

**IN THE HIGH COURT OF SINDH, CIRCUIT COURT,
HYDERABAD**

C.P No. D- 183 of 2007

[Haji Ghulam Muhammad and others v. Taluka Municipal Administration & Ors.]

C.P No. D- 378 of 2007

[Muhammad Hanif and another v. Faheem & Ors.]

C.P No. D- 527 of 2007

[Liaquat Ali & Others v. Secretary Information & Others.]

C.P No. D- 68 of 2008

[Shakir Ali and others v. Taluka Municipal Administration Qasimabad and Ors.]

C.P No. D- 127 of 2008

[Mrs. Najma Aftab & Others v. Chairman PTA Islamabad & Ors.]

CP No. D- 84 of 2009

[Shamsher Ali v. Warid Mobile Company & Ors.]

C.P No. D- 108 of 2009

[Naeemuddin v. Secretary Information & Ors.]

C.P No. D- 607 of 2009

[Maqbool Hussain v. TMA Tando Adam & Ors]

C.P No. D- 864 of 2009

[Iqbal Hussain v. M/s. Zong Pakistan (Cellular Company & Ors.)

C.P No. D- 865 of 2009

[Iqbal Hussain v. M/s. Telenor Pakistan Cellular Company and Ors.]

C.P No. D- 866 of 2009

[Iqbal Hussain v. Chairman PTA & Ors.]

C.P No. D- 867 of 2009

[Iqbal Hussain v. M/s. Mobilink Pakistan Cellular Company & Ors]

C.P No. D- 1818 of 2023

[Muhammad Ramzan v. Federation of Pakistan & Ors]

.....

Before

Mr. Justice Muhammad Saleem Jessar

Mr. Justice Nisar Ahmed Bhanbhro

Mr. Pir Bux Bhurgari, Advocate for Petitioner in CP. No. D- 68 of 2008.
None present for Petitioners in CP No. D- 1818 of 2023, CP No. D- 864,
865 & 866, 867 of 2009

M/s. Ahsan Gul Dahri & Haji Muhammad Sulleman Sahito Advocate
for respondents PTA.

Mr. Saeed Ahmed Mirjat Advocate for respondent Nos. 3 & 4 in CP
No. D- 1818 of 2023.

Mr. Muhammad Ismail Bhutto, Addl. A.G.

Date of hearing: 13.10.2025

Date of Order: 13.10.2025

ORDER

NISAR AHMED BHANBHRO, J. Through these petitions, the petitioners have challenged the installation of the BTS/Radio Base Stations and Towers by the Cellular Phone Companies in their vicinities. Since, common question of law and facts is involved in all the captioned petitions, therefore, are proposed for decision through this common order.

2. Mr. Pir Bux Burghari, learned counsel for the petitioners in C.P.No.D-68 of 2008 submits that the respondents had installed the Cellular Phone Towers in densely populated areas which were creating environmental hazards and causing damages to human health and safety. He contended that the Cellular phone operators installed the Towers without conforming to the safety standards. The Local Government Authorities issued "No Objection Certificate" for installation of towers without following the due process of law. He contended that the Radioactive Waves emission from base Station and Towers posed potential threats to environment. He lastly prayed to revoke licenses of the cellular phone operator and dismantle the installations in densely populated areas and sought directions to relocate the towers and stations far away from the populated areas.

3. M/s Ahsan Gul Dahri assisted by Haji Muhammad Sulleman Sahito, learned counsels for the respondent Pakistan Telecommunication Authority (PTA) argued that the PTA was merely a licensing authority. He argued that PTA only issues licenses to the Cellular Phone Operators for operational activities. He argued that PTA has got no concerns with the environment safety standards for which Environmental Protection Agency (EPA) was responsible to enforce safety standards. He further argued that identical petitions were decided by a Learned Division Bench of this Court at Karachi, the purpose of these petitions has been served thus become infructuous and be disposed of accordingly. He placed on record the copy of judgment dated 12.08.2004 passed by Learned Division Bench of this Court in CPD 844 of 2004 (Re Dr Nazir Ahmed & others V. Fed. Of Pakistan & others)

4. Learned Additional Advocate General and learned Deputy Attorney General for Pakistan supported the contentions of the learned counsel for the PTA and argued that the petitioners have got no locus standi to file these petitions. They argued that fundamental rights as to business of Cellular Phone Companies would be put into stake if the petitions are allowed. They

argued that petitions were misconceived and liable to be dismissed with costs.

