

**SUPREME APPELLATE COURT GILGIT-BALTISTAN
(Original Jurisdiction)**

S.M.C. NO. 10/2010

**COMPENSATION FOR DAMAGES CAUSED BY THE
OVER FLOW AT HOTO SKARDU**

Present: Mr. Justice Muhammad Nawaz Abbasi, C.J.

Advocate General Gilgit-Baltistan
Deputy Commissioner Skardu.

Date of hearing: 30-03-2011

JUDGMENT

Muhammad Nawaz Abbasi, CJ: In pursuance of an application moved by effectees of village Hoto Pakora and Hoto Ranga Tehsil Gamba, Skardu through Haji Muhammad Rafique and another, direction was given to learned District and Sessions Judge Skardu for holding an inquiry into the matter and learned sessions Judge submitted report as under:-

“On 29.07.2010 the Honorable Chief Judge was on a Private visit to Skardu when the people of villages Hoto Pakora and Hoto Range Tehsil Gamba Skardu presented an application. The Honorable Chief Judge assigned the application to undersigned with the following remarks on the said application:-

“SESSIONS JUDGE SKARDU MAY SUBMIT A DETAILED REPORT ON THE GRIEVANCES OF THE APPLICANTS AND ALSO PROPOSE APPROPRIATE MANNER FOR REDRESSAL THEREOF”.

Undersigned directed the applicants to appear in the court. Applicants stated that the Administration has prepared lists of damages caused to their properties through Mr. Muhammad Arif Acting Tehsildar Gamba Skardu. Undersigned summoned the said Tehsildar also and obtained Annexure-A, comprised of seven (07) pages showing detailed report of compensation with detail of damages caused to the different villagers of the two villages. Petitioners expressed their dissatisfaction on annexure-A and on my directions presented Annexure-B as their own estimates of compensation.

Undersigned have recorded joint statement of petitioners (Annexure-C).

Recently petitioners and the Acting Tehsildar Gamba Skardu appeared in the court, on their own and jointly reported

that Government/Administration has included the flood effectees of the villagers of petitioner's villages with the flood effectees of Qumrah Skardu. Qumrah Skardu is a village where about 70 persons were died in the flood diva stations. So undersigned proposes for questioning the petitioners about most recent position before passing any order on the petition because petitioners appeared a bit satisfied on their inclusion with flood effectees of village Qumrah.

So the petition in hand is a very simple petition. The grievances of the petitioners raised in the petition are:

- (i) Orders be passed for payment of compensation amounts of the damages to lands and trees of the petitioners caused through soil erosion by flooded water.
- (ii) Orders be passed for construction of protective Bund.
- (iii) International experts be arranged for estimating future damages.

Relief (i). The administration has been preparing estimates of damages caused to the properties of petitioners. In their statement petitioners have stated that the damages to the petitioners properties are being caused by the flooded river almost every year and administration regularly prepares estimates of damages, so caused by the river. But so far the administration did not pay any compensation amounts for such damages.

In this connection administration is the proper forum for preparation of such estimates and courts do not have any mechanism to prepare such estimates. If petitioners are not satisfied with preparation of such estimates through any particular officer or officers of the administration, petitioners are free to approach higher authorities of administration for changing such officer or officers. Moreover the administration who are responsible for such preparation of estimates of such damages are the relevant persons who have the record of landed properties of petitioners, therefore are in a better position to prepare such papers.

Relief (ii) Your honor may ask/direct the administration for construction of a protective Bund to save the petitioners' landed properties from routine damages of flooded water of the river. Anyhow, the administration of such protective Bund if the same is technically feasible and such protective Bund must not be causing damages to any other village.

Relief (iii) This relief appears baseless as we do not have any scarcity of experts in our country.

Report is submitted as desired

please. Dated: 28.09.2010.

**District & Sessions Judge
Skardu (Baltistan)**

2. In the light of the report of District & Sessions Judge Skardu, the Deputy Commissioner Skardu was directed to explain the position regarding the action taken in the matters highlighted therein and Deputy Commissioner submitted report in the matter as under:-

“Subject: **COMPENSATION OF DAMAGES CAUSED BY
THE OVER FLOW AT HOTO SKARDU.**

Kindly refer to your letter No. SMC-No.10/2010 dated 12-11-2010 and 2-12-2010 on the above cited subject. I apologize for the delay in responding to the Honorable Court because the setup changed in Deputy Commissioner Office. I recently took over as Deputy Commissioner, Skardu due to which there is delay in submission of the report.

In this connection it is submitted that the requisite information asked by the Honorable Court is as under:-

1. The revenue filed staff has prepared a compensation case amounting to Rs. 61,54000/- for payment to the effectees of Hoto due to over flow of river during July 2010. The compensation case has been submitted to the higher authorities for necessary approval. As and when received, the compensation amount will be disbursed amongst the effectees. Copy of list of effectees along with covering memo indicating actual requirements of compensation are enclosed herewith as Annexure 'A' for kind perusal.
2. The GB Works department Skardu constructed some protective Bund on the river but it was not fruitful due to heavy overflow of the river. The expense incurred on protective bund is Re. 4.806 million, which is still pending as a liability.
3. The GB Works department has prepared a PC-I for construction of protective works along the bank of River Indus and submitted to the Federal Flood Commission Islamabad during the year 2009-2010 but no scheme has since been approved by the Federal Flood Commission.

Letter of Chief Engineer GB PWD Baltistan Region vide CE-II-405/2010 dated 6th December, 2010 along with its enclosures are enclosed as annexure 'B'.

Therefore, report is submitted as desired, please.

-sd-

Deputy Commissioner, Skardu

3. The Deputy Commissioner appearing in Court explained the position regarding payment of compensation to the effectees and stated that an estimate of Rs. 61 Lac 54 thousand has been submitted

to the competent authorities for necessary approval and that on the allocation of amount in question compensation shall be paid to the flood effectees. The Deputy Commissioner has also informed the court that Gilgit-Baltistan (PWD) and Works Department Skardu has constructed a protective bund on River side with the cost of Rs. 4.5 Million but the same has not been proved much effective and Department has submitted PC-I for approval of construction of a proper bund on river bank to the Federal Flood Commission Islamabad.

4. In the light of the position explained by the Deputy Commissioner, the matter relating to the payment of compensation to the flood effectees is pending with the Government of Gilgit-Baltistan for approval and payment will be made to effect on approval of the competent authority. The scheme of construction of proper protective Band alongwith the bank of river is a project of Federal Flood Commission and the Chief Secretary may take up the matter with Federal Flood Commission for approval of the project to save the people of the area from unforeseen loss and damage to their life and property.

5. The Commissioner Skardu will peruse the matter on the instruction of Chief Secretary as representative of Government of Gilgit-Baltistan with Federal Flood Commission Islamabad and inform the progress to the Registrar of this Court for our perusal in Chamber. This application is accordingly disposed of.

Chief Judge