

IN THE SUPREME COURT OF PAKISTAN
(ORIGINAL JURISDICTION)

PRESENT:

MR. JUSTICE AMIR HANI MUSLIM
MR. JUSTICE QAZI FAEZ ISA
MR. JUSTICE FAISAL ARAB

CONSTITUTION PETITION NO. 38 OF 2016

(To provide clean drinking water and safe environment to the people of Sindh)

Shahab Usto. Petitioner

VERSUS

Government of Sindh through
Chief Secretary etc ... Respondents

In Attendance:

Petitioner in person
Mr. Zamir Hussain Ghumro, A.G, Sindh
Mr. Rizwan Memon, Chief Secretary Sindh
Ms. Sheeren Mustafa, Secretary Planning & Development,
Mr. Abdul Rahim Somro, Secretary Industries GoS
Mr. Sohail Qureshi, Addl. Secretary Service Deptt
Mr. Mehmood Shah, Managing Director, NSUSC
Mr. Naseer Gillani, Chief Planning Commission
Dr. Azeem Meo, PD, SCIP
Mr. Masood Ahmed Jussani, MD, WASA
Mr. Misbauddin, Chief Engineer
Syed Hashim Raza Zaidi, MD, KW&SB
Mr. Saeed Ahmed Qureshi, Focal person to Chief Secretary
Prof. Dr. M. Ahsan Siddiqui, Water Technologist
Mr. Tamizuddin Khehro, Secretary Public Health
Mr. Muhammad Ramzan Awan, Secretary Local Govt
Mr. Arsalan Shaikh, Mayor Sukkur
Mr. Amjad Hussain Durrani, Ex-Internal Audit of NSUSC
Mr. Nadeem Memon, D.C, District Umerkot
Mr. Shoukat Hussain, D.C, District Badin
Mr. Nasir Ali, D.C District Thatta
Mr. Mohammad Zaman Narejo, D.C District Mithi
Mr. Zahid Memon, DC District Mirpurkhas

Date of Hearing: 16.03.2017

ORDER

AMIR HANI MUSLIM, J.:- This Petition is filed by a practicing lawyer praying for the following reliefs:-

- “i. Take a serious notice of this issue of public importance involving the denial of fundamental right of the people of Shikarpur and other parts of Sindh to have a clean drinking water, sanitation and a safe environment, which indeed are also the issues of national importance;*
- ii. Declare that the Respondents have violated the citizens’ fundamental right to have clean water, which is subsumed in the rights to life, liberty, property, human dignity, information and equal protection of the law, as guaranteed under the Constitution of Pakistan;*
- iii. Declare that the Respondents have violated the Doctrine of Public Trust which bind them to act as the fiduciaries of the people and commit them to providing the people of Shikarpur and other parts of Sindh with a clean drinking water, public sanitation and a hygienic environment so that they may lead a healthy, productive and dignified life as is pledged to them under Articles 4, 9, 14, 18, 24 and 25 of the Constitution of Pakistan;*
- iv. Direct the Respondents to implement Sindh Environmental Protection Act, 2014, and other relevant rules, statues and Constitutional provisions in order to protect, conserve, rehabilitate and improve the environment which includes clean water, for the prevention and control of pollution, and promotion of sustainable development;*
- v. Direct the Respondents to refrain from further such violations of the Doctrine of Public Trust and Fundamental Rights of the people, as guaranteed under the Constitution;*
- vi. Direct the Respondents to ensure prevention of further contamination of underground water/public water supply in Shikarpur and other cities of the province by immediately taking necessary measures, which include discharge of effluent/sewage into environmentally safe outlets, remove underground septic tanks and other sources of the contamination of aquifer, ensure efficient sewage and solid-waste disposal systems, and treat effluent before draining it into irrigation conduits;*
- vii. Direct the Respondents to immediately appropriate all available funds towards the provision of clean water, sanitation, disposal of solid-waste material and treatment of effluent in Shikarpur and other parts of the province;*
- viii. Direct the Respondents to immediately begin a systematic repair of all the broken sewage and sanitation systems, treatment plants, reverse osmosis plants, pumping stations and discharge-outlets in Shikarpur and other parts of the province;*

- ix. *Direct the Sindh Environmental Protection Agency to perform its assigned statutory duties without fail including regular monitoring, water-testing, environmental assessment and publication of annual reports on its Website;*
- x. *Direct the Sindh Environmental Protection Agency to submit a copy of its Annual Report to Registrar of this Hon'ble Court at least for a period of five years so that this Hon'ble Court may take appropriate action in case a lapse, violation or default is committed by the SEPA or the Respondent Authorities; and so that citizens may be able to knock on the door of this Hon'ble Court against the Respondents;*
- xi. *Institute a three-member Commission headed by an Hon'ble sitting or retired Judge of High Court to conduct in-depth probe into the Respondent Authorities' failures to provide the people of Shikarpur and other parts of the province with a clean drinking water, sanitation and healthy environment, and to fix responsibilities on the errant/culpable persons/authorities; the commission may also recommend short-term and long-term measures to enhance efficiency, transparency and accountability in these vital public service utilities that are represented by Respondents Nos. 2, 3, 4, 5, 6 and 7;*
- xii. *Retain jurisdiction over this action to monitor and enforce the Respondents' compliance with all associated orders of this apex Court;*
- xiii. *Grant any other just or equitable relief(s) held appropriate as being fit and proper by this Hon'ble apex Court.*
- xiv. *Cost."*

2. On 21.12.2016, this Court had passed following order:-

The Petitioner is a practicing lawyer, permanent resident of District Shikarpur. He claims that the Sindh Government has created Respondent No. 2 somewhere in 2009-10, which was required to deliver sustainable water supply, sewerage and solid waste services in a safe, efficient and effective manner in 8 districts of upper Sindh namely Sukkur, New Sukkur, Rohri, Khairpur, Larkana, Shikarpur, Jacobabad and Ghotki. He further contends that this Organization i.e. Respondent No. 2 was created by obtaining loan of 500 million dollars from Asian Development Bank, which has not benefited the public at large of the said districts, instead the sub soil water was further contaminated. He submits that Government of Sindh has failed to provide drinking water to the public at large of the upper Sindh and lower Sindh instead the sub soil water, which the locals of these districts have to consume, is contaminated and not fit for human consumption. The issue raised is question of public importance, which has direct

nexus with the fundamental rights of the residents of Sindh living not only in 8 districts but also who are living in the lower Sindh. According to the Petitioner, the issues involved inter alia relate to violation of fundamental rights of the people of Shikarpur and Sindh, violation of the doctrine of public trust, degradation of environment, conserving the underground water/aquifer, supplying clean water to the citizens, providing an efficient sanitation and solid waste material disposal management to the people of Shikarpur and other parts of Sindh, protection of public life and atmosphere from the irreversible effects of contamination of underground water and fixing responsibility on the lapse or failure of discharging statutory and constitutional duties and functions to provide citizens of their fundamental right to receive water and to live in a healthy environment.

2. Issue notices to the Respondents as well as to the Advocate General, Sindh, to file their detailed concise statements. The Managing Director of Respondent No. 2, the Secretary Local Government and the Chief Secretary, Sindh, shall be in attendance on the next date with their replies as the issues raised have direct bearing on the health of hundreds of thousands of citizens of Sindh. To come up on 27.12.2016.”

3. The matter was fixed on 27.12.2016 when this Court after hearing the Advocate General, Sindh, and the high ups of the Government, directed for constitution of Commission for probing into the allegations made in the Petition. The substantial portion of the order dated 27.12.2016 is reproduced hereunder:-

“2. The Petitioner has prayed for constituting a Commission to probe into the allegations made in his Petition. The Chief Secretary alongwith the Advocate General Sindh has no reservation to this request. In these circumstances looking at the nature of controversy raised in these proceedings, we are satisfied that a Commission needs to be appointed to probe into the allegations pleaded in the Petition and after proper enquiry report to this Court.

3. This Commission shall record its findings in regard to providing/supply of clean water to the residents of Sindh besides the deteriorating condition of sanitation in Sindh. The Commission shall also examine the statutory role played by the Sindh Environmental Protection Agency on the issues mandated by the Sindh Environmental Protection Act, 2014. The Commission shall examine the officials or material from relevant agencies/organizations inclusive of all the Civic and land owing agencies. The Federal Government, Sindh Government or any Organization, under their control, shall co-operate with the proposed Commission.

4. We, therefore, request the Chief Justice, High Court of Sindh, Karachi, to nominate a serving Judge, as Commission

for the aforesaid purpose, in terms of the Order XXXII of the Supreme Court Rules, 1980. The Commission shall hold enquiry on the aforesaid issues and record its findings in detail in the proposed report within six weeks from the date of its notification. He shall hold the enquiry on day to day basis. As a Commission it shall exercise all the powers of a High Court Judge inclusive of the powers conferred under CPC.

5. The office shall send one set of the files to the Registrar, High Court of Sindh, with the order to be placed before the Hon'ble Chief Justice, High Court of Sindh. We expect that the Commission shall be notified within a week from today."

4. Pursuant to the request incorporated in the order dated 27.12.2016, Mr. Justice Muhammad Iqbal Kalhoro was appointed as Commission, who after holding inquiry and examining the material submitted a comprehensive report comprising of 129 pages to the exclusion of photographs and two volumes of supporting documents/annexures, which were taken on record on 06.03.2017. We have perused the report of the Commission, its conclusion and recommendations. The conclusion and the recommendations made in the report are reproduced hereunder:-

"CONCLUSION

1. *From the perusal of above discussed facts, reports, statements, and from examination of the officials and people concerned, it has now been established that, we the people of Sindh, are not drinking clean water. The Indus River, its tributaries and channels, which are the source of drinkable water, have become polluted due to constant inflow of untreated municipal and industrial effluent right from Guddu Barrage to Kotri Barrage. Relevant departments/agencies or for that matter Sindh Government are cognizant of this water pollution, which is evident from various statements filed by them during the enquiry, but they are not taking any substantial steps to stop the water pollution by either treating the effluent through Treatment Plants etc. before discharging it in watery bodies or by diverting the inflow of effluent to SCRAP drains etc.*
2. *We do have filtration plants installed in several cities of Sindh to provide us potable water after treatment, but due to inefficiency, lack of interest and corrupt practices*

of officials of agencies/departments operating these filter plants, they have been rendered almost redundant. The Clarifiers, Sedimentation Tanks, Chlorinators, Lagoons, etc. at the filter plants are out of order for the last many years. These filtrations plants are at the most being used as pumping stations for pumping water to their respective areas of delivery. Water purification that is to remove contaminants, suspended solids and gases from the water to make it consumable for humans is not taking place at any of the filter plants all over Sindh. The process of water testing, which is the integral part of water treatment as it ensures fitness of water to be potable is not being adopted either at any filter plants/R.O. Plants. The labs, which are available at some of the filter plants, are merely an eye-wash, as no test to determine physical, chemical and microbiological parameters is being conducted at any of such laboratories. Simply, without any sense of responsibility or any remorse, the raw water full of bacteria is being supplied to the people for drinking. It is therefore no wonder to see that due to use of contaminated water for drinking, many diseases like hepatitis, liver cancer, anemia, stunted growth among children, etc. are on rise in Sindh. The Treatment Plants in Karachi have been lying nonfunctional for a long time and one of them i.e. STIP-II has been encroached upon, yet no rehabilitation work by KW&SB has been undertaken to make them functional, and due to such apathy the untreated effluent is going into sea causing heavy damage to marine life.

3. During the enquiry all the departments concerned whose duty is to protect the sweet water of irrigation channels from fall of effluent were found sleeping over such state of affairs. In major cities like Karachi and Hyderabad water shortage has multiplied due to illegal water hydrants, water theft, and illegal connections and because of construction of the high-rise buildings without expanding civic infrastructure. However, Sindh Government does not seem to have a thought-out-plan, or a strong will or any interest to alter such moribund situation by making some changes in water policy i.e. to monitor strictly quality of water being supplied to the people and to protect watery bodies from constant inflow of effluent, and take stern action against those who do not follow it. The case of R.O. Plants in Sindh is sufficient to reflect with what strategy, approach and intention the Sindh Government is pursuing policy of provision of potable water in Sindh. It has paid billions of rupees to the contractor (Pak Oasis) in the last four/five years without even bothering to know quality and quantity of water being supplied by Pak Oasis against which all such payments have been made.
4. It cannot simply be assumed that the department concerned (Special Initiative Department, Sindh Coal Authority and KW&SB) are not aware of this state of affairs and/or the way this whole deceit of providing drinkable water as per WHO standards from the R.O. Plants is being played. Rather the manner in which the

payments by these departments have been made blindly in the past to Pak Oasis points out to their active connivance in the whole scheme.

