



Pakistan  
Water And Power Development Authority (WAPDA)

☎ 92-91-9223103  
☎ 92-91-5255417  
✉ gmpdmdhp@gmail.com

✉ General Manager/ PD  
Mohmand Dam Hydropower Project,  
WAPDA, 376-Wapda House,  
Shami Road, Peshawar Cantt.

No.GM/PD(MDHP)/Works / 216-20

Dated: March 11, 2019

Justice (R) Zia Parwez,  
Trustee, TI, Pakistan,  
4-C, Mezzanine Floor, Khayaban-e-Ittehad,  
Phase VII,  
DHA, Karachi.

Subject: **COMPLAINT OF DISPUTED TENDERED COST OF MOHMAND DAM HYDROPOWER PROJECT AT RS.309 BILLION ANNOUNCED BY WAPDA ON 3RD JANUARY 2019, AND CONTRACT AWARDED COST OF RS.183.53 BILLION AS ANNOUNCED BY WAPDA ON 23RD FEBRUARY 2019 DATED 28.02.2019**

With reference to above complaint, it might be in your notice that honourable Supreme Court of Pakistan has constituted an Implementation Bench comprising 5 honourable Judges of the Supreme Court for transparent & timely execution and completion of the project of the construction of Diamer-Bhasha and Mohmand Dams. Copies of the Orders dated 04.01.2019 & 07.01.2019 are enclosed herewith for ready reference please.

WAPDA was also directed therein *"to submit a comprehensive program for the smooth and timely execution and implementation of the project construction activity and events along with the specific timelines for their accomplishment. Such program should encompass specific details about inter alia, the technical, financial, construction, infrastructural, logistical and operational phases/aspects of the Project, and the particular steps to be taken in each phase"*. WAPDA was also directed *"to submit monthly progress reports for the perusal of Implementation Bench demonstrating the progress made with respect to each activity, as part of monitoring to be carried out by such Bench"*. WAPDA has already been submitting the said reports for perusal and scrutiny by the Implementation Bench.

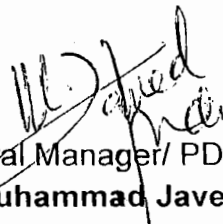
There is another direction by the august Court in terms that *"any dispute raised by any individual or company or even **public interest issues** (Emphasis added) with regard to the two Dams must be brought only to the notice of this Court for resolution thereof in order to ensure that no undue hindrance and impediment is caused in the smooth and timely construction of the Dams."* In furtherance thereto, the honourable Court has also declared that *"any attempt to malign or denigrate the Project or its execution process without reliable information and diligent verification amounts to subverting vital national interests of Pakistan and shall be punished by the Court."*

Thus, in view of above, you being the ex-member of this esteemed judicial fraternity may well-understand the jurisprudential intent behind above orders and ramifications of spreading doubts about the procurement process which is under due consideration / notice of the Implementation Bench.

Be that as it may, the competent authorities have scrutinized the subject complaint and are of the considered opinion that the concerns raised therein are based upon wrong assumptions and presumptions of facts. WAPDA has been operating in utter compliance to the law of the land and the subject procurement process is in strict adherence to PEC Regulations as well as PPRA Rules.

This is issued with the approval of competent authority.

DA / (As above)

  
General Manager/ PD (MDHP)  
(Muhammad Javed Afridi)

Copy to:

1. PSPM, Prime Minister Office, Islamabad
2. Chairman PAC, Islamabad
3. MD PPRA, Islamabad
4. Ms. Attia Azmat, Dy. Director (Coord) A&P Division) NABHQ, Islamabad with reference to Letter No.5-4(81) Misc/A&PNABHQ/2019/43 dated 28.02.2019 along with copies of Supreme Court's Orders dated 07.01.2019 & 09.01.2019
5. Dy. Director (Coord) Chairman Sectt., NAB HQ

IN THE SUPREME COURT OF PAKISTAN  
(ORIGINAL JURISDICTION)

PRESENT:

