

IN THE SUPREME COURT OF PAKISTAN

(Appellate Jurisdiction)

PRESENT:

Mr. Justice Umar Ata Bandial
Mr. Justice Faisal Arab
Mr. Justice Ijaz ul Ahsan

**CMA. NO.230 OF 2019 AND CMAs. No.4955-4956
OF 2019 IN SUO MOTU CASE NO. 26 OF 2018.**

(matter regarding implementation of the order of this Court dated
06.12.2018 in SMR No.26 of 2018)

AND

CIVIL PETITIONs NOs.1195-1197, 1322 OF 2019.

(On appeal from the judgment/order dated 28.02.2019 passed by Lahore
High Court, Lahore in CMA No.2 of 2019 in W.P. No. 11903 of 2019)

Water & Sanitation Agency,
Lahore through its M.D.

... Petitioner(s)
(in all cases)

VERSUS

Lottee Akhtar Beverages (Pvt) Ltd.
Lahore & others

... Respondent(s)
in CP.1195 of 2019

Sheezan International Ltd.

... Respondent(s)
in CP.1196 of 2019

Coca Cola Beverages Pakistan Ltd.

... Respondent(s)
in CP.1197 of 2019

Nestle Pakistan Ltd.

... Respondent(s)
in CP.1322 of 2019

Province of the Punjab and others.

... Respondent(s)
in CMA.4955 of 2019

In attendance:

Mr. Sajid Ilyas Bhatti,
Addl. Attorney General for Pakistan.
Mr. M. Ayaz Swati, Addl. A. G. Balochistan
Mr. Tariq Jehangiri, A.G. Islamabad.
Mr. Qasim Wadood, Addl. A. G. KP.
Ch. Faisal Fareed, Addl. A. G. Punjab.
Dr. Farzana, D.G. EPA.
Mian Abdul Rauf, ASC.
Mian Irfan Akram, ASC.
Mr. Munawar-us-Salam, ASC.

Mr. Salman Akram Raja, ASC.
Syed Ali Zafar, ASC.
Dr. Ali Qazalbash, ASC.
Mr. Muhammad Kasim Mirjat, AOR.
Mr. Mudassar Khalid Abbasi, ASC.
Ms. Gulzar Begum Butt, ASC.
Mr. Farooq Amjad Mir, ASC.

Date of Hearing : 10.06.2019.

ORDER

The learned Additional Attorney General submits that all the Provinces are at the stage of finalization of their draft laws for the levy of charge/cess on consumption/extraction of ground/surface water by industrial units. Learned Advocate General for the ICT states that in the foregoing behalf a notification has been issued by the ICT whereby a mechanism has been prescribed for the charge and collection of the said charge/cess. This notification has been filed today with CMA No.1987 of 2019. The Provincial Governments shall also file their enacted, notified or proposed laws before the next date of hearing when the relevant provisions shall be examined for their effectiveness in complying the criteria and objects listed in our order dated 06.12.2018.

2. The learned Deputy Attorney General has also filed CMA No.4947 of 2019 which contains the nominations made by the Provincial Governments and the ICT for their respective members of a Coordination Committee headed by Dr. Muhammad Ahsan Siddiqui, as provided in our order dated 06.12.2018. This Committee is charged with performing the tasks specifically highlighted in our aforesaid order and generally for making recommendations in the light of physical inspection made by it for

realizing the goal of water conservation through enforcement of best practices, rain harvesting, recycling of water and curtailment of water wastage. The nominated members of the Coordination Committee are:

- i)** Director General, Federal EPA.
- ii)** Director Generals of Provincial EPAs.
- iii)** Mr. Ayaz Khan Swati, Addl. AG Balochistan
- iv)** Mr. Muhammad Farid Dogar,
Assistant AG Balochistan
- v)** Syed Zafar Ali Shah, Secretary, Excise &
Taxation Department. Govt. of KP.

- vi)** Mr. Zahid Yousaf Qureshi, Addl. AG KP.
- vii)** Mr. Qasim Ali Chowhan, Addl. AG Punjab.
- viii)** Mr. Muhammad Rafiq Rajorvi, Addl. AG Sindh
- ix)** Mr. Saeed Ahmed Waseer, Prosecutor, ICT

3. The said Committee shall forthwith undertake their assigned mandate. All the Provincial and ICT authorities and all concerned stakeholders/respondents shall cooperate, assist, facilitate and promote the discharge of functions by the said Committee.

4. Mr. Ali Zafar, learned Sr. ASC appearing on behalf of Haidri Beverages Pvt. Ltd. has through CMA No.4479 of 2019 provided useful information about improved technical processes that reduce wastage of water in RO plants. The other respondents including the Beverages Association of Pakistan and Qarshi Industries offered to share their experience (as noted in our order dated 30.04.2019) on this subject. They are given another opportunity to file their written submissions.

5. All Provincial Governments and ICT shall file their reports on the steps taken so far for the installation of flow meters at the premises of the RO and other beverages plants.

6. Bills have been issued by WASA, Lahore according to the tax record of bottling/beverages units in its jurisdiction. There are complaints by such units that the billed amount is burdensome. The Coordination Committee and Dr. Ali Qazalbash, ASC shall assist the Court, preferably in writing, on the assessment parameters according to classification of bottled and wasted water and with reference to the respondent industrial units after consulting them and other stakeholders.

7. The WASA bills are to be paid on or before 12.06.2019 in order to avoid closure of water supply to the concerned units. As an interim measure, subject to deposit by the concerned bottling/beverages units of 25% of the amount billed by the relevant Provincial and ICT authorities, such authorities shall not take coercive action for recovery of the balance billed amount from the corresponding bottling/beverages units until the next date of hearing i.e. on **14.06.2019**.

8. Notice is issued to the respondents in CMA No.4955 of 2019 and to the Coordination Committee for their response to the averments made in the application. Interim relief is granted to the applicants in the same terms as is extended in respect of the bills issued by WASA.

9. Refix on **14.06.2019** when the matters noted above, the report regarding water wastage by DG, EPA, the preferred

methods of water conservation for immediate enforcement and the establishment of a reliable and productive mechanism for the charge and collection of water cess shall be considered by the Court. Adjourned.

JUDGE

JUDGE

Islamabad,
10.06.2019.
*Irshad Hssain /**

JUDGE