

IN THE SUPREME COURT OF PAKISTAN  
(ORIGINAL JURISDICTION)

**PRESENT:** MR. JUSTICE MIAN SAQIB NISAR, HCJ  
MR. JUSTICE UMAR ATA BANDIAL  
MR. JUSTICE IJAZ UL AHSAN  
MR. JUSTICE MUNIB AKHTAR

**CONSTITUTION PETITION NO.57 OF 2016**  
(Under Article 184(3) of the Constitution)

**AND**

**C.M.A.NO.681-K OF 2018 IN CONST.P.NO.57**  
**OF 2016**  
(Applicant for amendment of petition)

**AND**

**C.R.P.NO.440 OF 2016 IN C.M.A.NO.5135**  
**OF 2016 IN C.R.P.142 OF 2015 IN**  
**CONST.P.NO.104 OF 2011**  
(On review of this Court's order dated  
24.8.2016 passed in C.M.A.No.5135/2016)

**AND**

**CONSTITUTION PETITION NO.24 OF 2018**  
(Under Article 184(3) of the Constitution)

**AND**

**HUMAN RIGHTS CASE NO.30998-S OF 2018**  
(Regarding shortage of water supply in  
Karachi)

**AND**

**HUMAN RIGHTS CASE NO.50363-P OF 2010**  
(In the matter regarding acute shortage of  
water supply in Karachi)

**AND**

**CONSTITUTION PETITION NO.37 OF 2018**  
(Under Article 184(3) of the Constitution)

**AND**

**CONSTITUTION PETITION NO.38 OF 2018**  
(Under Article 184(3) of the Constitution)

Const.P.57/2016: Barrister Zafarullah Khan Vs. Federation of  
Pakistan etc.

C.M.A.681-K/2018: CMA for amendment in Constitution Petition

C.R.P.440/2016: Engineers Study Forum (Regd.), through its  
President Mian Fazal Ahmad Vs. Federation of  
Pakistan, etc.

- Const.P.24/2018: Agha Qasim Raza Vs. Federation of Pakistan through Secretary Ministry of Water Islamabad and others
- H.R.C.30998-S/18: In the matter regarding acute shortage of water supply in Karachi
- H.R.C.50363-P/10: Application by Malik Abdul Latif Khokhar
- Const.P.37/2018: Rana Ilamuddin Ghazi Vs. Federation of Pakistan, through Secretary Cabinet Division, Islamabad and others
- Const.P.38/2018: Sutlej Ravi Water Forum through its Chairman Zia Shahid Vs. Federation of Pakistan through Secretary Interior, Government of Pakistan, Islamabad.

**In attendance:**

For the petitioner(s)/  
applicant(s): Barrister Zafarullah Khan, ASC  
(In Const.P.57/2016)

Nemo  
(In Const.P.24/2018)

Nemo  
(In Const.P.37/2018)

Nemo  
(In C.R.P.440/2016)

Dr. Khalid Ranjha, Sr. ASC  
(In Const.P.38/2018)

Malik Abdul Latif Khokhar, ASC  
(In H.R.C.50363-P/2010)

Nemo  
(In C.M.A.5788/2018)

For Federation: Mr. Khalid Jawed Khan, Attorney General for Pakistan  
Syed Nayyar Abbas Rizvi, Addl.A.G.P.  
*Assisted by: Barrister Asad Rahim Khan*

For Provinces: Mr. Razzaq A. Mirza, Addl.A.G. Punjab  
Ms. Sehar Chaudhry, Law Officer, Irrigation, Punjab

Mr. Shehryar Qazi, Addl.A.G. Sindh  
Mr. Jamal Mustafa Syed, Secy. Irrigation, Sindh  
Mr. Khalid Mehmood, M.D. KWSB, Sindh

Mr. Ayaz Swati, Addl.A.G. Balochistan

Barrister Qasim Wadood, Addl.A.G. KPK

For LJCP: Dr. Muhammad Rahim Awan, Secretary

On Court's call: Mr. Shams-ul-Mulk, ex-Chairman WAPDA  
Mr. Zafar Mehmood, ex-Chairman WAPDA  
Mr. Mujeeb-ur-Rehman Pirzada, ASC