5. *Except in Karachi and Hydrated, the water supply schemes are built/developed by PHED, but after completion the whole infrastructure is handed over to local municipal administrations for operation and maintenance, which do not have structural capacity to do the same, resultantly the schemes fail to deliver, and the people are left with almost no water to drink.*
6. *Even the polluted water, being supplied to the people for drinking, is gradually getting scarce thanks to leakages in main transmission routes; water theft and lack of a system to monitor it; poor performance of outdated and inefficient pumping stations; water tanker mafia and illegal hydrants; mushroom growth of vertical buildings; old and rusted distribution system of water supply and inefficiency of officials of civic agencies and deliberate mismanagement in water distribution.*
7. *In many cities like Shikarpur and Larkana, the people are using underground water, the quality whereof has degraded due to lack of sanitation (caused, inter alia, by encroachment on sub-drains), use of pesticide in agriculture and constant inflow of effluent in irrigation canals. However, there is no initiative on the part of the Government to build filter plants in such areas to provide purified water and increase capacity of water supply.*
8. *The sanitation to keep us safe and healthy is notably absent because it seems to be the lost priority of Sindh Government. In some posh areas of the big cities, some semblance of sanitation is being maintained but that is done against heavy cost and taxes, the situation of sanitation, however, in rest of the localities of the big cities is as deplorable as it is in relatively small cities of Sindh, where sewerage, garbage, puddles and dirt seem to be permanent feature of the roads and streets. The sub-drains to take wastewater out of the city have been encroached, the gutters have been choked and some of the drains have been made dumping sites for disposal of solid waste. Despite spending huge amount, we have not been able to establish and run even a single modern drainage system having disposal of sewerage of the City through routes/channels culminating in Sim-Nalas, Treatment Plants, etc.*
9. *The present state of lifting of solid waste in Sindh is likewise lamentable; no adequate arrangement for lifting of solid is visible, the Cities have been turned into heaps of garbage. In Karachi, millions and millions of rupees have been spent by the DMCs in the name of garbage-lifting but without any tangible result. There is no designated landfill site in any of the cities where the garbage could be disposed of. Presently, the garbage is dumped on drain nallas, irrigation canals or is being thrown on some makeshift places and left unattended or burnt openly.*

10. **R.O. Plants:** *The way these R.O. Plants are shown to be working and producing drinkable water as per WHO standards is nothing but a farce. Pak Oasis seems to be earning millions of rupees through these R.O. Plants, which do not produce good quality water for drinking. So far billions of rupees, as is shown in this document above, have been wasted in the name of these R.O. Plants without any justification for these Plants in some cases to even exist. Neither the quality of water through labs nor its quantity through any metering system is being analyzed at any of the R.O. Plants, yet the payments are being made by Sindh Government.*
11. *The whole scheme from feasibility to awarding contract and making payments on operation and maintenance of the R.O. Plants from the very inception needs to be investigated, so that the responsibility on the officials concerned making payments blindly could be fixed, and punishment awarded. The Annual Audit Report submitted by Director General Audit Sindh in respect of the R.O. Plants shows that the process of installation of the R.O. Plants has not been up-to the mark and in the said process a loss of millions of rupees to the Government has been caused on account of acceptance of bid on a rate higher than stipulated in PC-I; mis-procurement; non-verification of water Filtration Plants and solar generation systems by Engineers, irregular expenditure without inviting open tender; installation of R.O. Plants not according to specifications and on very high rates; irregular appointment of Project Directors; non-conducting of Lab. tests of water. (The report of water samples taken from several R.O. Plants of district Tharparkar is available at page 100-102 of this document, which establishes unequivocally that the water being produced from the R.O. Plants does not meet the quality standards).*
12. *Unless a metering system to gauge the quantity of water and a Lab. to verify quality of water at each R.O Plant is introduced/installed, purpose of R.O. Plants to provide drinkable water would not be achieved nor would there be any justification to spend such huge amount on their O&M.*
13. **SEPA:** *Sindh Environmental Protection Act, 2014 deals comprehensively with environmental issues, and is best suited for the current circumstances. SEPA has been created as a regulatory and monitoring authority to enforce provisions of this Act and for this purpose SEPA has been vested with all the necessary powers, but SEPA'S performance so far is not enviable or commendable, it has yet to establish justification for its existence. The excuse cited by SEPA official that the authorities do not respond to their actions is simply untenable, and on the contrary reflects against it. The untreated industrial effluent is going into sea in Karachi, in Phulleli Wah in Hyderabad and in K.B. Feeder in Kotri, but the SEPA's initiative has not transcended beyond holding meetings with the management of*

industries and/or writing letters to them. SEPA has not played any role to check disposal of infectious hospital waste in municipal drainage system which ultimately goes into watery bodies. SEPA has also failed to ensure destruction of infectious hospitals waste through incinerator as provided by the Hospital Waste Management Rules, 2014. It has not taken note of environmental degradation in coastal areas of Karachi precipitated by industrial effluent. Instead of becoming a result-producing organization, it has so far remained content with writing routine letters and issuing notices. SEPA has not been able to even realize the mandate given to it by the law. It has failed to even exploit the resources available to it in the shape of latest equipment and laboratory.

14. However, it is not irrelevant to state that at present, the organizational structure of SEPA appears to be weak and is mostly concentrated in Karachi. If we wish to have good results on environmental issues and strict compliance of 2014 Act, SEPA shall have to be strengthened, and expanded down to the district level.
15. **NSUSC:** Looking to the condition of the cities with NSUSC and keeping in view the amount it has shown to have spent on these cities (which is subject to verification of each scheme) it is not difficult to conclude that NSUSC has materially failed to deliver on basic targets it was mandated for. It has failed so far to take any adequate measure to either supply clean drinking water or make proper arrangement for disposal of solid waste and wastewater in the cities coming under its operation. Pools of sewerage water were seen in the streets of the cities under NSUSC control. NSUSC has not been able so far to establish anywhere the dumping and landfill sites for management of solid waste. Solid waste collected is disposed of by dumping onto open spaces by the side of roads or is thrown on makeshift dumping sites, which creates more hazards for the people. NSUSC has failed so far to cause sewage treatment in any city; the entire wastewater without any kind of treatment is very conveniently being disposed of in watery bodies i.e. River Indus and its tributaries. NSUSC claims to have spent huge sums of money to improve service delivery in respect of water supply and sanitation but its claim is not supported by any tangible result. NSUSC was also not able to establish that before execution of any such schemes, the relevant drawings, design and engineering, estimates etc. along with financial impact on approved cost prepared and supplied were duly scrutinized, checked and approved. NSUSC has failed to comply with environmental policy for which it was mandated. Since there is no improved system of service delivery in the cities with NSUSC, it is safe to say that NSUSC has not succeeded to ensure performance of the relevant persons (consultants, contractors, etc.) in delivering the services. NSUSC has provided the details of expenditure but it has failed to show that payments on operational charges were recommended after complying with all necessary formalities including site

inspection to verify specification of work. Managing Director NSUSC was entrusted with Intermediate Payment Certificates for payments to the contractors, but NSUSC officials were not able to show that payments through Intermediate Payment Certificates were as per rules and any audit or verification of the executed work was done before making payments in this way to the consultant and contractors.

16. *These facts coupled with the condition of cities under the operation of NSUSC (described below in this document) reveal that NSUSC has mismanaged finances entrusted to it. It has wasted public money for which it shall be held accountable. It has not been able to execute relevant projects yet, and has even failed to maintain the system of providing drinking water and sanitation which it inherited. NSUSC has been running with the staff of 3127 out of which 2994 were borrowed from relevant TMAs on 20% additional allowance in their salaries, but it failed to make them deliver. It has run into issues with borrowed staff of TMAs, and has been repatriating them, which has further compromised its ability to deliver. It has not been able to shape up as a competent, honest and service-provider organization.*
17. *There is, therefore, a need to review the over lapping functions of North Sindh Urban Service Corporation (NSUSC) with Town Municipal Administration (TMA) and Public Health Engineering Department (PHED), which under the law are assigned the duty of providing clean drinking water, maintaining sanitation and hygiene.*
18. **Responsibility of Government of Sindh:** *Nobody would deny that it is the constitutional duty of Government of Sindh to ensure provision of potable water, better sanitation and healthy and clean environment for its citizens. Water is life and access to unpolluted water is the fundamental right of every citizen. Under Sindh Local Government Act, 2013 (SLGA), the local Councils (Metropolitan Corporation, Municipal Corporation, Municipal Committee, Town Committee, District Council, Union Committee or Union Council) have been assigned the duty to supply clean drinking water, improve sanitation condition and place an adequate system of public drains. Part II of schedule II of the ibid law depicts how such duty has to be executed. However, the council has to perform such duty in collaboration with and under the supervision and control of Government of Sindh. Chapter-IX of the said law lays down that general supervision and control over the Councils shall remain with the Government to ensure that their activities conform to the purposes and provisions of this law. If it is found that the Council has persistently failed in discharging its duties, the Government can suppress the Council from working and during the period of such suppression can appoint the person or authority to run the affairs of the Council till the Council is reconstituted. Section 74 of SLGA amply empowers Sindh Government to take over the management and control of any institution or service*

maintained by a Council in such situation. Nonetheless, Sindh Government, as is clear from the above discussion, has not been able to check the rot and improve services of potable water, sanitation and to create better environment. The relevant departments i.e. PHED, Irrigation Department, Local Government / Council, and Planning & Development Department are more interested in development schemes and getting P.C.I etc. approved than doing some actual work to serve the people. This approach was witnessed during the proceedings i.e. the schemes are happily introduced, approvals are granted, money is spent but, since there is no monitoring of execution and sustainability of such schemes, the end-result is always more chaos than order. Never responsibility is fixed and action taken against those who have failed us. This approach of the Sindh Government is never going to bear any fruit. Merely devising schemes for the above purposes and approving P.C-I etc. and releasing funds for execution of them would not absolve the Sindh Government of its statutory responsibility of providing clean drinking water and healthy hygiene. The failure of the Government to monitor execution of such schemes and their sustainability, and in case of shortcomings to fix responsibility on the all concerned, is itself a failure. There are, no doubt, relevant institutions/officials and infrastructure to deal with this all, but apparently, the way these institutions are being run and operated by the concerned, they have notably failed to deliver on the issues under discussion.

19. *At times, it is noted that there is no dearth of initiative on part of the Government to devise schemes for water supply and sanitation (as the reports of District Judges suggest), and approving P.C-I for execution of such schemes. But these schemes often do not produce the requisite results due to shortcomings left in their execution. Instead of finding out what went wrong with the schemes already put, the approach of the Government has been to approve more schemes in this regard or/and revise already completed schemes but, expectedly until now, to no avail. This process appears to be going on and on without producing any tangible result regarding improvement in delivery system. Another stumbling block in the way of real development appears to be the policy whereby water supply schemes after completion by PHED are transferred to Local Councils/Municipalities, etc. for operation and maintenance. But since the councils have no structural capacity to maintain the same according to the requirement, no real improvement in service delivery to the people is materialized. Nonetheless, Sindh Government does not appear to be keen to take any policy decision to change the current course of affairs and to save whatever is left.*
20. *The Irrigation Department which is custodian of irrigating canals and River Indus has not been able to stop disposal of solid and untreated liquid waste including industrial effluent into natural watery bodies,*

which is the main cause of pollution and contamination in the sweet water. The Secretary Irrigation has admitted that they cannot stop inflow of effluent in irrigation canals because they are prevented by District Management from doing so. This statement reflects not only a failure of irrigation department but of the District Management and TMAs, etc. which see the irrigation canals as an easy way to offload their responsibility of managing liquid waste. The Local Councils, Municipal Authorities and PHED or their part have conspicuously failed to make SCARP drains functional and take steps to treat sewage before its discharge in irrigation canals. Due to collective apathy and negligence of these departments, watery bodies have been virtually turned into drainage nallas and people have been made to drink water from these nallas.

21. *The hospitals are disposing of their waste with municipal waste or wash it off to municipal drainage system that ultimately ends up in watery bodies. As for infectious waste, the Hospital Managements are either burning it openly or throwing it on the grounds inside the hospital. Generally there is no incinerator in the hospitals but if there is one, it is non-functional and hospitals of both the sectors (government and private) have completely failed to follow the Hospital Waste Management Rules, 2014 for management of hospital waste. The Health Department was found sleeping over this matter, and only after the Commission took up the issue; a committee was formed by the Health Department to look after the issue of waste management.*
22. *Drainage problem in entire Sindh has gone from bad to worse as there is no network of drains to dispose of sewage in a central outfall drain to carry sewerage to sea in environmentally safe manner without polluting River Indus, lands and water supply schemes etc. The RBOD-II on right side of River Indus which is designed for this purpose i.e. to carry drainage effluent from RBOD-I and RBOD-III for disposal in Arabian Sea in environmentally safe manner without polluting Manchhar Lake, River Indus, Culturable Lands and water supplies for domestic purpose, has become victim of delay, apathy, lack of interest, corruption of executing agencies/officials in the name of inadequacy of funds and dis-connectivity between Sindh Government and Federal Government.*
23. *It may also be mentioned that there are outstanding bills in respect of water and sanitation charges against Government departments, but they are not paying off the same.*

RECOMMENDATIONS

1. *At present Karachi has been receiving 650 MGD for drinking against the demand of 11 MGD. Yet for the last 10 year not a gallon of water has been added in the system to overcome*

the shortage, therefore, new sources of water supply (like K-IV 260MGD) may be acquired immediately for Karachi.

2. *Karachi has quota of 1200 cusecs water at present and will receive 260 MGD further after completion of k-IV Phase-1, but still the shortage of water will not be overcome, hence this quota may be enhanced in proportion to its population (23 million approximately). And at the same time, it is also necessary to stop unchecked urbanization in major cities to keep the water requirement under control.*
3. *For providing water to the houses on tail and to the areas where still the water supply system is not available, new distribution lines of water supply may be laid before start of K-IV (260MGD) etc.*
4. *Orders may be issued for replacing existing poor and faulty infrastructure of water supply lines to reduce water shortage and water contamination.*
5. *A system of water-meters for bulk purchasers may be introduced immediately. And gradually the domestic users shall be brought in the said net.*
6. *M.D. KW&SB, SSP concerned and the SHO of the area may be made responsible for eradicating menace of illegal water hydrants, and in case of discovery of the illegal water hydrant, the cases may be registered against them instead of some unknown miscreants.*
7. *Instead of manually monitoring water distribution, whereby it is not possible to check water theft, puncturing of water lines and running of illegal water hydrants, a modern system based on computer technology with command and control room to monitor water supply and water theft may be immediately put in place.*
8. *Official water hydrants to meet emergencies may be installed in each location within a radius of 03 kilometer to save transport expenses and erosion of roads caused due to water spillover from tankers.*
9. *All the Filter plants may be immediately rehabilitated fully and put to work, so that the process of purification of water should commence. And additionally, as the existing Filter Plants' capacity is short of actual requirement, new filter plants may be built to meet current and future requirements.*
10. *The dosing of chlorination of water to kill bacteria at Filter Plants and water supply schemes may be declared mandatory. And if the KW&SB, WASA, PHED, etc. officials fail to dose water with chlorination, immediate action may be taken against them and punishment awarded. The functionality of Labs at each Filter Plant may be ensured to maintain water quality as per WHO standards.*
11. *Directions may be issued for establishment of the water-lab at Taluka level near water supply schemes for monitoring quality of drinking water before its supply to the people. The system of a third party monitoring viz. crosschecking by the*

independent and reputable Labs may be made integral part of water examination in entire Sindh.

12. *In Karachi and Hyderabad, from main trunk transaction lines dedicated for domestic consumers, new bulk connections are being allowed resulting in water shortage for domestic users. KW&SB, WASA etc. may be directed to immediately stop this practice.*
13. *There may be put a complete ban on the construction of multistory and high rise (vertical) buildings till the water shortage is overcome and new resources of drinking water are put in place.*
14. *Granting no objection by KW&SB to provide water to multistory or high-rise (vertical) buildings except to a residential unit having ground plus two stories may be put on hold till the new sources of water are added to the existing system.*
15. *The Sindh Building Control Authority collects betterment charges while approving building plans, although the same charges relate to water supply and sewerage, therefore, the same charges/funds may be ordered to be transferred to KW&SB, and WASA.*
16. *In the governing board of KW&SB and WASA, the representation of civil society etc. to safeguard interests of the citizens may be introduced.*
17. *In KW&SB, WASA, TMAs, etc. a single-window system may be introduced for sanctioning of water connection and other water-related issues to discourage corruption and corrupt practices.*
18. *In the Government Departments/Institutions/Agencies/Offices, hospitals, judicial complexes, etc., the water meters may be installed.*
19. *The private concerns like Shopping Malls, Private Hospitals, Hotels, Restaurants, and Industries etc. may also be subjected to water-metering system immediately.*
20. *Orders may be passed to install a credible metering system on all the R.O. Plants to verify their production and supply.*
21. *The present policy of installation of R.O. Plants and their maintenance and operation on public money may be re-examined, as admittedly the quality of water produced and supplied from these R.O. Plants is not being maintained as per WHO standards. The policy of awarding contract of R.O. Plants may be made more transparent and there must be introduced a component of water quality checking at each R.O. Plant through credible lab process.*
22. *Orders may be passed for removal of the encroachments from all the Effluent Treatment Plants including TP-II Mehmoodabad Karachi, so that they should start treating outgoing toxic effluent of the industries falling in sea. Additionally, more treatment plants, as the capacity of*

current effluent plants is maximally 150MGD, which is too short to cope up the inflow of 500MGD of sewage, may be built to meet the requirement.

