

ORDER SHEET
**IN THE HIGH COURT OF SINDH,
 CIRCUIT COURT, HYDERABAD.**

C.P.No.D- 1021 of 2017
 C.P.No.D-1641 of 2017

DATE	ORDER WITH SIGNATURE OF JUDGE
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24-08-2017.

Mr. Javed Ali Buriro Advocate in person (petitioner)
 In C.P.No.1021 of 2017

Mr. Saeed Ahmed Advocate in person (petitioner)
 In C.P.No.1641 of 2016

Mr. Allah Bachayo Soomro, AAG

Mr. Aurangzeb Talpur Asstt.A.G

Mr. Fazal Hussain Jamali Asstt; A.G a/w Karamullah Soomro SSP
 Motorway Sector-III Jamshoro. Ghulam Hussain DD(Legal) South Zone
 NHA, Saeedur Rehman Secretary DRTA Shaheed Benazirabad, PI Nawz
 Ali on behalf of SSP Jamshoro NS dsp Maqbool Kazi Ahmed on behalf
 of SSP Shaheed Benazirabad.

Syed Kamran Ali Advocate for respondent No.1 in CP.No.D-1641/2017
 Mr. Zubair Ahmed Rajput Advocate for respondents No.2 & 3 in
 CP No.D-1641 of 2017

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At the very outset, it would be relevant to refer the *operative* part of the
 order dated 24.11.2016, passed in C.P.No.D-1641 of 2017 which is:-

“Admittedly, Motorway Police is not available on Indus Highway road. Accordingly, Inspector General of Motorway Police is directed to deploy motorway police on the Indus Highway roads which are being maintained by NHA and at least four vehicles within fifteen (15) days. Further, Chairman NHA contends that many summaries are submitted by I.G. Motorway Police with regard to strength of vehicles as well as other staffs, which are pending before Federal Government. Accordingly, Standing counsel who is present in Court contends that he will convey the directions of this Court. Since, pendency of such *summaries* , including deployment of police, resulting into *casualties* which (*casualties*) cannot be allowed to continue particularly when proper arrangement (s) / safety measures may help in avoiding such casualties or *least* bring numbers of thereof down hence Secretary, Ministry of Communication and Secretary, Finance, Federal Government are hereby directed that those summaries shall be approved, if the same is in accordance with law within one month with compliance report”.

The order *supra* was passed *prima facie* not only in view of admittedly *floated* summaries before Federal Government as well to avoid *casualties* which *otherwise* is duty of ‘**Sindh Police**’ if federation has not taken necessary *initiatives* because the maintenance of *road* may be claimed in *exclusive* domain of NHA but the guarantee to *life* and *property* shall be of the **province** if same has not been attended by the Federation while enacting or *least* proper arrangement thereof. However, the position is *regretfully* same at it was, although repeated directions have been issued. SSP Motorway is present contends that he is not in a position to give any undertaking.

2. A *communication* gap; plea of lack of coordination and *even* pendency of summaries should not be an *excuse* to let a threat to *life* and *property* of citizens continue which *otherwise* is the responsibility of the State and when it comes to *traffic* affairs, the *traffic-wing* of Sindh Police which is under *direct* control of the I.G. Sindh. Though, *roads* under domain of National Highway Authorities, belong to Federation but it cannot be denied that same *fall* within territory of *province* and link districts *even*. IG Motorways and Chairman NHA, since, were directed to deploy at least four vehicles on Jamshoro-Sehwan road, however, as an indulgence with last **chance**, we direct that they shall ensure that such deployment is made within ten (10) and no any justification would be considered and without notice the contempt proceedings would be initiated against him, as well we may restrain to them to receive toll Tax/fees on this road because the payment of *fee / toll* brings the Authority under an obligation to ensure *safe* journey. If the Authority cannot assure *safe* journey then it (authority) would not be justified in claiming *fee*. NHA Chairman shall also ensure that SOS phone facilities are provided on reasonable distance and in this regard he shall file his report that as to what steps he will take to install SOS phones on roads Motorways.

By order dated 25.7.2017 directions were given for making arrangement with regard to passing of heavy vehicle from NH-5 and as per Deputy Director they have established a joint picket with Sindh police as well Motorway police and RTA and second post with bearers on the bridge which is called as "Aamri". At this juncture, he contends that summary is pending with Prime Minister House for approval. A *safe* and *speedy* journey is ultimate *aim* and *object* of a toll-paid road therefore, it is always obligation of *authority* to take every possible *legal* step to achieve the ultimate object. Establishing of the *joint-picket* while processing *summary* for approval is worth appreciating because *normally* a summary for *good* cause or achieving *object* of a project shall be approved. Accordingly, it is expected that same attitude would be shown with regard to other obligations, so arising from relevant Act and rules, applicable to NHA as well instructions, issued in the case of PLJ 2016 K-38 which includes establishment of clinics having all medical facilities at every toll plaza. Accordingly, NHA Chairman shall submit report for implementation of that order as well directions issued in other cases for its execution.

3. As regard, the *Trauma* centers, it is pleaded that there are 13-Trauma Centers established on various roads in whole the Sindh but all are not functioning and same are without basic facilities. Providing *buildings* without facilities or non-functional centers are meant nothing but killing the very purpose for which *either* centers are made or facilities are meant. Accordingly, the Secretary Health shall submit complete report with regard to Trauma Centre and any responsible person shall be deputed to assist this court on this issue as well.

4. The *affairs* of provincial *roads* are to be controlled by Sindh Transport authority and since there is no *proper* mechanism of Highway police *or least* enforcement thereof which resulting in causing a threat to *otherwise* guarantee, ensured by Constitution to *life land property* , therefore, judicial propriety

demands intervention. Accordingly, Secretary Roads and Transport as well Chief Secretary are directed that they shall provide a *permanent* mechanism of Highway police on the roads, having status of Provincial Highway in order to provide complete protection.

The Secretary RTA has stated that RTA is the main Regularity authority with regard to plying of vehicles in public and private sectors with an *aim* to provide *ease* and *comfort* to public at large which cannot be achieved unless the public are encouraged to report *inconvenience* or *violation* while traveling on *roads*. Accordingly, the Provincial Secretary of RTA should ensure a mechanism to encourage *public* to register / record their complaints with regard to any *violation* by public transport through a *toll-free* number as well disposal thereof. The *toll-free* number should not only be given wide-publication but should be ensured to be affixed in *every* public transport.

To come up on 14.9.2017 at 11.00 am . The attendance of officers of Motorway and police officials are not required.

JUDGE

JUDGE

A.Rasheed