MR. JUSTICE MIAN SAQIB NISAR, HCJ  
MR. JUSTICE UMAR ATA BANDIAL  
MR. JUSTICE FAISAL ARAB  
MR. JUSTICE IJAZ UL AHSAN  
MR. JUSTICE MUNIB AKHTAR

C.M.A. NO.6155/2018 IN CONSTITUTION PETITION NO.57/2016  
(Advertisement by UBL and HBL regarding raising of Funds for Diamer Bhasha and Mohmand Dam by the Government of Pakistan)

AND

C.M.A. NO.7860/2018 IN C.M.A. NO.6155/2018  
(Comprehensive Report of the Implementation Committee of Diamer Basha and Mohmand Dams (ICDBMD))

AND

C.M.A. NO.9131/2018 IN CONSTITUTION PETITION NO.57/2016  
(Implementation of the Islamabad Declaration and Recommendations of the Thematic Session in the International Symposium on creating a water-secure Pakistan on 19-21 October, 2018 conducted by the Law and Justice Commission of Pakistan)

AND

C.M.A. NO.10739/2018 IN C.M.A. NO.6155/2018  
(Fund raising by the Supreme Court of Pakistan and the Prime Minister of Pakistan for Diamer-Bhasha and Mohmand Dams Fund)

AND

C.M.A. NO.10740/2018 IN C.M.A. NO.6155/2018  
(Campaign/Propaganda against Dams of Pakistan)

In attendance: Mr. Anwar Mansoor Khan, AGP  
Mr. Faisal Wauda, Minister for Water Resources  
Lt. Gen.(R) Muzzamal Hussain, Chairman, Wapda  
Mr. Mahr Ali Shah, JS, M/o Water Resources  
Mr. Tariq Mehmood Bajwa, Governor SBP  
Mr. Salim Ullah, ED, SEP  
Syed Ansar Hussain, AD, Legal, SBP  
Dr. M. Javed, Dir (L) Irrigation, Punjab  
Dr. M. Iqbal, Dir Agriculture, Punjab  
Mr. Khan Hafeez, Dy. Secy. Finance  
Mr. Shahzad Asif, Dir Legal, Wapda  
Mr. M. Babar, Dy. Dir. Legal, Wapda

Date of hearing: 07.01.2019

ORDER

The Chairman, WAPDA has given us a presentation about the steps which have so far been taken from the inception of the Diamer-

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Bhasha and Mohmand Dams alongwith some details including the financial aspects of the matter and the timeframe in which these two Dams are to be completed.

2. Be, that as it may, in order to incorporate the assertions made today mostly covered by the presentation and verbal undertakings given to us by the Chairman, WAPDA, let the entire programme for the construction and completion of these two Dams be submitted in writing so that the same can be made a part of this Court's order for the benefit of the Implementation Bench so established in this regard.

3. Moreover, certain complaints regarding remittances of foreign donations to the Dams Fund of various persons have come to the notice of this Court to the effect that either the banks are not receiving such donations or there exist difficulties in sending donations to Pakistani Consulates/Foreign Offices/Embassies/High Commissions, etc. The Governor, State Bank of Pakistan is directed to submit a written proposal containing solutions/way forward in this regard.

4. The Chairman, FBR is also directed to apprise this Court as to whether the amounts being:-

- i. Collected from mobile phone bills which had been suspended by this Court *vide* order dated 16.10.2018 can be collected as a special cess and made part of the donations towards the Dam Fund and other water management purposes; and
- ii. Charged on the extraction of groundwater and use of surface water by mineral water and other beverage industries can also be used exclusively towards the Dam Fund and other water management purposes.

5. We also direct that any dispute raised by any individual or company or even public interest issues with regard to the two Dams must be brought only to the notice of this Court for resolution thereof in order

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to ensure that no undue hindrance and impediment is caused in the smooth and timely construction of the Dams.

6. We have also been apprised by the Chairman, WAPDA that a smear campaign against the Dams and their due execution has been launched for, according to him, extraneous and malicious considerations. Let the Chairman, PEMRA appear before this Court on the next date of hearing when this aspect of the issue shall be looked into to ensure that no campaign is run which is against the water security of Pakistan and such potential restriction is reasonable in terms of Article 19 of the Constitution of the Islamic Republic of Pakistan, 1973 which guarantees the right to freedom of speech and expression.

