordinary law. The general law and order situation was getting normal in the area and situation was being gradually turning into normality. The learned Advocate General stated that the breakup of these cases would also be brought on the file alongwith the record of the inquiry report. The case was adjourned to a date in office with direction for submission of the report before next date of hearing.

70. On 15.03.2013, the learned Advocate General stated at the very outset that requisite report in terms of order dated 24.05.2012 could not be submitted/prepared as the department could not prepare the report. The Home Secretary was also required to submit a separate report and the same had been handed over in the Court on that day.

71. On 18.04.2013, as per orders of this court dated 05.03.2013, the Home Department as well as the Police Department were directed to submit their reports. The Advocate General stated that the report is

ready but could not be submitted in the Registrar Office of this Court due to the lack of correction, the report shall be submitted today. The case was adjourned and the DIG Police was present in the Court. The Deputy Secretary Home was also present on behalf of Secretary Home.

Secretary Home was not in attendance on account of certain reasons.
72. On 14.05.2013, it had been stated on behalf of the learned

Advocate General that the report regarding untraced cases had been submitted on 18.04.2013 but the report was not available on the file of the case. In this view of the matter the case could not be proceeded. The Home Secretary was directed to appear in the Court but he was not present. The Deputy Secretary Home was present and stated that the newly posted Chief Secretary had not yet taken over the charge. He would comply with the orders of the Court. The Registrar of this Court was directed that the report statedly not available on the record be found and placed on the record and the case for further proceedings be fixed thereafter.

73. The case has again been taken up today on 03.09.2013 and learned Advocate General Gilgit-Baltistan alongwith Home Secretary, DIG Crimes and Investigation, DIG Headquarters and Deputy Secretary Home Department Gilgit-Baltistan, is present in the Court.

74. Admittedly, the law and order situation in the area of Gilgit-Baltistan particularly in and around Gilgit City had become worsen. It had become the routine that one or two persons have been becoming prey of target killing. Astonishingly, the culprits had not been undertaking this exercise to cause murder of persons on account of their long standing enmity, but they started killing the innocent persons with the motive of sectarianism and the people started to live in such a situation as they have no right to live at all. Everybody was living in

fearful and frightening atmosphere and no education was being imparted to the students in their schools and colleges. The control of administration had almost come to an end. Nobody was fully safe in the area. The culprits were openly displaying and brandishing their weapons everywhere and peaceful people had squeezed to their houses and their moment was almost closed. All law enforcing agencies too had become helpless. There were a number of such incidents of violence which had shattered the confidence of the people to move freely. The tourists from all over the world had stopped visiting this beautiful area of Pakistan. In this view of the matter the business relating to the tourism had almost abolished. The Karakoram Highway had become unsafe and law enforcing agencies had failed to provide security and safety to the life of the passengers. In such like situation the sectarianism had started to deepen its roots.

75. The afore-referred circumstances suggested to take the Suo Moto action. This Court had taken the cognizance of the matter vide Order dated 24.11.2011 on the application of one Muhammad Sharif, father of Muhammad Tahir deceased victim of target killing. The concerned officials were summoned to appear before the Court. The high rank officers of the Government of Gilgit-Baltistan had been appearing and started apprising the Court on a number of issues. The issues which had arisen before or during the proceedings were also taken into consideration and the Court had been making certain orders as guidelines to curb that menace. During the course of proceedings in this case, the measures suggested and adopted by the concerned officials had become helpful to reduce the gap between the people of the area and the

law enforcing agencies. In this view of the matter, the harmony among

the people of the area had started to prevail gradually.

76. The law and order situation in the area was made normalized

with the sincere help of the government officials. The amiable thing was

that the people of the area started feeling safe and started coming out of

the fear of life and resultantly, with the coordination of all the concerned

authorities, the issue of Target Killing of innocent persons and menace of

sectarianism was also reduced. The private organizations i.e. Masajid

Boards and Area-wise Peace Committees as well as wonderful efforts of

the renowned religious scholars contributed a lot to improve the law and

order situation and their role cannot be ignored in any manner

whatsoever. Had they been not taken measures through their sermons,

the situation of the whole area would have been different. Their efforts,

particularly, keeping the things normal is appreciable over and above all.

77. Apart from others all, the police had initiated and completed

entire reforms which also became helpful in the matter. So far the system

of the Courts was also improved with intervention of this Court as the

Judge of Anti-Terrorism Court No. 2 was appointed and the burden on

learned Anti-Terrorism Court No. 1 was reduced and the cases were

disposed of expeditiously. Under the direction of this Court, the police

started all efforts to submit the challans of the cases in respective courts

and testimony of the witnesses had been started recording and

expeditious decisions of the courts contributed a lot to minimize the

worst law and order situation of the area.

78. During the proceedings of this case, the payment of

compensation to the legal heirs of the deceased victims were arranged to

be paid and this has been done satisfactorily. Another aspect of the

matter was brought into the notice of the Court that as many as 84

sanctioned posts of Prosecutors, who represent the cases of state in the Courts, were not being appointed by the concerned authorities. However, through the number of interim orders and the efforts of the officials, some Prosecutors were appointed to assist the learned courts in order to bring home the guilt of the accused persons and through their able assistance, the ratio of punishment to accused persons was considerably earned.

79. The action committee of the lawyers association had also strenuously made efforts in this matter while extending full help to resolve the issue in a proper manner. Their suggestions and valuable assistance contributed a lot in the matter in hand. The action committee of legal fraternity was seemed to be united to resolve the matter sincerely. The Court cannot restrain to appreciate their legal efforts in resolving the instant matter.

80. In view of what has been said in the preceding paragraphs, it has been very consciously observed that the peace and tranquility in the area has been restored and the people are now free to move and to do their business or any other service which they were already rendering. In this view of the matter, for the last about one year, no such untoward incident has taken place in and around the city of Gilgit specially and in whole area of Gilgit-Baltistan generally.

81. In view of what has been discussed above, the bench reposes full confidence in the working of the Police officials as well as other officials of government of Gilgit-Baltistan in this field and that they will keep on making their efforts to maintain the law and order situation in the area of Gilgit-Baltistan and shall ensure that the atmosphere of the peace and tranquility amongst the people in future too.

82. With above referred exercise, the people may live without fear at all and on account of the assurance of the government officers present in the court today, no further action at this moment is required to be taken. This Suo Moto notice case is disposed of accordingly.

Chief Judge

Judge

Gilgit, the
20th November, 2013

Judge