5. **Heard arguments**, perusal the material made available before us on record.

6. Petitioners in all these petitions have raised concerns over installation of BTS towers and Radio Base Station in densely populated areas by Cellular Phone Companies, which per stance of the Petitioners caused adverse environmental effects and were hazardous to human health and safety due to the emission of radioactive waves. The Petitioners in support of their contentions have placed on record the news clippings, which attributed the growing diseases of brain cancer, migraine and constant headache to the radioactive waves emitted from towers and antennas.

7. Scanning of the material placed on record revealed that Ministry of Information Technology (MoIT), Government of Pakistan has conducted a detailed research study on radiation hazards caused by the radioactive waves emitted from base stations and Antenna installation of Cellular networks in light of the international research. The report is based upon the recommendation of two main global standards bodies viz. International Council for Non Ionizing Radiation Protection (ICNIRP) and ANSI, both the standards bodies have recommended precautionary measures and have set conservative limits for exposure to radiations. The impact assessment made by the Ministry of Information reads as under:-

Conclusions

- *Radiation hazards due to base stations were thoroughly analyzed in light of international research and recommendations of standards bodies.*
- *Precautionary approach has been proposed in light of non-conclusiveness of research and unconfirmed reports of health hazards.*
- *Guidelines on general public, occupational exposure, siting criteria, co-location requirements, work practices and regulation of specific criteria have been proposed.*
- *Detailed report has been produced including all recommendations. It is being sent to the Ministry of Health and Ministry of Environment for obtaining their inputs/ comments and to*

incorporate findings in their independent reports for consolidating this report.

- *Cabinet/NSC will be informed about progress and appropriate regulations based on these guidelines will be issued by PTA.*
- *The following of guidelines will not entail any major investment from the cellular operators as in normal circumstances the current infrastructure is expected to meet the guidelines.*
- *PTA will however ensure the proper following of proposed guidelines by the operators and make the tower radiation data publicly available on its website to allay public concerns.*

8. The environmental impact assessment study has also been undertaken by the SUPARCO, national space agency and furnished its findings that PTA which authorizes the cellular and PCS carriers in the country should enforce the safety standards recommended by the Federal Communications Commissions an American Body regulating cellular phone operations. The findings of the SUPARCO are reproduced for the sake of reference.

“Findings Based on the Study:

9.1 *The Federal Communications Commission (FCC) and equivalent body in our country is PTA (Pakistan Telecommunication Authority) which authorizes cellular and PCS carriers in various service areas around the country.*

9.2 *Although the FCC permits an effective radiated power (ERP) upto 500 watts per channel but generally only 100 watts per channel is in operation Further, 100 watts / per channel corresponds to actual radiated power 5 to 10 watts only depending on the type of antenna used and the number of towers used within certain square KM in the city.*

9.3 *Measurement made near typical cellular and PCS installation have shown that ground level power densities are well below limits recommended by RF/microwave safety standard.*

9.4 *The FCC adopted guidelines for evaluating human exposure to RF from fixed TX antennas which are the same as those recommended by the ANSI/IEEE and NCRP guidelines.*

9.5 *PTA regularly monitors the activities of the cellular companies and their installation of B.TS Towers / Antennas.*

Conclusion:

10. As per guidelines of FCC, the degradation of environment and hazard to life and health of the people living around is on safe side. However, if international rules of 1992 by the American National Standard Institute and the IEEE C95.1 are not followed and installation of such towers/transmitters are deviating the guidelines of FCC, these may be hazards to the life and health of the people living around."

9. The environment impact assessment report of the SUPARCO laid emphasis that any deviation from complying with the Environmental Protection Standards may be hazardous for the health and safety of people of Pakistan. The Ministry of Information Technology and SUPARCO reports were in consonance and underlined the guidelines which the Cellular Companies were bound under the law to follow for installation of base stations. The advisory report of the Ministry of Information Technology asserts that the precaution should be taken when designing co-location sites and the RF standards for lower-frequency Antennas upto 900 MHz than for higher- frequency Antenna 1800 MHz be maintained and emphasized for local zoning and planning requirement. It has further been pointed out that multiple antennas owned by the different companies are installed on the same structure which may pose challenging RF Safety problems. Ministry of Information Technology stressed that PTA should devise a mechanism by enforcing appropriate measures to ensure that the cellular phone operators follow the safety standards in the installation of towers.

