

IN THE SUPREME COURT OF PAKISTAN
(Original Jurisdiction)

Present:

Mr. Justice Iftikhar Muhammad Chaudhry, HCJ.
Mr. Justice Jawwad S. Khawaja
Mr. Justice Anwar Zaheer Jamali

Suo Moto Case No.9 of 2012

(Regarding irregularities and illegalities in PIA)

And

Constitution Petition Nos. 109-110 of 2012

Zafar Iqbal Jhagra
Marvi Memon

...Petitioners

Versus

Federation of Pakistan etc.

....Respondents

Petitioners:
(In person)

Mr. Zafar Iqbal Jhagra &
Ms. Marvi Memon

For the Federation:

Mr. Zafar Mehmood Mughal, DAG
Mr. M. S. Khattak, AOR

For the PIA:

Raja Muhammad Bashir, Sr. ASC
Mr. Mehr Khan Malik, AOR
Mr. Haroon Abbasi, Sr. Law Officer
Mr. Asif Rauf, Manager Legal
Mr. Waqar A.Siddique, G.M. Accounting
Mr. Tahir Niaz, G.M. Marketing
Mr. Aamir Ali, Chief Engineer
Mr. Rashid Ahmad, G.M. (P/R)

For CAA:

Mr. Afnan Karim Kundi, ASC
Mr. Mehmood A. Sheikh, AOR
Mr. Obaid-ur-Rehman Abbasi,
Sr. Law Officer

Date of hearing:

14.12.2012

ORDER

We have heard the petitioners in both the constitution petitions and the learned counsel for PIA, and have also examined the record made available to us. The issues of losses and shake down in the PIA were examined with the assistance of GM Marketing, GM Accounting, GM Legal and Chief Engineer. We were apprised that PIA Fleet consists of 38 aircrafts, out of which 28 are fully operational within or outside the country whereas 10 aircrafts are undergoing overhauling, repairs, etc.

2. We have also been apprised of the current financial position of the Corporation. Office has downloaded a report titled "Unconsolidated Financial Statement". We confronted the officers of PIA with the contents of the said report. The learned counsel for the PIA handed over a booklet containing the same material, which indicates that it is meant only for the shareholders. The said report is made part of the proceedings. A perusal of the report suggests that during the year 2012, PIA has sustained losses after taxation to the tune of Rs.22.43 billion comparing to the losses for the year 2011 of Rs.19.29 billion, meaning thereby that for each year the losses are increasing and also accumulating on year to year basis. It is also of concern to note that according to G.M. Human Resources, at present the number of the employees, both regular and on contract basis in PIA, exceeds 18000. Essentially their salaries etc. have to be paid out of the income, not profit of business, which the Corporation is undertaking on monthly or annual basis. So the ratio of employees to each aircraft approximately comes to 450 even without taking into account work which is

outsourced to contractors. G.M. Finance/Accounts, however, stated that this could not be the reason of losses as according to him for this purpose only 17/18% of the Revenue is spent. He further stated that the main reason for not making the profit is the increase of the fuel price from time to time. It has also been informed by the Chief Engineer that cost of flying in terms of consumption of fuel, etc. has also increased because of aging of the aircrafts, however, now PIA is planning to purchase or hire 8 aircraft, which are likely to join the fleet in the months of February/March, 2013.

3. It is surprising to note that PIA administration had never planned to induct new aircraft otherwise out of 28 functional aircrafts, being 26 years old, they could have replaced the same, either by purchasing new aircraft or by getting the same on lease as it is done by other renowned airlines. We are of the view, *prima facie*, that on account of such mismanagement a profit-earning organization, being the only official airline, is making loss year to year.

4. We inquired from the General Manager, Marketing as to how the income is generated, but he could not answer satisfactorily, however, we informed him that one of the sources of income is ticketing within and outside the country. On this, he stated that GSAs for the foreign countries and within Pakistan are appointed in a transparent manner. On our query, he could not furnish the list of such agents appointed outside the country except pointing out that in the month of June, 2012, a GSA had been appointed in Norway. We inquired from him as to whether appointment of the said agent was

made in a transparent manner, to which he responded that proper procedure was adopted, but he had no details of the same.

5. We have painfully noted that seven senior officers had flown from Karachi to Islamabad to attend the court proceedings but no one amongst them was fully aware of the affairs of the Corporation and whenever questions were put to them, they stated that they had to get figures and they would inform the court in that behalf on the next date of hearing. It clearly indicates mismanagement in the organization otherwise efficient staff members having been posted against lucrative packages should have ensured that an organization which is making losses should be turned into profit-earning organization.

6. Raja Muhammad Bashir, learned counsel for PIA stated that on 22/24 October, 2012 new management headed by Lt. General (R) Asif Yaseen Malik has taken charge, and is planning to make reforms but is not responsible for the massive financial indiscipline, bad-governance, illegalities and irregularities committed in the past. This submission is not tenable because only such reforms process would work, which takes measures to put the house of PIA in order, including taking of such action against those who may be responsible for the wrongs committed in the past, and turning a profit-earning organization into a loss making enterprise, which is suffering huge losses. The reform process must also provide a system of checks and balances for the proper running of the affairs of the organization. However, the learned counsel stated that some time be given to the new management to enable it to introduce its reforms.

7. Mr. Iqbal Zafar Jhagra and Ms. Marvi Memon petitioners have stated that PIA management is talking about long term measures, whereas they should immediately take some short term measures for the purpose of providing facilities to the passengers, as invariably the flights are delayed and passengers have to wait for hours at times, at airports; sometimes they are made to sit inside the craft without ventilation and air-conditioning etc. and whenever the crew is contacted, they simply show their helplessness. Ms. Marvi Memon stated that today she had to sit and wait for more than two hours at Karachi Airport and there was no one to explain as to why the flight was late. According to her, sometimes, the PIA crew do offer explanations but many they do not bother to explain the reason of delay. She stated that such irregularities are required to be taken notice of by this Court as these directly impinge on fundamental rights like those mentioned in Article 14 of the Constitution. She stated that at least direction be issued to the Managements of PIA as well as the Civil Aviation Authority that they should take steps for ensuring that flights are operated in time. When we inquired from Raja Muhammad Bashir, Sr. ASC, as to whether anyone of the aforesaid seven officers, who had travelled from Karachi to attend the court proceedings was in a position to implement the order of this Court, he stated that he cannot say that anyone of them would be able to do the needful. This answer on his behalf is sufficient to explain the mismanagement prevailing in PIA.

8. Be that as it may, we adjourn this case for a period of two weeks with directions to the Chairman PIA as well as DG, CAA to ensure that pending decision of the case no flight is delayed and if

there are unavoidable circumstances, they must inform the passengers, well in time. On the next date of hearing the Chairman PIA and DG CAA will put up a comprehensive plan which they intend to initiate for the purpose of improving the condition of PIA, airports, etc. In the meanwhile, all the officers including General Managers, Marketing and Accounts shall file complete documents in respect of appointments of GSAs outside the country and the local agents within the country and the manner in which the tenders are given and the procedure, adopted for the same. Similarly, GM Human Resources shall also place on record complete record of the employees who were appointed by following the procedure in a transparent manner, which has been laid down for making recruitment and those who were appointed without following the procedure by using the phrase "contract employees" etc. and they should also ensure that in future no such appointment shall take place.

Chief Justice

Judge

Judge

Islamabad
14th December, 2012
Nisar/*