

ORDER SHEET
IN THE HIGH COURT OF SINDH KARACHI

C.P. No. D-6758 of 2016

DATE	ORDER WITH SIGNATURE OF JUDGES
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Before:-

Mr. Justice Muhammad Ali Mazhar

Mr. Justice Agha Faisal

Al-Ghazi Corporation

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Petitioner

Versus

Province of Sindh and others

.....

Respondents

For order as to Maintainability of Petition.

Date of hearing: 22.02.2019

Mr. Huzaifa Khan, Advocate for the Petitioner.

Mirza Saleem Akhtar Baig, Advocate for Resp. Nos. 2 to 5.

Mr. Jawad Dero, Additional Advocate General Sindh.

Mr. Zahid Khemtio, Deputy Secretary, Local Government,
Government of Sindh, is present.

Muhammad Ali Mazhar, J: The petitioner has approached this court through its proprietor for the payment of some admitted liability on account of work carried out by his firm in the light of the work orders issued by the Deputy Municipal Commissioner, DMC, South. On 17.01.2019, the Secretary, Local Government and Additional Secretary, Local Government both were present in court and they informed the court that letter has been issued by the Section Officer-V to the Municipal Commissioner, DMC South with respect to the liability of the present petitioner. In the letter, the Municipal Commissioner was directed to furnish physical verification report as recommended by the Committee for further necessary action. Today, Mr. Zahid Khemtio, Deputy Secretary,

Local Government, Government of Sindh, is present and has submitted two physical verification reports for the work carried out by the petitioner i.e. improvement of Riva Street Phool Chowk, Ali Akbar street, Alaahdad street, Ghulam Hussain street and Kamil street in UC-03, LG, Saddar, Town and the physical verification report for construction of C.C street in shomra galli, Ghulam Shah Lane, Old Kumarwara Baba pot UC-01, LG, Saddar, Town. In both physical verification reports, the name of the petitioner is mentioned with the paid amount and balance amount including the date of commencement of work and date of completion of work. The first work was completed on 24.12.2011 and second work was completed on 27.01.2012. In both the reports it is reflected that the Committee has inspected and physically verified the work carried out by the petitioner. The then Engineers had already verified the work and the bill were already pre-audited. Today, the Deputy Secretary, Local Government further submitted a letter dated 21.02.2019 which was again communicated by Section Officer-V, Local Government, Government of Sindh, to the Municipal Commissioner, DMC (South). In this letter, the Section Officer-V, also dispatched the copy of the letter dated 12.12.2018 received from Director, Local Fund Audit Department, Government of Sindh alongwith minutes of the meeting held on 07.12.2018 with the recommendations of the Committee and physical verification report regarding the payment of the liabilities in respect of the petitioner and finally a request has been made to the Municipal Commissioner, DMC (South) to take action in the matter in accordance with the law. All the requisite formalities

have been completed and the liability has been admitted by the DMC (South), without any factual controversy or disputed question of facts. The verification reports submitted to the Secretary, Local Government Department, Government of Sindh by the Municipal Commissioner, District Municipal Corporation, South, Karachi through covering letter dated 25.01.2019 clearly show that the technical persons/concerned engineers have verified the quality and quantity recorded in Measurement Book (MB) vide Note 10/2011-12 and vide Note 28/2011-12. It was further stated that the original files and MB's have been checked and found correct. Both the verification reports were signed by Sub-Engineer, DMC (South), Assistant Ex. Engineer, DMC (South), Superintending Engineer, DMC (South) and Executive Engineer, DMC (South). It is reiterated that the work was completed in compliance of work orders on 24.12.2011 and 27.01.2012 respectively and without any complaint or objection to the quality of work or raising any violation by the DMC with regard to the terms and conditions of work orders, the payments have been withheld despite admitted liability and no justification has been placed before us as to why for such a long period the admitted liability is withheld. If the Government departments in their own work are treating the contractors in this way and manner, then this will shatter the confidence of the public at large and the persons engaged in various contracts with them. It is highly unjustified and undesirable act to withhold the due payment for an indefinite period. The learned counsel for the DMC (South) submits that 45 days may be given for making payment to the petitioner. The

petition is disposed of with the directions to the respondent Nos. 2
to 5 to make payment to the petitioner of the outstanding amount
within a period of 45 days.

JUDGE

JUDGE

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