23. *Installation of Pre-Treatment Plant within the factory to treat toxic effluent inside the Unit may be declared mandatory and violation thereof be made a cognizable offence. In this regard the responsibility shall be fixed on Industries & Commerce Department and Management the factories themselves.*
24. *Directions may be issued to the District Management Malir, Irrigation Department, KW&SB and others concerned to immediately take appropriate measures to stop sand-lifting from Malir River bed as this illegal activity has exposed the water conduits supplying water to the entire city namely GK – I, K-II & K-III to damage, and if this practice is allowed to continue, it can lead to dislocation and blast of said water conduits at any time stopping supply of drinking water to the entire city.*
25. *The coastal water of Karachi harbor is being damaged due to constant untreated effluent of industrial units and spillover of oil from visiting ships, therefore Karachi Port Trust may be directed to ensure stoppage of oil-spillover from the ships to protect marine life.*
26. *The possession of Combined Effluent Treatment Plant, Kotri may be ordered to be taken from the contractor immediately and handed over to SITE limited Kotri for operation and maintenance, so that the water of K.B. Feeder, the supply line of Keenjhar Lake, shall be protected.*
27. *There is lack of awareness among the people about importance of clean water, water-borne diseases due to use of polluted water and other water-related issues. Therefore, the Education Department may be directed to include the subject of provision of safe potable water, sanitation and healthy environment in the curriculum from primary level to create awareness about these issues among the children.*
28. *Provision of potable water and keeping sanitation at all public offices including schools, and hospitals etc. may be declared mandatory and its non-compliance a cognizable offence. Head/In-charge office/building, school shall be made responsible in this regard.*
29. *To control water pilferage in Karachi through illegal water connections, illegal hydrants etc., and in rest of Sindh through illegal modules or pipes in irrigating canals, a command and control room may be established in each district.*
30. *Instead of entrusting water related issues to several civic agencies, there may be constituted a single civic agency or authority like Water Regulatory Authority in each district having representation of persons from civil society etc. to attend to all water supply and sanitation related issues. It shall have a fast, easy, reachable, time-bound and result-oriented system in place for addressing complaints of the people. It may also be mandated to collect all the charges for*

development, maintenance and up-gradation of infrastructure of the buildings to meet water related requirements on one hand, and on the other to curb red-tape and conflict of interest.

31. *In the urban and rural areas of Sindh except Karachi and Hyderabad, Public Health & Engineering Department may be made responsible for providing drinkable water to the people.*
32. *Directions may be given to the Irrigation Departments and other Departments concerned to establish a water Lab. at Guddu Barrage to examine quality of water of River Indus coming from Punjab so that the exact volume of water pollution may be gauged for taking necessary steps.*
33. *The irrigation department may be directed to protect surface water from untreated municipal and industrial effluent being directly discharged into watery bodies, and in case of failure along with related field officers, the Secretary Irrigation Department shall be held responsible. In this regard a network of drains with outfall in RBOD or LBOD as the case may be with a system of siphoning off the drain water from under the irrigation canals at the place of crisscrossing may be laid to save watery bodies from effluent.*
34. *In order to save sweet water from contamination, the Irrigation Department may further be directed to remove all encroachments (houses, slaughter houses, cattle pans etc.) from the banks of irrigation canals all over Sindh as they are directly discharging their effluent in the irrigation canals.*
35. *The cattle pans, which cause choking of drains and gutters, may not be allowed to be established within the residential areas of the city. The District Management of each District may be directed to remove all the cattle pans already established within the residential areas of the city.*
36. *If we have to get rid of effluent being discharged into irrigation channels, the completion of RBOD-II appears to be a must. Directions may be issued to the Government of Sindh and Government of Pakistan to revise and restart the remaining work for early completion of RBOD-II on right side of River Indus, which is designed to carry drainage effluent from RBOD-I and RBOD-III for disposal in Arabian Sea in environmentally safe manner without polluting Manchar Lake, River Indus, Culturable Lands and water supplies for domestic purpose. According to estimation, the latest financial progress of the project up to June 2016 is Rs.28.43 billion which is 97% of the approved cost, whereas the physical progress is 72%.*
37. *There is no dumping or landfill site in any of the cities of Sindh to manage solid waste, the solid waste is either being burnt in open or thrown in irrigation canals or nallas in some case, or being dumped on makeshift dumping sites and left unattended. Direction may be issues to Sindh Government to immediately establish such landfill and dumping sites so that healthy environment could be created.*

38. *The Health Department may be directed to ensure installation of incinerators in all government and private hospitals and to take further steps for disposal of all kind of hospital waste in terms of the Hospital Waste Management Rules, 2014, and in case of failure, the Secretary Health shall be held responsible.*
39. *As the reports of District and Sessions judges have revealed expenditure of billions of rupees for the last five years on the schemes of water supply and sanitation, but many of them are lying non-functional and even from functional schemes no tangible result improving provision of potable water supply and sanitation is being achieved. The directions to launch investigation into the finances incurred on all such schemes may be ordered.*
40. *Directions may be issued for investigating the failure of scheme namely Extension/Improvement of Urban Drainage Scheme Jacobabad fixing responsibility on those Executing Officials who are at fault as despite spending about 1200 million on the said project no benefit from it has been extended to the citizens of Jacobabad.*
41. *Directions may also be issued for investigating the failure of Sewerage Project for Qasimabad, which is part of Hyderabad Development Package, fixing responsibility on those Executing Officials who are at fault as in spite of spending 1700 million on this project, yet no benefit from it has been extended to the citizens of Hyderabad.*
42. *The direction to the Sindh Government may also be issued for reviewing the current lax Anti-corruption laws and/or replacing them with more stringent laws against corruption, as the current Anti-corruption laws have failed to discourage corrupt practices, which is the main reason of failure. The investigation into corruption matters and the trial thereafter may be ordered to be made time-bound.*
43. *The whole procedure of devising schemes, decision of technical committee on feasibility of the schemes, administrative approval of funds, release of funds and execution of schemes shall be reexamined and revamped and in this regard some component of judicial overview on the execution of the schemes may be introduced to discourage and curb menace of kick-backs and commissions.*
44. *All the Department/Agencies of Government of Sindh and Government of Pakistan etc. may be directed to clear off the outstanding dues/bills of civic bodies (KW&SB, WASA etc.). And they may be bound down for future not to commit default in respect of water and sanitation charges so that improvement in service delivery system could be achieved.*
45. *Due to lack of town planning, the unchecked mushroom growth of housing societies has increased in the cities, which has further aggravated the service delivery in respect of supply of drinkable water and sanitation. Sindh Government and District Management may be directed to strictly monitor such growth of housing societies by adhering to law, rules and regulations concerned with town planning.*

46. *Public Health & Engineering Department (and any other department) which develops/completes water-related schemes may be made responsible for operation and maintenance thereof, instead of any other department/council.*
 47. *The over lapping functions of North Sindh Urban Service Corporation (NSUSC) with Town Municipal Administration (TMA) and Public Health Engineering Department (PHED), which under the law are assigned the duty of providing clean drinking water, maintaining sanitation and hygiene, may be reviewed.*
 48. *At present SEPA's organizational structure is weak and it is mostly concentrated in few major cities of Sindh; therefore it has failed to deliver. For achieving good results in respect of provisions and objectives of Sindh Environmental Protection Act, 2014, the SEPA needs to be strengthened, reorganized and expanded down to the District level.*
 49. *Last but not the least, until and unless, we implement a system of strict monitoring and fierce accountability within the institutions, we would not be able to realize fruits and results of any hard work undertaken to provide for potable water, better sanitation and healthy environment to the people of Sindh. The current situation, if we have to survive, prosper economically and prove our utility as viable people contributing to the collective betterment of our country, shall not be allowed to continue. We will have to shake off the mind-set of an ostrich who when pursued hides its head in the sand and believes to be unseen. A system of fierce accountability and monitoring is overdue."*
5. Before hearing the matter on 06.03.2017, we watched a CD in Court, which was provided by the Petitioner, which was recorded during the visit of the Commission to different cities of Sindh including Karachi, reflecting actual footages/visuals of different cities of the Province. No one has disputed the contents of the footages which graphically showed the actual state of waste and polluted water flowing into canals, channels and river Indus, resulting environmental hazards and human sufferings. Therefore, we find it in order that the CD be sent to the Speaker of the Sindh Provincial Assembly who may arrange its viewing in the august Hall of the Sindh Provincial Assembly to enable the peoples' Representatives / Legislators to have a clear view of the prevailing

situation in the Province with regard to the failure to supply potable water and how untreated raw municipal and industrial sewerage are poisoning water bodies and how dangerous and hospital waste is being disposed.

6. The Advocate General requested for time to go through the report of the Commission. Time was granted and the matter was posted for hearing on 08.03.2017. Since 08.03.2017, the matter was heard on different dates and finally on 16.03.2017. During the hearing, the Advocate General Sindh, Deputy Attorney General and the high ups of the Sindh Government were heard. With the assistance of the aforesaid law officers, we have perused the record and the material collected by the Commission. On 16.03.2017, the Chief Secretary Sindh submitted a compliance report that finally a cadre officer, namely Mr. Jamal Mustafa Syed, was appointed as Secretary, Irrigation Department. Syed Hashim Raza Zaidi, another cadre officer, was appointed as the MD, KW&SB.

7. It was during the hearing of this Petition that we had noticed that the position of Secretary Irrigation, which is a cadre post in terms of the Schedule notified by the S&GAD, was occupied by a non-cadre officer. We, therefore, directed the Sindh Government to immediately appoint a cadre officer as Secretary Irrigation Department. Likewise, the officer who was heading the Karachi Water & Sewerage Board as MD, was also not qualified to hold the office as he was not a cadre officer and we directed his immediate replacement. Similarly, office of the DG, Sindh

Environmental Protection Agency (SEPA) was a cadre post and we directed to immediately post a cadre officer as DG, SEPA.

8. The Chief Secretary was further directed to form a task force / committee of experts with the approval of the competent authority to comply with the recommendations made by the Commission in its report. The Chief Secretary placed before us a notification dated 14.03.2017 issued by him with the approval of the competent authority wherein a Committee headed by the Secretary Irrigation Department has been formed on Water Filtration and Sewerage Treatment Plants. The notification reads as under:

**“GOVERNMENT OF SINDH
SERVICES, GENERAL ADMINISTRATION
AND CO-ORDINATION DEPARTMENT**

Karachi, dated the 14th March, 2017

NOTIFICATION

No.SOII(SGA&CD)6-22/2017: In partial modification of this department's notification of even number dated 10.03.2016 and in pursuance of the Honorable Supreme Court of Pakistan's order dated 13.03.2017 passed in C.P. NO.38 of 2016, and with the approval of Competent Authority, the Government of Sindh is pleased to constitute a Committee on Water Filtration and Sewerage Treatment Plants with following composition and terms of references:-

1.	Secretary Irrigation Department	Chairman
2.	Secretary, Local Government & Housing Town Planning Department	Member
3.	Secretary, Health Department	Member
4.	Secretary, Industries & Commerce Department	Member
5.	Commissioner (Concerned Division)	Member
6.	Managing Director, KW&SB, Local Govt. Department	Member
7.	M.D Water and Sanitation Agency (WASA) Hyderabad	Member
8.	Mr. Ghulam Murtaza Arain, Director General, Pakistan Council of Research in Water Resources.	Member

Terms of References:

- Rehabilitation of all Water Filtration & Sewerage Treatment Plants including Gharo Plant.
- Rehabilitation of Laboratories for checking qualities of water.
- Removal of construction on conduits.
- Removal of encroachments from filtration & sewerage plants, if any.

- Recommendations for prohibiting untreated direct discharge of industrial effluents, municipal waste and hospital waste into rivers/canals.
- Proper Monitoring of water quality.
- The Committee will submit periodical reports regarding above matters to the relevant Authorities and Judicial Commission constituted for the purpose.
- The committee can Co-opt any member for discharging its functions and may assign any task to any person to achieve the above tasks.`

Rizwan Memon
Chief Secretary Sindh

Karachi, dated the 14th March, 2017”

9. The Chief Secretary was directed to modify the aforesaid notification and add D G, SEPA as one of the members of the committee. The notification dated 16.03.2017 has been placed before us whereby DG, SEPA was added as a member and the committee was re-designated as the “Task Force”. The amended notification reads as under:

**“GOVERNMENT OF SINDH
SERVICES, GENERAL ADMINISTRATION
AND CO-ORDINATION DEPARTMENT**

Karachi, dated the 16th March, 2017

NOTIFICATION

No.SOII(SGA&CD)6-22/2017: In partial modification of this department’s notification of even number dated 14.03.2016 and in pursuance of the Honorable Supreme Court of Pakistan’s order during hearing on 17.03.2017 passed in C.P. NO.38 of 2016 and with the approval of Competent Authority, the Government of Sindh is pleased to constitute a Task Force on Water Filtration and Sewerage Treatment Plants with following composition and terms of references:-

1.	Secretary Irrigation Department	Chairman
2.	Secretary, Local Government & Housing Town Planning Department	Member
3.	Secretary, Health Department	Member
4.	Secretary, Industries & Commerce Department	Member
5.	Commissioner (Concerned Division)	Member
6.	Director General, Sindh Environmental Protection Agency	Member
7.	Managing Director, KW&SB, Local Govt. Department	Member
8.	M.D Water and Sanitation Agency (WASA) Hyderabad	Member
9.	Mr. Ghulam Murtaza Arain, Director General, Pakistan Council of Research in Water Resources.	Member

Terms of References:

- Rehabilitation of all Water Filtration & Sewerage Treatment Plants including Gharo Plant.
- Rehabilitation of Laboratories for checking qualities of water.
- Removal of construction on conduits.
- Removal of encroachments from filtration & sewerage plants, if any.
- Recommendations for prohibiting untreated direct discharge of industrial effluents, municipal waste and hospital waste into rivers/canals.
- Proper Monitoring of water quality.
- The Committee will submit periodical reports regarding above matters to the relevant Authorities and Judicial Commission constituted for the purpose.
- The committee can Co-opt any member for discharging its functions and may assign any task to any person to achieve the above tasks.