10. MoIT in its policy guidelines dated 2nd April 2007 has underlined that the PTA will ensure the National Safety Guidelines to keep and consolidate all data related to base stations and there shall be an ongoing audit of base stations by the PTA to ensure that they worked under the required capacity of emission of micro base. MoIT based its criteria and policy mechanism on the following policy items:

- i) ICNRIP guidelines of 1998 (part of annexed study) for public and professional exposure to radiation will be adopted as a national standard for Pakistan.*
- ii) Antenna Sites should be designed so that the public cannot access areas around the stations where radiation exceeds the ICNIRP guidelines. As a general rule, the uncontrolled (public) exposure guidelines cannot be exceeded more than 8 meters (25 feet) from the radiating surface of the antenna.*

- iii) *If there are areas accessible to workers that exceed the guidelines for uncontrolled (public) exposure at set in ICNIRP guidelines the companies owning the infrastructure should make sure workers know where the areas are, and what precautions need to be taken when entering these areas. In general, this would be areas less than 8 meters (25 feet) from the radiating surface of the antenna.*
- iv) *if there are areas that exceed the guidelines for controlled (occupational) exposure, it should be made sure that workers know where these areas are, and that they cannot do (and do) power-down (or shutdown) the transmitters when entering these areas. Such areas may not exist; but if they do, they will probably be limited to areas within 3 meters (10 feet) of the antenna.*
- v) *PTA will be the agency to ensure compliance with these national safety guidelines and to keep and consolidate all technical data related to base stations.*
- vi) *To allay public concerns about levels of exposure, there should be an independent, random, ongoing audit of base stations by the PTA. This will be helpful in providing reassurance to the public that exposure guidelines are not being exceeded.*
- vii) *PTA will ensure that the information on the audit surveys is posted on its website, is readily accessible, easily interpretable by members of the public and kept up – to – date.*
- viii) *PTA in its regulations on the subject will ensure that appropriate measures are incorporated for the operators to follow the base station sitting criteria and work practices recommended in the annexed reports.*
- ix) *PTA and MoIT in collaboration with the industry will devise and execute a well-structured media campaign to educate the public about the scenario where radiation from base station antennas can be hazardous for human health. The media campaign will also cover the implementation of the guidelines and availability of the related information on the PTA Website.*

11. The concerns raised by the Petitioners were related to the environmental challenges and threats posed to the health and safety of the public due to the radioactive emissions of the cellular phone base stations. The legislation, enacted the Pakistan Environmental Protection Act, 1997 ('the PEPA') for the protection, conservation and control of pollution and deal with the environmental impact of the development projects. The PEPA

1997 underlines that any agency or organization undertaking any developmental activity is required to submit “initial environmental examinations” (IEE) or “environmental impact assessment” (EIA) to the Environmental Protection Agency ('EPA'). Section 12 of the act articulates that:

12. Initial environmental examination and environmental impact assessment. – (1) No proponent of a project shall commence construction or operation unless he has filed with the Federal Agency an initial environmental examination or, where the project is likely to cause an adverse environmental effect, an environmental impact assessment, and has obtained from the Federal Agency approval in respect thereof.

(2) The Federal Agency shall – (a) review the initial environmental examination and accord its approval, or require submission of an environmental impact assessment by the proponent; or

(b) review the environmental impact assessment and accord its approval subject to such conditions as it may deem fit to impose, or require that the environmental impact assessment be re-submitted after such modifications as may be stipulated, or reject the project as being contrary to environmental objectives.

(3) Every review of an environmental impact assessment shall be carried out with public participation and no information will be disclosed during the course of such public participation which relates to –

(i) trade, manufacturing or business activities, processes or techniques of a proprietary nature, or financial, commercial, scientific or technical matters which the proponent has requested should remain confidential, unless for reasons to be recorded in writing, the Director-General of the Federal Agency is of the opinion that the request for confidentiality is not well-founded or the public interest in the disclosure outweighs the possible prejudice to the competitive position of the project or its proponent; or

(ii) international relations, national security or maintenance of law and order, except with the consent of the Federal Government; or

(iii) matters covered by legal professional privilege.