7. Re-list on 09.01.2019.

Sd/-HCJ

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Certified to be True Copy

Court Associate  
Supreme Court of Pakistan  
Islamabad



Islamabad, the

07.01.2019.

Not Approved for Reporting

ZR/

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IN THE SUPREME COURT OF PAKISTAN  
(ORIGINAL JURISDICTION)

PRESENT:

MR. JUSTICE MIAN SAQIB NISAR, HCJ  
MR. JUSTICE UMAR ATA BANDIAL  
MR. JUSTICE FAISAL ARAB  
MR. JUSTICE IJAZ UL AHSAN  
MR. JUSTICE MUNIB AKHTAR

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(Fund raising by the Supreme Court of Pakistan and the Prime Minister of Pakistan for Diamer-Bhasha and Mohmand Dams Fund)

AND

C.M.A. NO. 10740/2018 IN C.M.A. NO. 6155/2018

(Campaign/Propaganda against Dams of Pakistan)

In attendance: Mr. Anwar Mansoor Khan, AGP  
(Assisted by Mr. Ahmed Abbas, Consultant)

For State Bank of Pakistan:

Mr. Tariq Mehmood Bajwa, Governor SBP  
Mr. Salim Ullah, ED, SBP  
Syed Ansar Hussain, AD, Legal, SBP  
Raja Abdul Ghafoor, AOR

For WAPDA:

Lt. Gen.(R) Muzzamal Hussain, Chairman,  
WAPDA  
Mr. Mahr Ali Shah, JS, M/o Water Resources  
Mr. Shahzad Asif, Dir Legal, WAPDA  
Mr. M. Babar, Dy. Dir. Legal, WAPDA

For PEMRA:

Mr. Saleem Raiz, Chairman

For FBR:

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Dr. Jahanzeb Khan, Chairman  
Mr. Hamid Attique, Member Tax Policy

For M/o Finance:

Mr. Afzaal Aamir, Deputy Secretary

On Court's call:

Ms. Clarida Farooqi, anchor person

Date of hearing: 09.01.2019

ORDER

Pursuant to this Court's order dated 07.01.2019, the concerned officials have appeared and made their respective submissions. As an initial step towards the transparent and timely completion and for the faithful execution of the project of the construction of the Diamer-Bhasha and Mohmand Dams (*the Project/Dams*) as directed by this Court *vide* its judgment dated 04.07.2018 passed in Constitution Petition No.57/2016 etc., an implementation Bench is hereby constituted comprising of the following Hon'ble Members:-

- i. Hon'ble Mr. Justice Sheikh Azmat Saeed;
- ii. Hon'ble Mr. Justice Umar Ata Bandial;
- iii. Hon'ble Justice Mr. Faisal Arab;
- iv. Hon'ble Justice Mr. Ijaz-ul-Ahsan; and
- v. Hon'ble Justice Mr. Munib Akhtar.

2. *Vide* this Court's previous orders, the State Bank of Pakistan (SBP) was required to provide certain solutions vis-à-vis investment of the amounts deposited in the "Supreme Court of Pakistan and Prime Minister of Pakistan Diamer-Bhasha and Mohmand Dams Fund" (*the Fund*). In this regard, the Governor SBP has submitted a proposal to the effect that all the amounts received in the Fund so far (Rs.9,118,579,877 on 10.01.2018 as per the official website of the Supreme Court of Pakistan) and any further amounts that may be received shall immediately be invested in short tenor treasury instruments, preferably in 3-month treasury bills. As a long-term measure, as per the



suggestion of the Governor SBP, it is directed that an Investment Committee

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formed comprising of the Executive Director (FRM) and Executive Director (FMRM), SBP to advise the Implementation Bench about the most appropriate tenor of investment (*in their opinion*) among the Federal Government securities, i.e. Market Treasury Bills, Pakistan Investment Bonds and Government of Pakistan Sukuk according to the prevailing economic conditions and market sentiments. An Investment Committee is ordered to be constituted as proposed. It shall submit a written investment proposal in this regard to the Court within a fortnight.

