

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT
LARKANA

Constitution Petition No.D-536 of 2026
(Zaheer Abbas Shahani Vs. P.O Sindh and others)

DATE	ORDER WITH SIGNATURE(s) OF JUDGE(s).
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Before:-
Mr. Justice Riazat Ali Sahar,
Mr. Justice Ali Haider 'Ada'.

01. For orders on office objection "A".
02. For hearing of main case.

12.08.2026.

Mr. Ghayoor Abbas M. Shahani, Advocate for the
Petitioner.

Mr. Mohsin Ali Khan, Assistant Advocate General
Sindh alongwith Mr. Khadim Hussain, Executive
Engineer Provincial Highways Division, Larkana.

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Ali Haider 'Ada' J:- Through this petition, the petitioner primarily challenges the action of the respondents whereby the development scheme awarded to him was allegedly diverted and its funds re-appropriated, contending that such action is unlawful and without lawful authority. The petitioner, being a Government contractor, was awarded the work relating to “Reconditioning of Road from M-8 at PSO Pump to Village Muhammad Bux Brohi via Village Aijaz Ahmed Brohi, Taj Muhammad Brohi, Kamal Brohi, Fathe Muhammad Shaikh, Arzi Khan and Qubo Nabi Shah Road, Mile 0/0-4/0+330 (6.50 Kilometers).”

2. Learned counsel for the petitioner submits that the diversion and re-appropriation of funds allocated for the petitioner's scheme is illegal and adversely affects his lawful entitlement to execute the awarded work. However, when confronted as to whether the alleged diversion or re-appropriation had, in any manner, rendered the duly approved development scheme illegal or had otherwise

prejudiced the petitioner's vested right under the award, learned counsel was unable to furnish any satisfactory explanation and confined his submissions to the assertion that the scheme had been diverted.

3. Conversely, learned Assistant Advocate General submits that the approved allocation was duly received by the petitioner and that the matter relating to revision, diversion or re-appropriation of funds falls within the administrative domain of the competent department. He contends that, for improvement and effective execution of a development scheme, the department may formulate a technical proposal in accordance with the prescribed procedure. He further submits that the scheme was duly incorporated in the subsequent Budget Book after following the requisite mechanism. According to him, the petitioner was awarded the work on 22.01.2026 pursuant to the N.I.T., whereas the revised allocation forms part of the budgetary process and does not, by itself, confer an indefeasible right upon the contractor. He, therefore, submits that the instant petition is not maintainable.

4. Heard the learned counsel for the parties and perused the available record.

5. Before examining the controversy, it would be appropriate to refer to *Paragraphs 531, 532, 533 and 534 of the Bombay Public Works Department Manual, Volume-I*, which specifically deal with supplementary and revised estimates in respect of works and development projects. The relevant provisions are reproduced hereunder for ready reference:

531. Any development of a project thought necessary while a work is in progress, which is not fairly contingent on the proper execution of the work as first sanctioned, must be covered by a supplementary estimate, accompanied by a full report of the circumstances which render it necessary. The abstract must show the amount of the original estimate and the total of the sanction required including the supplementary amount.

532. A revised estimate must be submitted when a sanctioned estimate is likely to be exceeded by more than 5 per cent. either from the rate being found insufficient, or from any cause whatever, except as mentioned in the foregoing rule. It must be accompanied by a comparative statement (Public Works Department Form No. 119) and by a report showing the progress made to date and explaining fully the cause of the revision.

533. When the submission of a revised estimate under the above rule is found necessary, it is essential that the revised estimate should be compared with the latest existing sanction of competent authority; when by reason of intermediate modification, such existing sanction differs from that accorded by the highest authority concerned, a statement should be prepared showing how the sanction with which the revised estimate is compared has been arrived at.

534. When excesses occur at such an advanced period in the construction of a work as to render the submission of a revised estimate purposeless, the excesses, if beyond the power of the Executive Engineer to pass, may be explained in a Completion Report or Statement prepared under paragraph 595.

6. Thus, the scheme may be revised, modified or relocated in accordance with the applicable administrative policy; however, the determination of such matters essentially falls within the domain of the Executive authorities. It is well settled that formulation of governmental policy is primarily the prerogative of the Executive, and the Courts ordinarily exercise restraint in interfering with such policy decisions. The scope of judicial review in such matters is limited. Interference may be warranted only where it is shown that the policy decision is the result of an arbitrary exercise of authority, is tainted with mala fide, is patently illegal, or is manifestly unreasonable. Guidance in this regard may be drawn from the judgment of the Hon'ble Supreme Court in **Abdul Hameed and others v. Water and Power Development Authority through Chairman, Lahore and others (2021 SCMR 1230)**.

7. In the present case, the petitioner has failed to demonstrate any illegality, arbitrariness, mala fide or exercise of authority beyond the lawful domain of the respondents. Keeping in view the

foregoing, the instant petition, being devoid of merit, is hereby dismissed.

JUDGE

JUDGE