Rizwan Memon
Chief Secretary Sindh

Karachi, dated the 16th March, 2017”

10. The DG, SEPA is a cadre post notified in the Schedule issued by the S&GAD. The Sindh Government within four days shall appoint a cadre officer as DG, SEPA and compliance report shall be sent to us by the Chief Secretary for our perusal in chambers. The Task Force shall immediately start its work under the supervision of the Chief Secretary himself and shall report to the Commission comprising of Mr. Justice Muhammad Iqbal Kalhoro, which will continue to work as Commission in terms of the orders of this Court passed on 27.12.2016 with the further powers to ensure compliance of the recommendations made in his report and continue taking all steps to achieve the objective for which the Commission was formed.

11. In addition to the above recommendations in the Commission’s report further directions may also be issued by the Commission. The proposed Task Force shall comply with the directives contained in this order and report compliance to the

Commission as well as to this Court through the Registrar, for our perusal in Chambers.

12. Pursuant to the order dated 06.03.2017, four of the five water filtration plants and three sewerage treatment plants were visited and a brief report with photographs thereof was submitted in Court (CMA No.160-K of 2017).

Irrigation Department

13. Before we proceed to record findings on the working of the Irrigation Department, we would like to reproduce the statement of the then Secretary, Irrigation Department, Government of Sindh, recorded by the Commission:

Mr. Ahmed Junaid Memon, Secretary to Government of Sindh, Irrigation Department was examined by the Commission. He has also filed the statement. According to which, there are three (03) Barrages in Sindh Province viz. Guddu, Sukkur and Kotri. Sukkur Barrage was constructed in 1932, with canal command area of 7.630 million acres. The Kotri Barrage was constructed in 1956 with canal command area of 3.006 million acres. The Guddu Barrage was constructed in 1962 with canal command area of 2.179 million acres, accumulated total command area being 13 million acres. The Irrigation Department is also custodian of drainage system spread over 5 million acres of land, the network being about 5000 miles. Nine systems of Drainage network have direct disposal in sea, whereas system in upper Sindh i.e. Ghotki, Shikarpur, Larkana Districts have several small drainage schemes disposing of in Irrigation Channels. The dilution ratio of Panchu water drainage schemes having disposal in Irrigation Channel is maintained to keep quality of water within allowable admissible

range for agriculture usage. The Civic agencies mostly dispose of sewerage effluent in canals, without concurrence of Irrigation Department, which causes pollution in canal water. The action is being tolerated as there is no alternate for disposal of sewerage generated by growing population of the cities. On hindrance in such disposal the district administration intervenes as the thickly populated areas are inundated, and often sewers and water supply lines are integrated causing severe health problems. For domestic usage the source of water supply to civic agencies are Irrigation channels, but limited to provisions of raw water. The extracting agency is liable for treatment of this water to make it fit for drinking as per WHO standard.

In his further statement, the Secretary Irrigation has stated that the Irrigation Department is responsible for provision of raw water from canal networks as per convenience of location to the civic bodies on their demand and approval of Irrigation case. Extraction of Water at source and processing of raw water i.e. disinfection, filtration and internal distribution to housing is responsibility of the Local body concerned or the Local Government; and likewise for disposal of sewerage into the water bodies, the civic agencies are responsible to treat sewerage before discharging the same in the canal networks”

The above statement of the Secretary Irrigation shows that the Irrigation Department is criminally negligent in performing its functions allocated to it under Schedule-II to the Sindh Government Rules of Business, which are reproduced hereunder:-

1. *Barrages, construction work and all matters connected therewith.*
2. *Electricity.*
3. *Flood Control Scheme.*
4. *Irrigation:*
 - a) *Rivers and riverian surveys.*
 - b) *Construction and maintenance of canals.*
 - c) *Tube-wells and other water utilization Scheme.*

- d) *Embankments;*
- e) *Drainage;*
- f) *Storage of water and construction of reservoirs; and*
- g) *Matters pertaining to distribution of river supplies.*
- 5) *Kinjhar Lake.*
- 6) *Land Reclamation Schemes and administration of the Soil Reclamation Act, 1962.*
- 7) *Water logging and salinity schemes.*
- 8) *Services matters, except those entrusted to the Services, General Administration and Coordination Department."*

14. We are at loss to understand as to how the Secretary, Irrigation, can make such a statement before the Commission that he has failed to discharge his duties on account of hindrance caused by the local administration. The Irrigation Department has never bothered about the discharge of municipal, medical and industrial waste in the rivers, channels and canals. This criminal act on the part of the Irrigation Department has exposed the residents of Sindh to different water borne diseases such as Cholera, Typhoid, Hepatitis A&E, Gastroenteritis, Diarrhea and skin diseases. It is multiplying the agonies of the poor residents of Sindh, who are left with no option but to drink polluted and poisoned water. Provision of clean water for drinking is the duty of the State. Instead the functionaries of the state are allowing waste of the three kinds to be tossed into the Rivers, Canals and Channels which the Irrigation Department is required to maintain. Nothing is being done by the departments though they receive huge amounts from the Government for performing the functions mentioned hereinabove. We direct the Sindh Government, especially the Irrigation Department, to immediately minimize the pollution in the aforesaid arteries used for providing supply of clean drinking water to the public in Sindh. The Task Force shall

immediately take remedial steps to stop this menace and report its progress to the Commission within one month.

Water Treatment Plants

15. There are five water treatment plants: (i) COD Hills, (ii) Hub, (iii) North East Karachi (NEK), (iv) Pipri and (v) Gharo. The petitioner and Prof. Dr. Muhammad Ahsan Siddiqui stated that they visited four of the five plants (Gharo was not visited) and that these four plants had laboratories and staff to test the quality of water, however, either these laboratories were not fully equipped/functional and/or the staff did not have the requisite qualification/training. It was further pointed out that the quality of water leaving certain plants was comparably better than others, however, as water from different treatment plants finds its way into the same water channel it undermines the purity level achieved by the better plant. Therefore, unless the water from all the water filtration plants is free of contamination, the desired results would not be achieved. Another concern articulated is that the integrity of the monitoring mechanism is doubtful as entries with regard to tests are made by hand which can be backdated/manipulated, and there does not exist a central data collection and monitoring of the water quality results. Dr. Siddiqui also referred to the chlorinator which utilizes chlorine gas and pointed out that in some of the plants the chlorinator either was not working or chlorine gas to run it was not available. He stated that repairing of the chlorinator may be time consuming and expensive, however, the problem could be immediately redressed by using sodium hypochlorite to make the water potable.

Sewerage Treatment Plants

16. There are three sewerage treatment plants: (i) installed at SITE also known as STP-I or TP-I, (ii) at Mehmoodabad also known as STP-II or TP-II, and (iii) at Mauripur also known as STP-III or TP-III. Not a single one of these plants is working; and this, we have been informed, is the position for the last several years. Consequently, raw and completely untreated sewerage is sent into the Arabian Sea, bordering one end of Karachi. At these non-functional treatment plants, we are informed, 141 personnel of KSB are still “working”.

17. With regard to TP-II different views were expressed including that a large part of the land earmarked for treatment/lagoon/storage of sewerage was leased out by the KMC and another large portion has been illegally encroached upon. Therefore, without first repossessing the encroached and/or leased land it will not be possible to make this plant operational. Another view was that even if the illegally encroached land is repossessed the plant could not be made operational.

18. Mr. Wasim Akhtar, the Mayor of Karachi Metropolitan Corporation (“**KMC**”), acknowledged that KMC had leased out a portion of the land of TP-II and that an inquiry is being conducted in this regard. He further stated that to attend to the larger good of the city and its people KMC could explore sites where the persons who had been leased land could be given alternative land and re-settled. He further stated that KWSB was not performing its statutory functions which can be gathered from the fact that its

Board met on February 7, 2017 after a period of about 6 years; the last meeting of the Board was held on August 1, 2011. The Board's meeting of February 7, 2017 was attended by him in his capacity as Mayor, but he stated that serious issues were not attended to and mostly *ex-post facto* ratification of water connections was granted.

19. The Karachi Water & Sewerage Board Act, 1996 (**"the Act"**) established "a Board for supply of water and disposal of sewerage in the Karachi Division". Amongst the specified powers and functions of the Board is, "to ensure that the water supplied by it is duly filtered, treated and tested and is fit for human consumption" (sub-section (2) of section 5 of the Act). The Board is also required to construct, maintain and operate, "sewerage works for collecting, pumping, treating and disposing sewerage and industrial waste" (clause (b) of sub-section (vii) of section 3 of the Act). But as reported, and not disputed by KWSB, it has failed to fulfill its primary statutory mandate; un-filtered, un-treated and un-tested water is being supplied and the entire sewerage of Karachi, one of the largest metropolises in the world, is dumped untreated into the Arabian Sea.

20. We were informed that KWSB has around 13,000 employees, but is still not able to fulfill its basic statutory duties and despite the large number of employees, the appalling malfunctioning continues unabated. The minutes of the last meeting of the Board show that the demands of the Combined Bargaining Agent (**"CBA"**) of the KWSB are being met whilst disregarding KWSB's statutory mandate. The poor taxpayers and

citizens of Karachi have paid heavily for setting up water filtration plants and sewerage treatment plants, but regrettably the water filtration plants are not properly functioning and the sewerage plants lie derelict. In failing to perform its statutory duty KWSB has exposed the residents as well as all visitors to the City to avoidable water-borne diseases. It is estimated that four-fifths of all illnesses are caused by water-borne disease, many of which result in fatalities. As a consequence of the callous disregard by KWSB of its duty, government hospitals are over burdened by those suffering from water-borne diseases and many citizens who avail of private treatment also have to incur avoidable expense.

21. The citizens of Karachi are punished still further by the dumping of raw sewerage into the Arabian Sea which contaminates the beach and the coast and poses yet another health hazard. The people are also deprived of the enjoyment of the city's beaches for health and recreation. There is no monitoring of the beach water quality, however, as raw sewerage is released into the Sea the dangers of swimming or wading in such water are manifold. The beaches are also littered with dangerous waste, which the tides deposit on the beach, such as discarded injection needles.

22. We have also noted that though KWSB cannot provide basic services yet it continues to expand its network by granting approvals to new housing schemes in a purely mechanical manner and by ex-post facto approvals. KWSB appears oblivious to the Fundamental Rights of citizens, including the right to have uncontaminated water to drink which can be considered the

bedrock to the right to life (Article 9 of the Constitution). The rivers and other water channels in Karachi have also been rendered open sewers by raw effluents. If not rectified immediately this state of affairs may lead to an epidemic of infectious diseases.

23. As regards the immediate issue of the water filtration plants, during the hearing a consensus developed that the credentials and competence of all laboratory personnel be checked, and thereafter competent persons should provide them with training and subsequently all personnel be tested to ascertain whether they have acquired the requisite skills. Dr. Siddiqui stated that one month training would be sufficient to train the personnel who are engaged in the laboratories of the water filtration plants. It was also agreed that the laboratories and the plants should be inspected periodically to ensure that they have the requisite instruments, chemicals and equipment and wherever there is a shortfall this should be attended to. The first inspection by experts should be undertaken immediately. Needless to state that the deficient instruments and equipment which are not very expensive should be immediately procured. The mechanism whereby the data from all the water filtration plants can be electronically collected and compiled at each plant and also transmitted to a central point should also be examined immediately and requisite measures be taken.

24. To attend to the non-functioning of the water filtration plants and the sewerage treatment plants TP-I and TP-III we had directed the Chief Secretary Sindh to constitute a committee to ensure the rehabilitation of all the water filtration plants and to

ensure that the laboratories are equipped with necessary instruments for proper monitoring of water quality.

25. As regards TP-II, its site should be inspected and the area of its land which has been illegally encroached upon and leased by the KMC should be determined and alternative land be given and/or compensation paid to the affected households. We direct KMC, Board of Revenue and KWSB to submit their separate reports in this regard. The minimum area of the land that is required to make TP-II functional shall be determined by KWSB and once this has been accomplished, devise a mechanism to repossess it.

26. The Commission report has also shown concern about the medical waste and the industrial waste generated by the hospitals and industries situated in Karachi.

27. The Task Force shall ensure that the all the filter/treatment/sewerage plants in Sindh inclusive of Karachi, Hyderabad, Sukkur and Kotri shall be made functional. It shall submit detailed periodical reports to the Commission. The Task Force shall also make functional all the incinerators installed in the Government hospitals as per the undertaking given by the Health Secretary in Court on 11.03.2017 (Report No. 25-K/2017).

28. The representative of the Karachi Port Trust ("**KPT**") stated that the harbour is polluted by industrial effluents, sewerage and solid waste. He stated that there are 13 water channels/drains which empty out into the harbour and these water channels/drains are not within the KPT's jurisdiction and /

or control. We further inquired from him whether KPT has tried to resolve this issue with KWSB or the Sindh Solid Waste Management Board ("**SSWMB**"). Incidentally Chairman KPT is a member of KWSB, but surprisingly not of SSWMB, though the Government under section 5(1) of the SSWMB Act, 2014 is empowered to, "change the composition of the Board". We were informed that plastic bags and other solid waste is also a hazard for the propellers of boats and ships. KPT, KWSB and SSWMB are public agencies and must ensure that the harbour is not polluted, but unfortunately it is filthy. We therefore direct the Chairman of KPT, MD of KWSB and MD of SSWMB to personally examine all the water channels/drains that bring and discharge effluents and solid waste into the harbour and the Karachi coast, devise practical, inexpensive and immediate measures from their existing budgets initially to prevent the pollution of the harbour and the Karachi coast. Each of them are directed to submit their separate reports in this regard (with photographs/videos recordings) within one month.

Reverse Osmosis/Filtration Plants

29. The Commission has observed regarding RO plants in its report as under:-

"In order to examine the issue of R.O. Plants installed for providing drinking water to the people in district Tharparkar and other cities alleged to be facing scarcity of water, Mr. Ajaz Ahmed Additional Secretary Special Initiative Department (SID) and Mr. Nafees Ahmed Sheikh P.D. DWH SID; Mr. Agha Wasif, Secretary Energy Department, and Mr. Danish Saeed, Director General, Sindh Coal Authority were examined on 13.02.2017 and 14.02.2017 respectively. They have furnished details of R.O. Plants, cost on their installation and the amount being spent on operation and maintenance of each R.O. Plant. They were

confronted with the facts noted by the Commission during visit of R.O Plants in district Tharparkar, Thatta, Umerkot and other places. They could not establish the quality of water being produced from the R.O Plants and were unable to deny that there was no laboratory available in Umerkot, Thatta, Tharparkar etc. where water tests on all the parameters which include physical/aesthetic, chemical and microbiological to determine quality of water were being conducted.