(4) The Federal Agency shall communicate its approval or otherwise within a period of four months from the date the initial environmental examination or environmental impact assessment is filed complete in all respects in accordance with the prescribed procedure, failing which

the initial environmental examination or, as the case may be, the environmental impact assessment shall be deemed to have been approved, to the extent to which it does not contravene the provisions of this Act and the rules and regulations made thereunder.

(5) Subject to sub-section (4) the Federal Government may in a particular case extend the aforementioned period of four months if the nature of the project so warrants.

(6) The provisions of sub-sections (1), (2), (3), (4) and (5) shall apply to such categories of projects and in such manner as may be prescribed.

(7) The Federal Agency shall maintain separate Registers for initial environmental examination and environmental impact assessment projects, which shall contain brief particulars of each project and a summary of decisions taken thereon, and which shall be open to inspection by the public at all reasonable hours and the disclosure of information in such Registers shall be subject to the restrictions specified in sub-section (3).

12. The above provision of law, makes it clear that no proponent of a project shall commence unless an IEE or, where the project is likely to cause an adverse environmental effect, an EIA has been filed with EPA and has obtained approval in respect thereof. The EPA on review of the IEE may accord its approval, or require submission of an EIA by the proponent and accord its approval subject to such conditions as it may deem fit to impose, or require that the environmental impact assessment be re-submitted after such modifications as may be stipulated, or reject the project as being contrary to environmental objectives.

13. The PEPA, 1997 empowers the Federal and Provincial Agency to issue Environmental protection order, when satisfied that the discharge or emission of any effluent, waste, air pollutant or noise, or the disposal of waste, or the handling of hazardous substances has caused an adverse environmental impact. The Federal Agency or, as the case may be, the Provincial Agency may, after giving the person responsible for such discharge emission, disposal, handling, act or omission an opportunity of being heard, by order direct such person to take such measures that include the immediate stoppage, preventing, lessening or controlling the discharge, emission, disposal, handling, act or omission, or to minimize or remedy the adverse environmental effect; installation, replacement or alteration of any

equipment or thing to eliminate or control or abate on a permanent or temporary basis, such discharge, emission, disposal, handling, act or omission; failure to comply with the directions of agency may entail penal consequences of punishment of fine of Rs one million and in the case of a continuing contravention or failure, with an additional fine which may extend to one hundred thousand rupees for everyday during which such contravention or failure continues.

14. Local Government Department, Government of Sindh vide notification dated 12th January, 2007 issued the Approval Process for the installation of BTS /Radio Base Installation Towers. The approval process underlines the scope of NOC from EPA with emphasis that all cellular companies desirous to install BTS towers /antennas e.t.c, in the city / rural areas of Sindh shall make an application to this effect to the concerned building control authority. The application for NOC for the installation of communication towers shall be accompanied with the site plan of the proposed site, NOC from EPA for that particular location. Further the Director concerned of the Mobile company shall furnish an affidavit stating that in case of any loss to life or property the concerned cellular company will be bound to pay Rs.0.2 million (two lacks) to 'each victim and make good any damage to any property.

15. It is responsibility of the EPA to ensure that before the initiation of every project for installation of any Cellular Base Stations, NOC is obtained from the agency (EPA) in terms of section 11 and 12 of the EPA, 1997 and the installation was done keeping in view the safety standards set forth by MoIT and PTA. The reply of the PTA on the concerns of the petitioners though evasive but it undertakes that PTA shall ensure that installations of Cellular phone operators are within the radiation limits fixed by the MoIT and SUPARCO and all the installations shall be allowed to operate under the prescribed safety standards.

16. Through the 26th Amendment, the Constitution of the Islamic Republic of Pakistan was amended on 21 October 2024 and a new Article 9-A was inserted. The insertion of Article 9-A brings Pakistan within the committee of very few nations which recognized healthy environment as the fundamental right of its citizens. The amendment in the constitution

recognizes the fact that viable future of the human lives is connected to sustainable environmental practices. Article 9 – A articulates that:

9-A 'Every person shall be entitled to clean and healthy sustainable environment.'