**On Court's notice:**

For M/o Planning & Development: Mr. Shoaib Ahmed Siddiqui, Secretary  
Mr. Naseer Ahmed Jilani, Sr. Chief (Water)  
Mr. Arshad Ali, Joint Secretary

For M/o Water Resources: Mr. Shumail Ahmed Khawaja, Secretary  
Syed Muhammad Mehar Ali Shah, Joint Secretary/Commissioner Indus Water

For M/o Finance: Mr. Arif Ahmed Khan, Secretary

For M/o Climate Change: Mr. Yousaf Naseem Khokhar, Secretary

For WAPDA: Lt. Gen. (R) Muzammil Hussain, Chairman  
Mr. M. Babar, Deputy Director  
Mr. Shahzad Asif, Director

Date of hearing: 4.7.2018

### **ORDER**

**MIAN SAQIB NISAR, CJ.-** For the reasons to be recorded later in elaboration of this short order, we dispose of these matters in the following terms:

1. That the need for water reservoirs is not only expedient but also *sine qua non* for the survival of the people and economy of Pakistan. All those present in the Court including officials of the various departments and experts on the subject are unanimous in this regard. They are also unanimous on the point that according to the decision of the Council of Common Interest the Diamer Bhasha Dam and pursuant to the approval of the ECNEC both the said and Mohmand Dam must be built on urgent basis by the Federal Government and in this regard there is no dispute or discord of any nature amongst the Provinces;
2. That right to life is a fundamental right and without water there can be no existence of life. The establishment of water

reservoirs is therefore not a question of just quality of life rather the very existence thereof. Therefore, in terms of the provisions of Article 184(3) of the Constitution read with Article 9 and as guardians of the fundamental rights of the people of Pakistan, this Court has the jurisdiction to issue necessary directions to the Government for the practical enforcement of the primordial right to life. Accordingly, we direct the Federal and Provincial Governments, WAPDA and all the Executive Authorities in Pakistan who are responsible or have nexus/connection with the building of the afore-said dams and all matters connected thereto, to take all necessary steps for the commencement of construction and early completion of these dams. A comprehensive report in this regard with detailed timelines and milestones shall be submitted to this Court within a period of three weeks by the Committee formed herein below;

3. For the construction of these dams and also for oversight of execution of their works, we hereby constitute an Implementation Committee headed by the Chairman WAPDA and for the time being comprising experts and officials of the Federal and KPK Governments including the following persons:

- (i) Additional Secretary (Budget), Finance Division, Federal Government;
- (ii) Joint Secretary, Water Resources Division, Federal Government;
- (iii) Joint Secretary, PM Office (to be nominated by Secretary to PM);
- (iv) Senior Chief (Water), Planning Division, Federal Government;
- (v) Chief Secretary Gilgit-Baltistan;
- (vi) Senior Member Board of Revenue, KPK
- (vii) Additional Chief Secretary (Development), KPK;
- (viii) The Committee can co-opt any members/experts.

4. Under the provisions of Article 78 of the Constitution, any funds deposited in the Public Account of the Federation can be dedicated for a specified project or purpose. We therefore direct the establishment of an account, for the time being in the name of the Registrar of the Supreme Court of Pakistan, for collecting funds donated by the people of Pakistan for the construction and establishment of the aforementioned dams;
5. In the foregoing behalf we accordingly appeal to the Nation for making its contributions, whether in the shape of foreign currency or in Pakistani rupees, directly to the said account. The funds in the said account shall be utilized solely for the construction and establishment of the aforementioned dams and shall for the time being be operated under the orders of this Court on the recommendations of the Implementation Committee. It is made clear that the funds in this account shall not under any circumstance or for any reason be diverted or utilized for any purpose other than the construction of the afore-noted dams. For avoidance of doubt it is directed that no questions shall be asked by any authority or department including, but not limited to the tax authorities, relating to the source of funds contributed to the afore-noted account. The utilization of the said funds shall be subject to audit as per directions of this Court.

CHIEF JUSTICE

JUDGE

JUDGE

JUDGE

Islamabad, the  
4<sup>th</sup> of July, 2018  
Waqas Naseer/\*