However, there is a laboratory in R.O. Plant Mithi which was referred to by them and which, during its visit, was shown to the Commission conducting water tests. But the testing process there was found highly flawed, and concerned only with chemical standards of water. It was noted that merely as a formality the activity of testing was shown to be going on, which belief was further fortified from examination of a lab report dated 05.11.2016 (**Annexure AE**) showing volume of Total Dissolved Solids (TDS) as 392, against 297 volume of chloride, 193 of sodium and 8 of sulfate, which collectively is (498) more than total volume of 397 shown in said report. The staff available in the lab could not explain such glaring anomaly in the report. The test to determine quality of water at R.O. Plants requires utmost attention and scientific skill because from these R.O. Plants water for drinking is being provided, but the result of above lab report has clearly indicated an indifferent approach on this sensitive issue by the lab staff in Mithi R.O. Plant. At the same Plant it was also noted that although Pak Oasis (the company which is operating and maintaining the RO Plant having capacity of 2MGD) claims to produce and supply up-to 10 lac gallons of water per day for Rs.160/- per 1000 gallons water, but there was no measuring system to gauge such quantity of water to justify the claim and the payments it receives in this regard from the Sindh government (Sindh Coal Authority). This question was particularly asked from Mr. Agha Wasif and Mr. Danish Saeed (as this RO. Plant has been installed by Energy Department and it is paying for its O&M.) and they were shown the aforesaid lab report, but they could not reply satisfactorily and instead filed an evasive report on 15.02.2017, which too does not provide any satisfactory answers to above questions. It is also relevant to mention here that a visit of Narejo Village R.O. Plant at Thatta led to discovery of 1364 TDS volume (1000mg/L) in water being supplied to the people for drinking (**Annexure -AF**); and it was informed that this was the first time the water quality of that R.O. Plant was ever tested. These facts show clearly that payments in the name of O&M of the R.O. Plants (production and supply of water) are being made by these two departments without actually checking either the quality or quantity of the water. A perusal of the statements and details furnished by Special Initiative Department and Sindh Coal Authority have revealed that there is no proper structure or skilled manpower with these two departments to keep watch on the quality and quantity of the water being produced by the R.O. plants. Therefore, there appears no justification to continue with

these R.O. Plants and spend millions and millions of rupees blindly on their so-called O&M, when we neither know the quality of the water being supplied from these Plants nor the quantity against which we are making payments. The details furnished during enquiry by Special Initiative Department reveal following facts.

A scheme was devised to install two thousand (2000) R.O Plants in three phases. The phase-I started in the year 2012 and completed in 2015. In first phase 500 R.O Plants of different types (UF/Nano/RO Technology) depending on quality of raw water at each location have been installed by M/s. Pak Oasis Industries (Pvt) Ltd., Suite No.5, 1st Floor Nadir House, I.I Chundrigar Road Karachi.

- i. Nano Filtration Plant with TDS 3500 ppm = 200
- ii. R.O Plants with TDS 15000 ppm = 200
- iii Ultra Filtration Plant TSS = 100

The cost of installation of said Plants is Rs.3016.701,928 million (Rupees Three Thousand, Sixteen Hundred Million, Seven Lac, One Thousand Nine Hundred and Twenty Eight.). And they have been installed in different cities of Sindh viz. Karachi, Hyderabad, Tando Mohammad Khan, Matiari, Dadu, Badin, Thatta, Mirpurkhas, Umerkot, Sanghar, Tando Allahyar, Sukkur, Ghotki, Khairpur, Naushero Feroze, Shaheed Benazirabad, Larkana, Qambar, Jacobabad, Kashmore and Shikarpur under incumbency of different Project Directors of Project Management Unit Drinking Water Hub (DWH), Special Initiative Department, Government of Sindh. However, subsequently the cost of installation was revised and increased to Rs.3860,052,908/-. Out of 500 R.O Plants, only 393 are shown operational, the rest for one reason or the other are not working yet.

The Annual operation and maintenance cost at each RO Plant being paid by Special Initiative Department to the contractor Pak Oasis is as under:-

PLANT	NUM-BER	O&M COST PER PLANT PER MONTH	O & M COST PER MONTH.	O&M COST PER YEAR	O & M COST FOR 3 YEARS
R.O Plants with TDS 15000 ppm	200	Rs.14,500/-	Rs.29,00,000/-	Rs.3,48,00,000/-	Rs.10,44,00,000/-
Nano Filtration Plant with TDS 3500 ppm	200	Rs.10,000/-	Rs.2,00,000/-	Rs.24,00,000/-	Rs.72,00,000/-
Ultra Filtration Plant TSS	100	Rs.7,945/-	Rs.794,500/-	Rs.9,534,000/-	Rs.28,602,000/-

Going by above calculation, it is clear that Pak Oasis is receiving Rs.56,94,500/- per month and Rs.6,83,34,000/- per year and

Rs.20,50,02,000/ for every three years in the name of operation and maintenance of R.O Plants installed in phase-I.

The Phase-II also started in the year 2012 and is due to be completed in 2017. In this phase 750 R.O Plants of different types depending on quality of raw water at each location are to be installed by Pak Oasis, the same company.

- i. Nano Filtration Plant withTDS 3500 ppm = 150
- ii. R.O Plants from TDS 3500 to 15000 ppm = 260
- iii R.O Plants from TDS 15000 to 30,000 ppm = 010
- iii Ultra Filtration Plant TSS = 330

The total cost of these Plants is Rs:4,000/- million (Rupees Four Thousand Million.) and have to be installed in different cities of Sindh. Out of 750 R.O Plants, 531 RO Plants have been completely installed but only 379 are operational, and work on remaining plants is said to be going on. The annual operation and maintenance cost at each RO Plant is as under:-

PLANT	NUM-BER	O&M COST PER PLANT PER MONTH	O & M COST PER MONTH	O&M COST PER YEAR	O & M COST FOR 3 YEARS
R.O Plants with TDS 15000 ppm	260	Rs.30,000/-	Rs.78,00,000/-	Rs.9,36,00,000/-	Rs.28,08,00,000/-
Nano Filtration Plant with TDS 3500 ppm	150	Rs.20,000/-	Rs.30,00,000/-	Rs.36,00,000/-	Rs.10,80,00,000/-
Ultra Filtration Plant TSS	330	Rs.12,000/-	Rs.39,60,000/-	Rs.4,75,20,000/-	Rs.14,25,60,000/-
R.O Plants with TDS 30000 ppm	10	Rs.40,000/-	Rs.4,00,000/-	Rs.48,00,000/-	Rs.1,44,00,000/-

Going by the above calculation, it is obvious that Pak Oasis is charging Rs.1,51,60,000/- per month, Rs.18,19,20,000/- per year and Rs.54,57,60,000/ for every three years in the name of operation and maintenance of R.O Plants installed in phase-II.

The Phase-III also started in the year 2014 and is due to be completed during 2017. In this Phase 750 Containerized Solar R.O Plants having capacity of 2000 liters per hour with tendency to remove feed water TDS up to 10000 ppm at different villages of

Tharparkar at the cost of Rs.5254.00 million are to be installed by the same company Pak Oasis. Out of 750 R.O Plants 527 R.O Plants have been installed but only 500 of them are operational, the remaining are yet to be installed.

The annual operation and maintenance cost on each RO Plant being paid to Pak Oasis is as under:-

Plant	Num-ber	O &M cost per plant per month	O & M cost per month	O & M cost per year	O & M cost For 3 years
Contain-erized Solar R.O Plants with TDS 10000 ppm	750	Rs.20,000/-	Rs.1,50,00,000/-	Rs.18,00,00,000/-	Rs.54,00,00,000/-

Pakistan is receiving Rs.1,50,00,000/- per month and Rs.18,00,00,000/- per year and Rs.54,00,00,000/ for every three years in the name of operation and maintenance of R.O Plants installed phase-III.

Sindh Coal Authority has installed 118 R.O. Plants in district Tharparkar, Umerkot, Badin and Thatta. Mr. Danish Saeed D.G. Sindh Coal Authority has filed an evasive statement in respect of procedure of checking quality and quantity of water being produced and supplied from R.O. Plants, which he was asked during enquiry. When he was examined on 14.02.2017, he disclosed that they are two big R.O. Plants one at Mithi and the other at Islamkot with the capacity of 2MGD and 1.5MGD respectively, the rest are small R.O. Plants. On big R.O. Plants, Rs.160/- per 1000 gallons of water and on small R.O. Plants 0.14 per gallon water are being paid by Sindh Coal Authority in terms of agreement. And when he was asked, how the quantity of water being produced and supplied from R.O. Plants was being analyzed for the sake of payments, he could not reply satisfactorily, and conceded that there was no measuring system to gauge exact volume of production and supply of water in R.O. Plants, however he had sought time to file report in this regard. The statement filed by him on 15.02.2017 has been perused and examined in such context and found lacking in respect of above details, which is indicative of the fact that Sindh Coal Authority has no justification to show for the payments so far made by it to Pak Oasis.

Apart from abovementioned Plants, 19 R.O. Plants in Karachi have been installed through Karachi Water and Sewerage Board by Pak Oasis, 06 in Layari at the cost of Rs.2360.169 million and 13 in Kiamari Town at the cost of Rs.3407.515 million (Total Cost Rs:5767.684 million). The installation of R.O. Plants started in the

year 2011 and completed in 2013. Out of 19 RO Plants, two are non-functional. On their operation and maintenance, Local Department Government of Sindh through KW&SB has been paying following cost to Pak Oasis.

O & M COST ON 19 RO. PLANTS	YEAR OF O & M	AMOUNT RELEASED	AMOUNT PAID
	2013-2014	Rs.62,68,50,000/-	Rs.62,68,50,000/-
	2014-2015	Rs.86,81,00,000/-	Rs.85,80,00,000/-
	2015-2016	Rs.86,81,00,000/-	Rs.82,72,65,691/-
TOTAL AMOUNT		Rs.2,36,30,50,000/-	Rs.2,30,75,24,685/-

The water quality on these RO Plants is also not being checked to ensure drinkability of water as per WHO standards.

It must be mentioned here (which I have come to understand in this enquiry) that the official version of the R.O. Plant being functional means its mechanical process i.e. rotation of pumping motors for extracting water from underground, is running. It does not mean, and it has not been established either by the departments concerned that functionality of R.O. Plants means and would imply quality of water to be potable as well, for throughout the enquiry except the mechanical process of the R.O. Plants, nothing else as a proof of their running was emphasized or shown. And it goes without saying that mere running of mechanical process to extract water would not mean that that potable water is being provided to the people. There are no credible laboratory test reports of water of these RO Plants to disprove this conclusion.

A reading of papers has further revealed that contract of all the R.O. Plants has been awarded to Pak Oasis without completing due formalities. The report of Director General Audit Sindh (**Annexure K-1**) submitted during the inquiry has pointed out to this fact, besides revealing many discrepancies in the tendering process causing huge loss to the Government in the whole scheme of R.O. Plants. The question whether or not while awarding contract to the company the Sindh Public Procurement Rules were followed need to be examined and investigated.”

30. In view of the aforesaid sad state of affairs, we are compelled to direct the Sindh Government to withdraw the installation and maintenance work of RO/Filter plants from the Special Initiative Department and/or the Sindh Coal Authority and to assign it to the Public Health Engineering and Rural Development Department to be the executing department as mandated by the Sindh Government Rules of Business. It will also

be the responsibility of the said Department to maintain the RO/filtration plants.

31. As regards Pak Oasis, the Commission has reported that it did not have the capacity to meet the need nor the infrastructure. The installation/maintenance of RO / filtration plants is the function of the Public Health Engineering & Rural Development Department under the Rules of Business. The Secretary of the said department shall collect details of the RO plants installed throughout Sindh and submit it to the Commission with the status as to whether the RO plants are functional or not. From today onwards, the Public Health Engineering and Rural Development Department shall be responsible for installation and/or maintenance of all the RO plants in the Sindh Province. The Task Force shall also submit its report to the Commission in this regard.

Rural Water Supply Scheme

32. Even this scheme throughout Sindh has been neglected as the Government has not provided resources to the concerned department, namely Public Health Engineering Department, which is meant to execute and maintain the scheme under the hierarchy of elected bodies of the local government. The Public Health Engineering Department shall be strengthened and provided infrastructure with requisite trained manpower to undertake its job in terms of Rules of Business framed under the provisions of Article 139 of the Constitution. The Task Force notified by the Government shall remedy the shortcomings in the

scheme and submit periodical reports to the Commission. The functions of the Public Health Engineering Department under the Rules of Business are as under:-

- “1. Executing of Urban & Rural Water Supply and Drainage Schemes except Karachi (KW&SB areas) and Hyderabad WASA areas) and on completion; handing over to respective local council for operation & maintenance.
2. Operation & Maintenance of Water Supply and Drainage Schemes especially assigned to PHED.
3. Executing/installation/maintenance of RO Plants / Ultra Filtration plants.
4. Executing of foreign funded/Assisted Projects/schemes assigned to PHE & RDD.
5. Execution of approach Roads to connect Form to Market Roads, covering villages having population of upto 1000 souls.
6. Installation of Solar lights in Rural Sindh.
7. Other development schemes as assigned through Chief Minister’s directives.
8. Schemes recommended/sponsored by MNAs, MPAs, Senators and donor agencies etc.
9. Service matter of officers/officials in PHE & RDD except those assigned to SGA&CD.”

Sindh Environmental Protection Agency (SEPA)

33. The Commission regarding SEPA has observed as under:-

“Sindh Environmental Protection Act, 2014 (2014 Act), has been enacted by Government of Sindh to protect, conserve, rehabilitate, and improve the environment and to prevent and control pollution. And SEPA has been created under Section 5 of 2014 Act to regulate and monitor enforcement of the provisions of the Act. In the given capacity SEPA has to address environmental issues and perform its assigned duties, which, inter alia, include, to administer and implement the provisions of 2014 Act and the relevant rules and regulations; to prepare environmental policies; prepare and publish an annual Sindh Environment Report on the state of the environment in the province; to ensure enforcement of Sindh Environmental Quality Standards; to establish different standards for different areas for discharge of emission from different sources; to establish

systems and procedures for surveys, surveillance, monitoring, measurement, examination, investigation, research, inspection and audit to prevent and control pollution, and to estimate the costs of cleaning up pollution and rehabilitating the environment in various sectors; to take measures to promote research and the development of science and technology which may contribute to the prevention of pollution; to identify the needs for and initiate legislation in various sectors of the environment; to render advice and assistance in environmental matters including such information and data available with it as may be required for carrying out the purposes of 2014 Act; to assist Government Agencies, local councils, local authorities and other persons to implement schemes for the proper disposal of wastes so as to ensure compliance with the Sindh Environmental Quality Standards; to provide information and guidance to the public on environmental matters; to recommend environmental courses, topics, literature and books for incorporation in the curricula and syllabi of educational institutions; to promote public education and awareness of environmental issues through mass media and other means including seminars and workshops; to establish and maintain mechanisms, including its own website, to disseminate information regarding policies, plans and decisions relating to the environment; to undertake inquiries or investigation into environmental issues; establish and maintain laboratories to conduct research in various aspects of the environment etc.