17. No doubt right to do business is recognized as the fundamental right of the individual under article 18 of the constitution, but such rights were fettered and were subject to reasonable restrictions imposed by the law. The PEPA, 1997 imposes restrictions on doing any business that may cause environmental impacts. The restrictions imposed under the PEPA, 1997 were mandatory and any proponent of a project or business concern was required to follow the guidelines provided by EPA, failure thereof may entail penal consequences under section 17 of the PEPA, 1997 as enumerated above. The restrictions imposed by legislation did not violate the fundamental rights of any individual and were within the command and spirit of the Constitution. Article 18 for the sake of academics is reproduced below:

18: Freedom of trade, business or profession *Subject to such qualifications, if any, as may be prescribed by law, every citizen shall have the right to enter upon any lawful profession or occupation, and to conduct any lawful trade or business:*

Provided that nothing in this Article shall prevent-

- a. the regulation of any trade or profession by a licensing system; or*
- b. the regulation of trade, commerce or industry in the interest of free competition therein; or*
- c. the carrying on, by the Federal Government or a Provincial Government, or by a corporation controlled by any such Government, of any trade, business, industry or service, to the exclusion, complete or partial, of other persons.*

18. Honorable Supreme Court of Pakistan in the case of Mehar BADSHAH Versus GOVERNMENT OF KHYBER PAKHTUNKHWA through Chief Secretary, Peshawar and others reported as P L D 2025 Supreme Court 36 has held that:

5. Through the Constitution (Twenty-sixth Amendment) Act, 2024 the Constitution of the Islamic Republic of Pakistan was amended on

21 October 2024 and a new Article 9A has been inserted therein, as under:

'Every person shall be entitled to clean and healthy sustainable environment.'

Raising the status of the environment to that of a Fundamental Right in the Constitution shows the importance that the environment and Pakistan is now one of very few countries which mention the environment specifically in their Constitution. It may, however, be stated that even before the insertion of the Article 9A into the Constitution the superior courts of Pakistan had been interpreting Article 9 (right to life) expansively and that life worth living is one having a sustainable environment. It is, however, commendable that the right to a clean, healthy and sustainable environment has now been specifically incorporated into the Constitution which undoubtedly will help to preserve flora and fauna and the natural environment. It has by now been established that a viable future is dependent on preserving and conserving the environment and adopting sustainable environmental practices.

19. The Cellular Companies are under statutory obligation to follow the safety standards articulated under the safety guidelines issued by SUPARCO and MoIT. The issue raised by the petitioners concerns the health and safety of the people and is of critical importance for the people of the entire country. No material has been placed on record to show that environmental impact assessment has been done by the EPA, PTA and cellular phone operators or any further research has been undertaken after 2007 to address the concerns raised by the petitioners. Surprisingly the PTA has filed an evasive reply fixing responsibility of ensuring safety standards on EPA, whereas per reply filed by SUPARCO it was the prime responsibility of PTA to ensure safety measures in the operation of cellular networks.

20. The contention of the Learned Counsel for PTA that decision dated 12.08.2004 rendered in Dr Nazir Ahmed (Supra) by Learned Division Bench of this Court will operate as res judicata against these petitions was without substance. The Petition in Dr Nazir Ahmed (Supra) was dismissed on the ground that the cellular phone towers were installed in the properties owned by DHA and did not violate Cantonment laws, whereas the issue agitated by the Petitioners was technical in nature and was not discussed in the case of Dr Nazir Ahmed (Supra).

22. For the discussion made hereinabove, these petitions are partly allowed. The Respondents in particular Pakistan Telecommunication Authority (PTA) and Environmental Protection Agency (EPA) are directed to ensure that the standards set forth by the Ministry of Information Technology Government of Pakistan, and SUPARCO are followed strictly by the Cellular Phone Operators and while tendering NOC for the installation of Radio Base Stations and the BTS stations and granting operation licenses to the Cellular Phone Companies guidelines provided by SUPARCO and MoIT are adhered to in stricto sensu.

These petitions are disposed of accordingly.

JUDGE

JUDGE

Ahmed/Pa,

Hyderabad

Dated 13.10.2025

Approved for reporting