

witnessed by the persons of the relevant area and in this regard proper affidavit was duly prepared in presence of Malik Zulqarnain Dogar, MPA Nankana Sahib, on 17.02.2016 attested on 04.04.2016 and signed by witnesses.

2. Heard learned counsel for the parties as well learned Additional Attorney General, perused the record.

3. At the outset learned counsel for plaintiff contends that by direction of defendant No.1, plaintiff was required to pay certain amount as compensation, *as described above*, to the families of deceased and to injured persons, and because of non-compliance during pendency of their suit they cancelled their license; he further contends that there was no fault on part of the plaintiff and even otherwise it was an incident; that as per FIR incident was caused due to mistake of the car driver who was on high speed thereby gas was leaked resulted into said accident; no opportunity of hearing was provided to plaintiff before passing order by defendant No.1, order passed by defendant No.1 is against the settled principles of law and natural justice.

4. In contra, learned counsel for defendant No.1 contends that impugned order is on two folds, one is that plaintiff was required to pay compensation amount through Deputy Commissioner, Sheikhpura and second that of precautionary measures, impugned order is conditional, if plaintiff is ready to comply with, defendant No.1 will restore their license within eight days.

At this juncture learned counsel submits photographs and also news clipping as under:-

“MUZAFFARGARH: Death toll in the oil tank truck blast reached nine on Sunday.

The Pak Arab Refinery Company (Parco) truck had caught fire and blasted at Qasba Gujrat on Saturday, some 35km away from the city. The blast had killed one passerby at the spot and burnt 20 others. The injured were taken to the district headquarters (DHQ) hospital first and then to the burn unit of the Nishtar Hospital Multan where four people died late on Saturday night and as many on Sunday.

The dead have been identified as Shah Ali, Sajjad Pathan, Ibrahim, Muhammad Muddasir, Kaleem, Fiaz, Haji Muhammad, Mahboob Sukhera, Imran and seven injured include Muhammad Javed, Basit, Khalil and Dadoo Marwat who are still in hospital.

Rescue 1122 and Parco fire brigade reached the accident spot after bodies had been burnt and rescue officials shifted the injured to the Nishtar Hospital but there was loadshedding in the burn unit last night.

When the bodies reached the native places of the victims the families raised slogans against the Parco administration, alleging it of negligence.

The district administration said that it had requested the Punjab government to announce compensation for the victim's families.

However, the families have reportedly rejected the proposal, calling it meager.

There is not enough parking space for oil tank trucks along the Parco site and on Sunday dozens of people protested against Parco administration over it.

It is learnt that thousands of oil tank trucks pass through the Muzaffargarh where many oil depots were situated.”

5. The order, being the root of the instant suit, would reflect that after providing hearing on show cause notice, defendant No.1 passed order dated 24.02.2016 which is reproduced as under:-

“In view of the above, **it is established that licensee i.e. Hazara Efficient Gas is responsible for this accident** therefore, under Rule 27 of LPG (Production & Distribution) Rules, 2001 Hazara Efficient Gas is directed to pay compensation to the deceased persons amounting to Rs.250,000/- each and Rs.100,000/- to each injured. The total amount will be communicated to

Hazara Efficient Gas after getting/receiving the particulars of the affectees from Punjab Government / DCO Sheikhpura. The compensation recovered from licensee will be forwarded to the Punjab Government / DCO Sheikhpura for onward distribution among the affectees.”

Plaintiff filed review application that was decided on 30.04.2016 which is available at page 141, relevant paragraph No.10 is reproduced :-

“In view of above, the authority hereby rejects the instant review petition as it is not maintainable under section 13 of the Oil and Gas Regulatory Authority Ordinance 2002 due to non conclusive evidence and directs the petitioner to implement the authority’s decision dated 24.02.2016 within 15 days of receipt of the decision, positively. **In case of failure thereof, the licence shall stand revoked under rule 10(1)(a) of LPG Rules, 2001.**”

The perusal of the above orders shall leave nothing ambiguous that authority *first* found the plaintiff responsible for *accident* and then ordered it to pay the compensation and revocation of license was subject to *failure* of plaintiff to pay the compensation. I shall add here that an act of help should be respected but it shall not absolve one from his liabilities to pay compensation. The *terms* ‘compensation’ and ‘help’ are not synonym to each other. Former is a legal obligation / duty failure whereof shall bring its consequences while the *later* , being a pure act of kindness, if done should be respected and regarded but failure thereof shall bring no *earthly* consequences. In short, the help, if any, done by plaintiff to grieved family(ies) shall not be an excuse towards compliance of an ordered ‘*compensation*’.