During the enquiry, M.D.SEPA and other official were called and were asked about their performance in the light of duties and functions assigned to them under the law. They filed a number of statements and documents. Their stance mainly has been that SEPA is suffering from lack of financial resources, lack of manpower, lack of structural organization, and absence of due authority to enforce completely 2014 Act; SEPA needs to be expanded at district level; fully staffed; fully resourced with provision of Research and Development Budget; needs police assistance for enforcement of Environmental Laws; better and strong prosecution cell; and rapid response from Local Government organizations, like KW&SB, WASA.

The SEPA at present is working with 36 Technical Officers from BPS 17 to 20 and 28 Environmental Inspectors. The budgetary allocation of whole setup of SEPA for 2016-17 is Rs.168 million, out of this, Rs.142 million are for employees-related expenditure and remaining amount is allocated for operational expenditure. Additionally SEPA has been allocated during current financial year an amount of Rs.150 million for execution of five annual development schemes addressing to conservation of natural resources

After examining SEPA officials and perusing the statements submitted by them, it is not hard to conclude that SEPA's initiative is mainly confined to the office files, writing letters and issuing notices. SEPA was prompted into action only after the Commission started examining its role in view of its duties and functions stipulated in 2014 Act. SEPA was reminded that majority of the Industrial Units have not

installed wastewater treatment plant in compliance of 2014 Act, but it has not acted beyond issuing some notices and in some cases referring the matter to the Tribunal constituted under 2014 Act. SEPA's claim that due to its efforts 75 industrial units in Karachi division and 34 in rest of the divisions of Sindh have installed wastewater treatment plants inside the premises could not be established authentically. When on 01-02.2017, Mr. Waqar Hussain director SEPA was asked, he could not reply satisfactorily how the performance of these treatment plants was being observed. He conceded that SEPA officials do not check and test randomly effluent of the Units where treatment plans have allegedly been installed, and if ever any inspection of the Unit is carried out, its information in advance is conveyed to the Unit almost a week prior to the date. He disclosed that the test reports of effluent were being submitted by these industries on monthly basis, but admitted that entire process of taking samples and getting them tested from the laboratory is done by the Factory itself. He could not show or establish that the cross-checking by a third party of the results of the reports submitted by factories in this connection have ever been done. Obviously, therefore, the veracity of these reports is but doubtful. There is no credible record of any visits paid by SEPA officials to the factories to monitor and check compliance of environmental provisions and monitor alleged treatment of the effluent. It must be mentioned that that the notice of enquiry to the Associations of Industries was also issued to know their response on the matter, in reply of which they have filed the statements, but none of them could show successfully that the factories are running a pretreatment plant inside the premises.

SEPA does not employ any scientific methodology to monitor ecological degradation caused by direct inflow of untreated effluent in sea. No exact data of all the industries functioning in Sindh is available with SEPA. The number of factories generating toxic effluent or not is also not known to SEPA. During the enquiry, SEPA officials informed that they had divided industries into (3) three different categories viz. category-A that produces highly toxic effluent, category-B produces less toxic effluent and category-C comprises mainly dry Units, but they could not produce any record indicating the exact number of Units falling in either of the category. Only after the Commission asked about such data, the SEPA started collecting it, and then during proceedings produced some incomplete and unauthenticated figures in this connection. The factories are directly discharging untreated effluent in watery bodies, but SEPA did not appear to be duly concerned about it, and it did not seem to have an idea as to how and to what extent the untreated effluent is destroying the flora, fauna and biodiversity of coastal waters. During the physical visit of SEPA's office by the undersigned on 12.01.2017, it was observed, which was not denied by the official present there, that in Chemical Lab, Analytical Lab and Microbiological Lab no work had been done for the last many years. The expensive laboratory equipment available in those labs seemed untouched and unused. The state-of-the-art Air Monitoring System to evaluate air pollution was installed on the roof of SEPA's office, but it appeared to have never been put in use.

Besides, a modern ambulance was seen rusting in the premises. In reply to a query, the officials replied that an entire scheme was needed to put all these appliances in use.

During the enquiry, SEPA officials maintained that because of their actions, many changes have occurred, like installation of waste water Treatment Plants in factories, legal action against factories which do not install pre-treatment plants, stoppage of burning of old batteries at Hyderabad and Karachi, prevention of dumping and burning of solid waste in Karachi, management of hospital waste, monitoring of cement industries in Sindh, stone crushing units, prohibition on non-degradable plastic products, compliance of environmental law in Sugar Mills in Sindh, etc. But neither the effect of above actions could be witnessed by the Commission during the visits, nor SEPA could produce any authentic record showing tangible results so far achieved in any of the above fields. The factories are still discharging waste water without treatment, hospital waste is in disarray and is mostly being burnt inside hospital premises, and Sugar Mills do not seem to be bothered about complying with environmental laws and are discharging waste without treatment in watery bodies. The coast is constantly experiencing degradation due to constant inflow of untreated effluent and spillover of oil from ships, yet SEPA is making claims of performance.

It is obvious that SEPA, at least in the present situation and in the present set-up, is not able to deliver and perform, in spite of having ample powers under 2014 Act, which include entering into lease, purchase, sale, convey any assets and property; fixing and realizing fees rates charges; entering into contracts for proper management of its business; appointing advisors, experts and consultants for efficient performance of its functions; summoning and enforcing attendance of any person; inspecting under the search warrant any place where SEPA has information that an offence under 2014 Act has been committed or is likely to be committed; taking samples of any material, substances etc. being discharged or emitted in air, water and on land; arranging for the testing of such samples; confiscating any article used in the commission of offence; etc.”

34. After going through the portion of the aforesaid report of the Commission, we have reached the conclusion that D.G, SEPA Mr. Naeem Ahmed Mughal has never put in hard work nor made any serious effort to make functional a well equipped laboratory in Karachi. He failed to offer any plausible explanation to this Court. We on inquiry were informed that he was not even eligible to hold office of D.G, SEPA as he was not a cadre officer. We, therefore, had directed to replace Mr. Naeem Ahmed Mughal

with a cadre officer of good administrative skill to make functional not only laboratories of SEPA but other responsibilities in terms of the Sindh Environmental Protection Act, 2014 and the Rules framed thereunder to save this Province from environmental hazards to save the public of the Province from pollution and prepare environmental policies.

North Sindh Urban Services Corporation Limited (NSUSC)

35. The Commission noticed about NSUSC as under:-

The NSUSC has been established under the Companies Ordinance 1984 for improving municipal infrastructure of the secondary cities located in northern Sindh which include Sukkur, New Sukkur, Rohri, Khairpur, Larkana and Shikarpur, Jacobabad & Ghotki. The NSUSC is outcome of Sindh Cities Investment Improvement Program (SCIIP), whereby under Multi-tranche Financing Facility (MFF), Asian Development Bank (ADB) was to provide \$300 million over a period of 10 years till 2018 to finance the Government of Sindh's \$400 million program to improve water supply, wastewater management, and solid waste management services in a cluster of secondary towns. This program (SCIIP) supports (i) establishment of local government-owned, professionally managed utility companies; (ii) priority investment in water supply, wastewater, and solid waste management infrastructure; and (iii) urban sector reforms and capacity development, including an Urban Policy and Strategic Planning Directorate at provincial level and for overall program implementation.

The concept of the program to establish local government-owned and professionally managed utility companies for improvement of above services for the cities may be good enough and meant to avoid corruption, failure, inaction and lethargy of relevant government departments in providing the said services. But in the way of executing this program, the whole idea seems to have been lost. No improvement in quality of water, and in the state of sanitation in the cities under NSUSC control was witnessed by the undersigned during the visit. The unfiltered water without even chlorination is being provided to the people for drinking in Sukkar and Jacobabad and other cities under NSUSC control. The sewerage without any treatment is being conveniently discharged in River Indus or its tributaries. During the enquiry, the stance of NSUSC officials mainly was that the relevant projects were underway and would be completed by June 2018 (the year when the contract with ADB would expire), and thereafter improved services for potable water and sanitation would be provided to the people. NSUSC officials in the statements have given reference to ongoing schemes/projects, however, in justification of the amount

already spent, they have not been able to show any tangible result so far achieved in respect of supply of quality water and sanitation. It has been noted by the Commission that in Tranche-I and Tranche-II of the loaning facility, millions of dollars have been handed over to NSUSC but it has failed to extend any actual benefit to the common man. That has even been admitted by NSUSC in the words that “due to variety of reasons, any project under Tranche-II could not start until June-2015”. And in NSUSC’s view “The projects under Tranche-II are expected to be completed by June 2018”. In Tranche-I millions of dollars are shown to have been spent on the purchase of Solid Waste Management Equipment, installation of generators at pumping and disposal stations and on providing drinking water to district Khairpur, the quality of which NSUSC could not establish, but on the contrary the report of PCRWR (reproduced in this document hereinafter) has shown the clear picture of water quality being provided there. And in respect of solid waste or the sanitation condition of the cities nothing substantial for improving quality of service in these areas was witnessed. Most of the heavy vehicles/loaders for lifting solid waste and other equipment available at NSUSC office Larkana were found out of order. The solid waste was littered on the streets; hospital waste was being burnt inside hospital or thrown in open. No municipal service was visible. The streets in Shikarpur were also full of puddles and pungent and drainage water. Solid waste in heaps was available in front of the houses and shops. There is in fact nothing, NSUSC can boast of in terms of either quality of water or better sanitation in Sukkur, New Sukkur, Rohri, Khairpur, Shikarpur, and Larkana and justify spending huge amounts of money. Regarding water quality in Khairpur, which is the only silver lining as per claim of NSUSC, the report of PCRWR is self-explanatory, and further it may be mentioned that quality of water being provided there has never been cross-checked to determine its physical, chemical and microbiological parameters, nor has NSUSC been able to produce any water test report of any independent and reputable lab covering all the above parameters. The photo state copies of test reports of water of Khairpur submitted by NSUSC are of no use and help to it.

Following is the detail of expenditure on capital and operational charges submitted by NSUSC.

SUMMARY OF OPERATING EXPENSES AND CAPITAL EXPENSES FROM INCEPTION TILL DATE (REGION WISE)								
FISCAL YEAR	HEAD OFFICE	SUKKUR	ROHRI	SHIKARPUR	LARKANA	KHAIRPUR	JACOBABAD	YEAR-WISE OPERATING EXPENSE
2009-10	16,530,922	-	-	-	-	1,068,689	-	17,599,611
2010-11	68,791,486	37,686,698	20,764,427	17,581,822	16,313,234	24,339,426	-	185,477,093
2011-12	64,062,959	118,162,768	44,595,155	29,740,588	29,354,625	39,078,939	-	324,995,033
2012-13	82,092,838	137,417,506	75,297,500	30,744,857	51,446,019	52,385,380	-	429,384,101
2013-14	93,362,102	185,284,464	56,171,195	41,832,736	69,127,316	52,321,132	-	498,098,945
2014-15	123,149,953	175,628,467	50,439,797	42,889,296	79,394,719	67,654,925	-	539,157,157
2015-16	107,968,810	404,641,067	83,502,355	83,151,917	148,353,651	142,166,912	19,997,974	989,782,685
Sub-Total	555,959,070	1,058,820,969	330,770,429	245,941,216	393,989,564	379,015,403	19,997,974	2,984,494,625
Capital Expenditure from 2010 to date	HEAD OFFICE	SUKKUR	ROHRI	SHIKARPUR	LARKANA	KHAIRPUR	JACOBABAD	TRANCHE-WISE CAPITAL EXPENSE
Tranche-1	92934,035.85	1,056,608,174.77	137,746,689.32	168,881,598.33	458,800,877.99	1,118,924,410.37		3,033,895,786.63
Tranche-2		344,954,000.00	119,070,000.00	119,070,000.00	119,080,000.00	119,100,000.00		821,274,000.00
Sub-Total	92934,035.85	1,401,562,174.77	256,816,689.32	287,951,598.33	577,880,877.99	1,238,024,410.37	-	3,855,169,786.63
GRAND TOTAL	648,893,105	2,460,383,143.99	587,587,118	533,892,815	971,870,442	1,617,039,813	19,997,974	6,839,664,411.45

KARACHI

Karachi is not only the largest but most populous city of Pakistan, besides being capital of Sindh. The city is ranked as country's premier industrial and financial center. Situated on the [Arabian Sea](#), Karachi serves as a transport hub, and is home to Pakistan's two largest seaports, as well as the [busiest airport in Pakistan](#). Its population is estimated to be around 23 million. The water requirement of Karachi has reached around 1100MGD, but currently the water being supplied to Karachi is not more than 650MGD. There is a huge gap between demand and supply.

The water for Karachi is transmitted first to Keenjhar Lake from Indus River through K.B Feeder and from Keenjhar Lake to Dhabeji Pumping Station and Gharo Pumping Station. A total of 582 MGD Water from Keenjhar Lake is being channeled for consumption of Karachi. 30 MGD is going to Gharo Pumping Station, 25 MGD to Pakistan Steel Mills, 07 to Port Qasim and 520 MGD to Dhabeji Pumping Station. From Dhabeji Pump House the water is being brought to a high point namely "Fore-Bay" situated 4 ½ K.Ms away at the height of 212 feet from sea level. Three conduits (viz. Pipri, K-II and K-III) originate from this point, which take water to Karachi City. Through these conduits 140 MGD water is being brought at Pipri Pump House and Filter Plant, 140 MGD at COD Filter Plant/Pump House, 100 MGD each at North East Karachi Filter Plant and University Reservoir, 20 MGD at North East Karachi Filter Plant (old) and 20 at interconnection dumlottee for supplying to various parts of the city. From Hub Dam 100 MGD water is being channeled through Hub canal to Manghopir Filter Plant and supplied, but the availability of water in Hub Dam is entirely dependent upon runoff water, which could reduce to zero in draught conditions.

Quality of water in Keenjhar Lake, which is the main source of water for Karachi, has deteriorated due to constant discharge of industrial untreated effluent in K.B Feeder by the industries located in SITE Kotri. And additionally from the recharge dam constructed about eight (08) years ago by Irrigation Department intercepting Loyachh/Kaloo river (the original dumping site of effluent) at about 3 kilometers from SITE Nooriabad where effluent of factories in Nooriabad is now being accumulated and discharged in the Keenjhar Lake during rain when dam overflows.