3. Pursuant to the previous order of this Court, the Chairman, Federal Board of Revenue (*FBR*) was directed to apprise this Court as to whether:-

- i. The charges being collected in mobile phone bills that had been suspended by this Court *vide* order dated 16.10.2018 can be collected as a special cess and made part of the donations towards the Dams Fund and for other water management purposes; and
- ii. The amount charged on the extraction of groundwater and use of surface water by mineral water and other beverage industries can also be used exclusively towards the Dams Fund and other water management purposes.

We have not received any concrete suggestions in this regard for ensuring dedicated use of the amounts in the Dams Fund for the sole purposes of completion of the Project (*without such amounts being made part of the Consolidated Fund*). Therefore, the Chairman FBR and the Governor SBP are directed to formulate, in consultation with each other, a written proposal on the two financial charges mentioned hereinabove to be submitted before the next date of hearing.

4. As earlier directed by this Court *vide* order dated 07.01.2019, the Chairman, Water and Power Development Authority (*WAPDA*) is directed

to submit in writing before the next date of hearing a comprehensive program for the smooth and timely execution and implementation of the

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Project construction activity and events along with the specific timelines for their accomplishment. Such program should encompass specific details about, *inter alia*, the technical, financial, construction, infrastructural, logistical and operational phases/aspects of the Project, and the particular steps to be taken in each phase. WAPDA is directed to submit monthly progress reports for the perusal of the Implementation Bench demonstrating the progress made with respect to each activity, as part of the monitoring to be carried out by such Bench under the writ of continuing mandamus. It is made clear that in case WAPDA faces any difficulties with respect to the execution of the Project, it may bring the same to the notice of the Implementation Bench about which appropriate orders may be passed. Any dispute or litigation impeding the execution of the Project shall not be entertained or adjudicated by any judicial or quasi-judicial forum unless permitted by the Implementation Bench.

5. Mr. Makhdoom Ali Khan, Sr. ASC and Dr. Pervaiz Hassan, Sr. JSC are appointed as *amici curiae* in this matter to assist this Court on the foregoing issues.

6. Finally, pursuant to certain concerns raised by the Chairman, WAPDA on the last date of hearing, Ms. Gharida Farooqi, anchor person was summoned who has appeared. When questioned, she was unable to satisfy this Court that the allegations she had levelled against WAPDA regarding execution of the Project had at all been researched or confirmed as to her actual narrative or legal premises forming the presumed basis thereof. It is unclear whether this was tainted with ill-motive or simply an instance of sheer and outright irresponsibility. Nonetheless, we express our strong disapproval against such commentaries/reporting in the print and electronic media that are speculative and unsubstantiated by reliable proof and lacking verification from WAPDA. This Project is a matter of national importance and constitutes a pillar on which the future of our posterity will vest. Any

attempt to malign or denigrate the Project or its execution process without

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reliable information and diligent verification amounts to subverting vital national interests of Pakistan and shall be punished by the Court. The Chairman, Pakistan Electronic Media and Regulatory Authority (PEMRA) is directed to ensure that our directions are faithfully implemented and complied with to protect the sanctity of this national Project.

7. Re-list on Monday, 25<sup>th</sup> February, 2019.

Sd/-HCJ

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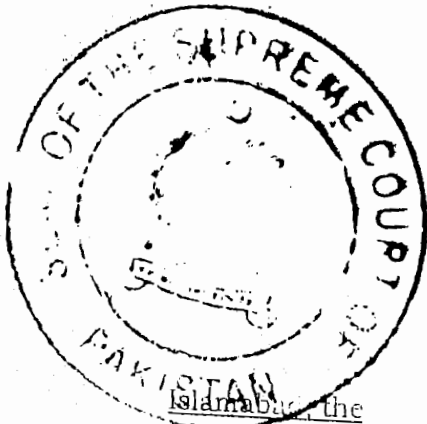
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Certified to be True Copy



Court Associate  
Supreme Court of Pakistan  
Islamabad



Islamabad, the

09.01.2019

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