To treat effluent of SITE kotri, a **Combined Effluent Treatment Plant** (CETP) was installed in the year 2010 with the cost of 721.41 million born by Sindh Government, but it is not functional and is still in possession of the contractor. On 20.01.2017, the undersigned paid a visit to this facility. The staff available there claimed that CETP was fully functional and not a drop of water was being let in K.B. Feeder without treatment. Dr. Ahsan Siddique, the water technologist who was with me and who had taken samples of effluent from-there for testing, disputed said statement. He asserted that industrial effluent with high volume of COD and BOD was being discharged in K.B. Feeder. His assertion

has been proved by the test results of effluent-samples taken from the outfall of CETP waste water in K.B. Feeder (**Annexure-AG**). At CETP no laboratory was available to monitor wastewater pollution, and no past record of any activity relating to treatment of effluent was produced either. Even it was not informed that when the chemical in Chemical Tanks meant for treating effluent was changed last. The oxidation ponds and clarifier did not appear functioning. The villagers of nearby area who had gathered there disclosed that CETP mostly remained closed except when any visit was paid by any government official. The person who was in-charge there said that he was contractor and had not yet handed possession of the facility to SITE Limited Kotri for want of some financial liability still outstanding against it, but claimed that he was running the CETP. However, he could not explain how and why he was bearing its operational and capital charges. About this Treatment Plant, the chief secretary, Sindh in his statement dated 03.02.2017 has informed that "The CETP scheme was envisaged to provide treatment facility for the waste water treatment from different industrial units to prevent contamination of natural water resources. The scheme would treat 2.5 MGD of effluent and for safe disposal the combined effluent will provide physical, chemical biological treatment of waste discharge besides sludge dewatering and chlorination of waste effluent". It is further informed that "SITE Ltd. would take over the plant from the Contractor immediately and complete the remaining work on priority. For completion of the scheme in all respects a sum of Rs.35.00 million would be provided by the Government of Sindh. The Industries Department in collaboration with Kotri Industrial Estate would devise a mechanism for operation and maintenance of the CETP on sustainable basis".

From the above statement and the report of Dr. Ahsan, it is obvious that CETP Kotri is not yet functional and until it is reclaimed and rehabilitated, the wastewater of SITE Kotri would continue to pollute K.B. Feeder whose water is ultimately provided to the people of Karachi for drinking.

In the statements submitted by M.D KW&SB and other officials, they have claimed that 450MGD out of 650MGD water being supplied is duly filtered and chlorinated and there is only shortfall of 200 MGD in filtration capacity and that too is for want of new Filter Plants for which they have no resources. However, at the same time they conceded that due to system insufficiency, required level of chlorination is difficult to maintain, and further because of intermittent water supply on account of huge gap between demand and supply, the water gets contaminated as the pipes remain empty due to which negative pressure is created. But they maintained, that this issue can be completely addressed if the system is operated 24/7 supply basis. The undersigned, however, decided to visit the said filter plants to verify veracity of the statement of KW&SB's officials regarding filtration, chlorination and providing potable water from the filter plants to the people of Karachi."

36. While examining the aforesaid Organization, we have heard the acting M.D, Mehmood Abbas Rizvi, the Chief Secretary, Advocate General and other officials of Sindh Government. The concerned office has produced before us material which includes minutes of a meeting dated December, 15, 2016 held under the Chairmanship of the Chief Minister Sindh wherein serious concerns about the work of NSUSC were noted including the fact that janitorial staff, despite receiving an additional 20 percent monetary incentive, are “unwilling to work”. The Additional Chief Secretary (Development) pointed out that the lender (ADB) had “serious reservations and concerns about it” and hinted that it will be better to “close the company”. A number of members who participated in the meeting have also raised their concerns about NSUSC. The Principal Secretary to the Chief Minister categorized the program as “ill conceived and ill planned.” It was also minuted that two cities, Larkana and Shikarpur, had elected to leave the program under NSUSC.

37. This is a government owned company and has been created to improve municipal infrastructure in Northern Sindh, which includes Sukkur, New Sukkur, Rohri, Khairpur, Shikarpur, Larkana, and Jacobabad. The Commission has submitted an alarming report where it has found that the NSUSC has utterly failed to deliver. It has neither the expertise nor the skill to cater to the schemes. We are further shocked to notice that it did not have a regular M.D for the last three years and the different letters of the Government, made part of this record, reflect no confidence in NSUSC. The Government in-fact has already withdrawn two cities

namely Shikarpur and Larkana from the purview of NSUSC. Relevant portions of the minutes of the meeting held on 15.12.2016 wherein it was decided to withdraw Shikarpur and Larkana, from NSUSC are reproduced hereunder:-

“A meeting was held on 15th December, 2016 under the Chief Minister Sindh to discuss and decide the various issues faced by North Sindh Urban Services Corporation (NSUSC). The meeting started with recitation from Holy Quran and introduction of all the participants.

2. The Chair welcomed all the participants. He informed the participants that he has received various complaints regarding the dismal performance of NSUSC and he has been requested by the elected representatives of Larkana, Shikarpur and Jacobabad to windup the company. However, before taking any final decision in this regard he would like to listen all the stakeholders and the management.

6. Mr. Naveed Kamran Baloch, Principal Secretary to Chief Minister, opined that the program was ill conceived and ill planned and may be closed forthwith and the assets may be returned back to the respective TMAs and efforts may be taken for their capacity building. Mr. Saeed Awan, Secretary (GA) SGA&CD (he also remained PD, SCIP in the year 2011-12) also stated that he sees no future for sustainability of company for next 20 years despite introduction of revised tariff, Government has to spend a lot of funds as subsidy to run the company. He suggested that the operation of NSUSC may be transferred back to TMAs, and it may be turned into Infrastructure Development Company for completing the capital works under Tranche-II.

8. Mr. mehmud Shah, Acting MD, NSUSC apprised the Chair that the condition of the company is very grim. The employees have not been paid salaries for the last two months. The SEPCO has been threatening to cut-off the electricity for non-payment of dues. The Government may decide whether to continue the operations of the company or otherwise. He requested the chair that there is a dire need for a subsidy from the government for continuing the operations as ADB has refused to provide funds for the operational activities of the company.

9. Mr. Anwar Ali Khan Mahar, Chairman BoD, NSUSC stated that at present no funds are available with NSUSC to continue its operations in all the coverage cities. He requested the Chief Minister, Sindh to drop the cities of Larkana and Shikarpur from NSUSC Coverage area.....

ADB Concerns about NSUSC:

ACS (Dev.) informed the Chair about the serious reservations and concerns shown by the Country Director, ADB in his letter dated 13th December, 2016. He suggested that after reviewing the ADB concerns if the Chair decides to continue the company then drastic measures would be required to restructure the Company in order to ensure that the investments made under the Company would be beneficial for the common people. If the Chair decides to close the company, the decision may be taken now so that necessary steps may be taken for smooth transition of assets to the respective TMAs and for timely closure of the program.

.....

.....

12. After detailed discussions following decisions were taken:-

i. The Cities of Larkana and Shikarpur to be dropped from the NSUSC coverage area.”

38. In this regard, a letter was also written by the Sindh Government to the Secretary, Economic Affairs Division, Government of Pakistan, on 09.01.2017 to apprise the Asian Development Bank. The letter is reproduced as under:-

“SAY NO TO CORRUPTION

No.P&D/FA/ADB-NSUSC-233/2013-14
GOVERNMENT OF SINDH
PLANNING & DEVELOPMENT
DEPARTMENT
(FOREIGN AID SECTION)

Karachi dated 06th January, 2017

To,

The Chief Secretary,
Economic Affairs Division,
Government of Pakistan,
Islamabad.

Subject: **DECISION REGARDING DROPPING OF LARKANA & SHIKARPUR CITIES FROM NSUSC COVERAGE AREAS**

I am directed to refer to the subject noted above and to state that the Honourable Chief Minister, Sindh chaired a meeting on 15th December, 2016 to discuss and decide various issues faced by North Sindh Urban Corporation (NSUSC). One of the decisions taken in the meeting was as under:-

“The cities of Larkana & Shikarpur to be
Dropped from the NSUSC coverage area.”

2. In view of above, it is requested the Asian Development Bank may be apprised of the decision of Honourable Chief Minister, Sindh for further necessary action.

-sd-

(Raja Masroor Hassan)
Assistant Chief (Foreign Aid)

C.c. to:

- The Country Director, Asian Development Bank, Level 8, North Wing, Serena Office Complex, Khayaban-e-Suhrawardy G-5 Islamabad.
- Program Director, Sindh Cities Improvement Program, P&DD, GoS, Karachi
- P.S to ACS (Dev) P&DD, GoS, Karachi
- P.S to Secretary (Planning) P&DD, Government of Sindh, Karachi.”

39. On 16.03.2017, Mr. Amjad Hussain Durrani, former Chief Internal Auditor of NSUSC voluntarily appeared before the Court and made a statement that he was appointed as the Chief Internal Auditor on 21.1.2013 and was thrown out in January, 2015 as the then M.D Abdul Majeed Pathan wanted him to submit audit reports in the manner he dictates. He contended that he has submitted a detailed internal audit report showing the misuse of funds and raised serious objections to the manner the funds were being utilized. According to him, his internal audit report speaks volumes of misuse of funds.

40. The acting M.D. NSUSC present in Court conceded that for the last three years there has been no internal auditor in NSUSC. We inquired from him the reason for non-appointment of the Internal Auditor. He could not offer any plausible explanation. Even the Commission while conducting inquiry has observed that the acting M.D in-spite of the repeated directions of the Commission failed to submit the details of accounts. This Court also directed the submission of detailed accounts, drawn and utilized by the NSUSC till date. No details with any supportive material have been placed before us, which implies that the management of the NSUSC is not clean and amounts are not being utilized in a transparent manner.

41. The Chief Secretary Sindh, on instructions, stated that the Sindh Government is ready to transfer all the functions of the municipal bodies of different cities back to the concerned Local Bodies as NSUSC has failed to perform its functions (water supply, sanitation and solid waste management). The Chief Secretary further states that Government is willing to wind up NSUSC on account of its failure to deliver. The Chief Secretary stated that more than 800 persons have been employed by NSUSC without the approval of the Sindh Government on daily wages and contract basis. The Sindh Government has to pay 3.5 millions monthly towards the salaries of the employees of NSUSC. According to him, the Company has been provided the employees of the TMAs from different cities. In addition to their salaries paid by the Sindh Government, these TMA employees are drawing 20% above of their salaries for working in NSUSC, which is an additional burden on the public exchequer on the Sindh Government. Under these circumstances, the Chief Secretary states that the Government is not interested in allowing NSUSC to continue the municipal functions of the local bodies. According to the Chief Secretary, there are two schemes in hand in Sukkur with NSUSC; one scheme relates to water pumps and the other scheme relates to the procurement of solid waste disposal machinery. As far as the water pump scheme is concerned, he states that it is nearing completion whereas the other scheme of procurement of the solid waste disposal machinery will also be completed soon. He requests that these two schemes be allowed to be completed by existing mode through NSUSC, subject to the monitoring by the Secretary Public

Health Engineering Department, which is the administrative department for NSUSC for execution of said schemes.

42. In this backdrop, we are constrained to direct the Sindh Government to withdraw all municipal functions (i.e. water supply, sanitation and solid waste disposal) of all the cities within the purview of NSUSC forthwith as has been done in the case of Shikarpur and Larkana cities and transfer these functions to the Public Health Engineering Department. The NSUSC shall in the intervening period provide all the details of any nature as and when required by the Commission. On completion of the two schemes referred hereinabove, NSUSC shall be wound up. The NSUSC shall neither be disbursed nor receive any amount hence forth either by the Provincial Government or by Asian Development Bank on any count. The daily wagger or contract employees appointed by NSUSC shall not be paid by the Sindh Government and the employees of TMAs shall immediately report back to their parent departments.

43. The Government of Sindh in the intervening period is further directed to order forensic audit of the NSUSC from the date of its creation till today through A.F. Ferguson and Co. The proposed forensic audit shall contain the amount it has received either from the Asian Development Bank or from the Provincial Government or from any other source and shall provide all the details of the disbursement of the aforesaid amounts to the proposed Auditors. This forensic audit shall be completed within two months from the date the services of A.F Ferguson and Co are hired. The Sindh Government shall hire the services of the said

company within two weeks from today and a compliance report in this respect shall be sent directly to this Court, and a copy thereof to the Commission. The proposed Auditors shall submit the forensic audit report in sealed cover directly to the Registrar, Supreme Court and the Commission.

Sindh Solid Waste Management Board

44. The Commission regarding Sindh Solid Waste Management Board observed as follows:-

“Issue of Solid Waste in Karachi

In Karachi it is estimated that 12,000 plus tons of solid waste, which includes domestic, industrial and hospital waste, is being produced. Approximately 9000 tons of solid is being produced in the areas under DMCs, and remaining 3000 in the Cantonments, etc. Despite such huge load, Karachi has no Garbage Transfer Stations (GTS). In visits of Karachi, the garbage was mostly found littered around the corners of the streets or dumped on make-shift locations/sites or being burnt openly generating injurious smoke around. But neither the DMCs nor the Cantonment Boars or Sindh Solid Management Board appeared sensitized to that situation.

Dr. Atur Das Sajnani, the current head of Sindh, Solid Waste Management Board (SSWMB) created under Sindh, Solid Waste Management, Act, 2014 was examined. He has also filed a concise statement duly supported by his affidavit. Explaining the object of the Board, he has stated that the SSWMB has been created to establish **“Integrated Solid Waste Management System”** in all cities of the Province. The SSWMB is responsible for collection and disposal of solid waste and other wastes including Municipal Solid Waste, Industrial Solid Waste and Medical/Hospital Waste in the entire Province of Sindh. However, the Board is required to take over solid waste management function gradually from the Councils and other bodies and till such time they will continue to manage the solid waste in their respective areas. It is only when Local Government will notify transfer of the functions from the Councils to the Board through official notification; the Board will take up the task of solid waste management. He further disclosed during enquiry that so far the Board has not been assigned any operational work except maintaining

two dumping sites namely Surjani Town and Goand Pass, where 40% of garbage is being brought. He also disclosed that remaining garbage mainly ends up in different nallas or burnt locally. He admitted that no landfill site has been established so far. According to him, entire solid waste is currently being managed by the DMCs. He further disclosed that officially he had inspected budget of the DMCs for the years 2015-16 and 2016-17 and had come to know that Rs.6 + something billion per year expenditure on management of solid waste was reflected in their budget books. And it was in addition to the grants, not reflected in the Budget book, being doled out to them by the Government.

The Municipal Commissioners and other relevant officers of all the DMCs Karachi were examined on 13.02.2017. They all conceded that they were not lifting the entire solid waste from their respective areas, which, according to them, was due to shortage of vehicles and funds. However, the detail of expenditure submitted by them shows that averagely every DMC in Karachi is spending millions of rupees per month, yet they have not been able to properly manage solid waste. For the current poor management of solid waste in Karachi, the DMCs are responsible.

District Municipal Corporation Malir Karachi The staff at DMC Malir is 336. Amount incurred on their salaries is Rs.13,800,000/-. Average monthly expenditure on repair and maintenance including Diesel is Rs.7,000,000/-. Garbage generated per day is 750 tons; of which 450 tons is lifted and dumped at Sharafi Goth, whereas Garbage backlog is 9000 tons per month. 27 different types of vehicles are being used for collecting solid waste.

District Municipal Corporation Karachi Central The staff at DMC Karachi Central is 3157. Amount incurred on their salaries is Rs.64,562,333/-. Average monthly expenditure on Diesel is Rs.14,272,244/-. Garbage generated per month is 59800 tons; but only 55536 tons is lifted and dumped on a site outside of the city. Garbage backlog is 4264 tons per month. 118 different types of vehicles are being used for collecting solid waste.

District Municipal Corporation Korangi The staff at DMC Korangi is 1544. Amount incurred on their salaries is Rs.36,656,764/-. Average monthly expenditure on operation and maintenance including Diesel is Rs.29,381,546/- Garbage generated per day is 1200 tons; 800 tons is lifted and dumped on site namely Jam Chakro. Garbage backlog is 400 tons per day. 59 different types of vehicles are being used for collecting solid waste.

District Municipal Corporation Karachi East The staff at DMC Karachi East is 1531. Amount incurred on their salaries is Rs.42,696,863/-. Average monthly expenditure on operation and maintenance including Diesel is Rs.33,270,460/-. Garbage generated per day is 1200 tons, which is lifted and dumped on a site outside of the city. 116 different types of vehicles are being used for collecting solid waste.

District Municipal Corporation Karachi South The staff at DMC Karachi South is 2083 against total strength of 3372. Amount incurred on their salaries is Rs.45,842,134/- . Average monthly expenditure on operation and maintenance including Diesel is Rs.32,400,000/-. Garbage generated per day is 1150 tons; 1100 tons is lifted and dumped on a site outside of city, Garbage backlog is 50 tons per day. 124 different types of vehicles are being used for collecting solid waste.

District Municipal Corporation Karachi West The staff at DMC Karachi West is 1741. Amount incurred on their salaries is Rs.336,684,691/-. Average monthly expenditure on operation and maintenance including Diesel is Rs.1,266,144,157/-. Garbage generated per day is 1730 tons; 1210 tons is lifted and dumped on a site outside of the city, Garbage backlog is 520 tons per day. 88 different types of vehicles are being used for collecting solid waste.”

Solid Waste

Hyderabad is producing a huge quantity (there is no study to indicate exact amount) of solid waste including hospital waste, but the system to manage it is simply non-existing. No designated dumping or landfill sites are available for disposal of solid waste in Hyderabad. People make their own arrangements for disposing of solid waste. Resultantly, the garbage is mostly dumped on the banks of irrigation canals located around the city or it is burnt around the corners of streets. The hospital waste is being disposed of by either washing it off into municipal drainage system or by burning it inside the hospital. The dangerous and infectious waste of hospitals (government and private) that is required to be segregated and burnt in incinerator is being thrown openly in the hospital premises. The incinerator available in Liaquat Medical University Hospital (LMUH) is completely non-functional. Medical Superintendent LUMH was examined on this issue but he could not satisfactorily reply as to why the incinerator was not being made functional for disposal of infectious waste. It is obvious that the Hospital Waste Management Rules, 2014, which provide for a complete guideline on the subject, are being flagrantly violated with impunity by LMUH or for that matter by all the government hospitals over all Sindh. In fact there is no mechanism in Health Department to monitor waste being produced by the hospitals including private hospitals! The Health Department

has completely failed to take any action in this regard or to chalk out a strategy to deal with the situation.

During enquiry, Mr. Zahoor Ahmed CMO Municipal Committee Qasimabad, in reply to a question to explain failure of Municipal Committee in dealing with solid waste, disclosed that many Muslims have been appointed as sanitary workers who do not perform janitorial duty, as a result of which garbage is being accumulated in the localities. However, he could not satisfy the Commission why the action against them was not being taken and why they were being paid salaries. It is relevant to mention here that this situation i.e. Muslims being appointed sanitary workers, who subsequently refuse to perform janitorial duty, has been witnessed by the Commission in many cities of Sindh.

45. The details gathered reflect that this Board has been created under the Sindh Solid Waste Management Board Act, 2014. The functions assigned to this Board under the statute are (i) collection and disposal of solid waste, (ii) to arrange for effective delivery of sanitation service, (iii) to provide free environment and deal with other relevant matters. Basically the functions assigned to this Board have been carved out from the domain of the municipal bodies with the intent to improve the collection and disposal of solid waste from different cities particularly from Karachi. After going through the report of the Commission and watching the CD, which was made during the visits of the Commission to different cities of Sindh including Karachi, we are very much disturbed. The agony of the public at large in Sindh is increasing day by day though the Sindh Government is spending billions of rupees on the subject. In Karachi, the issue is worsening.

46. In local government departments, the Sindh Government has allocated the budget to a union council of the union committee as under:-

*“LOCAL GOVERNMENT DEPARTMENT**A) **UNION COUNCIL/UNION COMMITTEE****Total Rs.200,000/- per month (Share)****Distribution****For Salary component.....Rs.70,000/- to Rs.80,000/-**For other utilization.....Rs.110,000/- to Rs.130,000/-**B) **TOWN COMMITTEE****Total Rs.400,000/- per ward per month share which is disbursed for Salary and other utilization.**C) **MUNICIPAL COMMITTEE****Total Rs.500,000/- per ward per month share which is disbursed for Salary and other utilization.**Note:- Thirty (30%) percent share in addition has been increased for all Local Bodies and all have been allowed to recruit sanitation staff as well.”*

47. The aforesaid amounts include the salaries of sanitary workers within the union councils, union committees, town committees and municipal committees. These sanitary workers who are being paid by the Sindh Government through local government department are required to collect and dispose of the solid waste as was being practiced the day this country was created. Instead of making improvement on the aforesaid functions of the local bodies in addition to the budgetary allocation to the local government departments, the Sindh Government has introduced the Sindh Solid Waste Management Board Act, 2014, assigning most of the functions which the sanitary workers of the local bodies were to perform and for which they are being paid their salaries on regular basis. Every year, an amount of 35 crores is allocated to the Board out of which 20 crores is spent on the salaries whereas 15 crores are spent on non-salary account. This Board has not done anything till date to remedy the agonies of the

residents of the cities except on papers where it is shown to be active. The ground reality is that this Board is replica of the NSUSC, which was drawing handsome amounts from Asian Development Bank and the Sindh Government and *prima facie* these amounts were misused and abused by the Management of NSUSC. Likewise now we have been informed that in Karachi in order to collect and dispose of solid waste the organization has entered into an agreement with the Chinese firm. The financial details are as under:-

Financial Implications of F.E. Collection
(All DMCs)

S.No.	Area	Estimated MSW per year (In Ton)	Rate Per Ton	(Per Ton x Annual=Annual Estimated Expenditure)
1	DMC South	491,590	\$29.00	\$14,254,405
2	DMC East	322,357	\$29.94	\$9,650,724
3	DMC Korangi	567,699	\$30.97	\$17,580,392
4	DMC Central	727,332	\$32.33	\$23,514,572
5	DMC West	632,439	\$30.56	\$19,327,336
6A	DMC Malir	225,935	\$30.56	\$6,904,574
6B	District Council	96,360	\$30.56	%2,944,574
TOTAL in US&		3,063,712		\$94,174,912
TOTAL in Pak Rupees				PKR 9,888,365,760

Daily Financial Implications of F.E Collection (DMC East & South)

Area	Estimated MSW per Day (In Ton)	Rate per Ton in PKR	Rate per Ton in US\$	(Per day Garbage X Per ton Expend=Daily Estimated Expenditure in PKR)	(Per Ton X Monthly= Annual Estimated Expenditure) in US\$
DMC South	1,366	PKR 3,045	\$29	PKR 4,158,032.08	\$39,600
DMC East	895	PKR 3,144	\$30	PKR 2,814,983	\$26,809
Total	2,261	PKR 6,189	\$59	PKR 6,973,015	\$66,410

Monthly Financial Implications of F.E
Collection (DMC East & South)

Area	Estimate d MSW per Day (In Ton)	Rate per Ton in PKR	Rate per Ton in US\$	(Per Ton X Monthly Garbage=Monthly Estimated Expenditure) in PKR	(Per Ton X Monthly Garbage=Mo nthly Estimated Expenditure) in US\$
DMC South	40,966	PKR 3,045	\$29	PKR 124,741,470	\$1,188,014
DMC East	26,863	PKR 3,144	\$30	PKR 84,457,272	\$805,890
Total	67,829		\$59	PKR 209,198,742	\$1,993,904

48. We have gone through the details and have also heard the Incharge, Solid Waste Management Board, Karachi. If we go through simple calculations, the Board has to pay almost 29 dollars per ton for collecting solid waste from front point and disposing it at transit point. Each truck normally can carry 12-15 tons of solid waste, which means more than 435 dollars per truck will be paid to the Chinese company by the local government in foreign exchange for the aforesaid job. This amount if converted into Pakistan rupee will come to more than Rs.46110/- approximately (calculated @ \$ 1= Rs.106/-). Is it a feasible project where the Sindh Government on one hand is paying for salaries of the sanitary workers within the local bodies and in addition for the same job would be paying additional amount to the Chinese company to collect solid waste from the front end and transport it to the transit point. There is nothing on record to show that the Board or the local government has even marked and/or allocated any land fill side for disposal of the solid waste which needs to be transported from transit point for disposal to land fill site. This matter needs to be attended to immediately. On one hand the Sindh Government is paying public money towards the salaries of

the sanitary workers and on the other hand through the agreement with the Chinese agency it is required to pay in foreign exchange for the job which ex-facie would not improve the disposal of solid waste in Karachi.

49. The Incharge of Sindh Solid Waste Management Board was heard by us. We are not impressed by his skills and/or expertise as he has no administrative experience of the job description. If this Board is allowed to exist, it would be a permanent liability of the Sindh Government. The Sindh Government is the trustee of the public money and is accountable for the amounts it spends on the schemes. The report of the Commission is a charge sheet with regard to the working of various departments in the Sindh Government, including the Solid Waste Management Board which has failed to deliver even though the Management is drawing salaries in crores of rupees and a substantial amount is being paid for non-salary expenses. Now introducing the arrangement with a Chinese company but without any infrastructure provided for disposal of the solid waste from the transit point to land fill sites would multiply the problems in Karachi.

50. We under these circumstances are compelled to observe that this Court has serious reservations with regard to the continuation of Sindh Solid Waste Management Board programs, which have failed to deliver in any part of Sindh including Karachi, and as the Government continues to also pay to Local Government Departments for the same work. Such amounts need to be utilized by strengthening the departments which are meant for the

aforesaid job. Running a parallel organization to perform the same function leads to bad governance and lack of responsibility and accountability, which is sadly the order of the day, as clearly demonstrated from the material collected by the Commission and by viewing the recordings. Experiments should end now. The non-functional Board which has never performed should be dissolved by transferring its functions to the local bodies as provided under the Rules of Business. In doing this, the agonies of the residents of the cities will be minimized. It will also save the Sindh Government from waste of public money of which the Sindh Government is trustee.

51. After going through the material collected by the Commission, the CD visuals and footages, which we have watched ourselves in Court and hearing the law officers and the high ups of the Sindh Government and others, we are clear in our mind that the Commission comprising of Mr. Justice Muhammad Iqbal Kalhoro appointed pursuant to our direction by the Hon'ble Chief Justice of Sindh High Court shall continue to work with all such powers conferred on it by this Court in terms of the order dated 27.12.2016 as the issues in these proceedings have direct impact on the life and health of the public of Sindh. The Commission shall ensure compliance of the directions contained in this order and shall also take all steps to see that the Task Force constituted by the Sindh Government pursuant to the direction of this Court on 14.03.2017 shall comply its recommendations contained in the report. The Commission shall be at liberty to pass orders as High Court Judge whenever it is necessary in the public interest for

achieving the object for which it has been constituted. All Provincial, Federal Government Departments, statutory bodies, agencies, companies under their patronage shall be bound by the directions and orders issued by the Commission. The Commission in addition to the Task Force/Committee may seek information or any detail in regard to any question relatable to water or sanitation problems in any part of the Sindh. All concerned should periodically report to the Commission to ensure that the matters which have been highlighted in the report and noticed by us are redressed. The Hon'ble Chief Justice of Sindh High Court may ensure that Mr. Justice Muhammad Iqbal Kalhoro has the requisite time to undertake this important assignment. The Commission may document, photograph and video record the prevailing state of affairs and the improvements brought thereto in a systematic manner. Any expense borne by the Commission to undertake the task to it will be borne by the Sindh Government. Since the issues dealt with by the Commission under the orders of this Court pertain to life and health of the common people of Sindh Province, therefore, it is imperative that the power of the Commission be ensured without being impugned by procedural technicalities. Therefore, we hold that any order of the Commission during the hearing of the proceedings before it cannot be appealed before any forum except before this Court and would be binding on all the Provincial and Federal Government departments and/or the agencies under their control unless reversed or reviewed by this Court.

52. Before parting with the order, we must record our appreciation for the hard work undertaken by Mr. Justice Muhammad Iqbal Kalhoro in conducting the proceedings of the Commission and compiling a report.

53. We, looking to the given atmosphere of frequent transfers in the Sindh Government in defiance of the service rules and the judgment of this Court in the case of Syed Mehmood Akhtar Naqvi Vs. Federation of Pakistan (PLD 2013 SC 195), are constrained to restrain the Sindh Government from posting out either the Chief Secretary and/or any of the members notified on 16.03.2017 from their office as reflected in the notification without prior approval of this Court unless a member's three years tenural period is complete, as any other intervention by way of transfer by Sindh Government will hamper the functioning of the Task Force to the disadvantage of the objective for which it is constituted.

54. The Task Force shall be directly reporting to the Commission. The Commission would be at liberty to take proceedings in order to examine improvements in the departments/organizations on the issue of water.

55. Adjourned. To be fixed after four months. The Commission shall submit the report on the aforesaid directives to this Court. Copies of this order shall be sent to the Worthy Speaker of the Sindh Assembly with the C.D in terms of our observations made in paragraph 5 of this order, Chief Secretary, Sindh, Secretaries notified as Members, Advocate General, Sindh

and all those officers/experts notified as Members of the Task Force/Committee and the Commission.

JUDGE

JUDGE

JUDGE

Karachi, the
16th of March, 2017
Approved For Reporting
Khurram