6. Before responding to the consent of the plaintiff towards proposal of restoration of license of the plaintiff on payment of compensation, I shall add with concern that Laws, Rules and policies are

always framed but *normally* the authorities take no serious steps towards enforcement / implementation thereof which *otherwise* are always meant to 'secure' the *individuals* by sketching a line of '*rights & obligations*'. No doubt, everyone has a right to enjoy freedom of doing lawful business and trade but at the same is *obliged* to follow the law, regulating / governing such right. A negligence or violation of obligation / duty shall expose him / her to legal action but this shall never be achieved unless authorities are always on their *toes* to *lease* ensure a sense of fear in public that 'no single negligence / violation shall go unchecked'. The position, *being so*, shall make clear from the direction, issued by the defendant No.1, after the said *unfortunate* incident, costing number of lives, which reads as under:

"Subject: LPG Bowzer filling / decanting and transportation

Reference is made to the subject.

2. The oil and gas regulatory authority (OGRA) has noticed that standard operating procedure (SOPs) / good safety practices for filling of LPG bowzers at local LPG producers /LPG terminals and decanting of LPG bowzers at plants of marketing companies are not being followed in letter and spirit, thus **endangering the public safety.**

3. It may also be noted that safety violations by companies will not be tolerated by the authority, therefore, all licenses are directed to comply to the safety requirements and adhere to the following conditions which will be checked by the special teams of OGRA and the violators will face serious legal implications:

- a) No bowzer be filled at LPG termination / local LPG producers without proper inspections / documentations, safety checks and fulfillment of procedures,
- b) All local LPG producers / LPG terminals may check LPG bowzer's explosives license, third party inspection certificate, motor vehicle examiner certificate, manufacturing bowzer name plate etc. prior to filling bowzers,

- c) All LPG marketing companies / local LPG Producers . LPG terminals must ensure to install tracking system in their owned / hired LPG bowzers for keeping check on the route / movement of LPG bowzers,
- d) Training sessions of LPG bowzer drivers/staff regarding safety and handling of emergencies must be arranged by LPG marketing companies / LPG terminals/ LPG producers / LPG associations of Pakistan and keep record of the same on plants which will be checked / asked by the authority as and when required.
- e) Comprehensive data of LPG bowzers filled at LPG terminals / local LPG producers must be maintained by the concerned and same will also be checked / asked by the authority as and when required.”

I shall not hesitate in adding here that **authorities need not inform the licensee(s) time & again for complying with *safety measures* but should ensure an action particularly when such negligence is likely to 'endanger the public safety'**. The '*public safety*' cannot be left at sole discretion of the licensee but the authority is also *equally* responsible to ensure a proper mechanism of checking. The authorities should not wait to its responsibilities in checking the *safety precautions* at relevant places only after an alarming unfortunate incident nor the duties of an authority comes to an end by writing / issuing such letter but it starts the moment it gives a license and continues till continuity thereof which (*continuity*) is always subject to adhering / complying with all laws, rules and policies.

7. In said background, the learned Additional Attorney General was put on notice for assistance as well query whether any commission was formed by the Federation with regard to incident or a high level committee to conduct a thorough probe in order to fix responsibilities and to avoid any such incident in future. Albeit, defendant No.1 is required to take precautionary measures, learned Additional Attorney General contends that

he is not aware if any commission was formed. He contended that civil Court has no territorial jurisdiction to issue any direction in the matter however could not resist that in matters, involving interest of general public or fundamental rights, the Court(s) can show its concern particularly when mishap, *in question*, resulted in loss of many lives and injuring.

Further, when it comes to the lives or safety of *general public*, the Courts, being the ultimate guardians of rights of *individuals* can ask the authorities to do what the mandate of law demands them (*authorities*) to do. Though directions have been issued by defendant No.1 to relevant forums but when the defendant no.1 *himself* admitted it to be related to '**public safety**' then such direction(s) shall not serve its purpose and object if they are not framed/designed as per *international standard* by taking all concerned/related on *board* which should include a *least* practicable time for its enforcement in letter and spirit. Accordingly, it would be in the interest of justice that Federation along-with all relevant institutions including defendants, while taking the Provincial Governments onboard, constitute a high level Committee consisting on the following authorities as its members, to examine the existing law as well practice whether it matches to international standards of safety and security particularly while transporting explosive/dangerous material.

- (1) Hydrocarbon Department Institute of Pakistan,
Office at Plot No.18, Street No.6, H-9/1, Islamabad.
- (2) Chief Inspector of Explosives, Ministry of Industries,
Head office Islamabad Department of Explosives, 269,
Block F, Mughal Plaza, Satellite Town, Rawalpindi.
- (3) Directorate General Gas, Ministry of Petroleum &
Natural Resources, Islamabad.
- (4) I.G(s) of all Provinces.

- (5) Motor Vehicle and Fitness Department,
All Provinces.
- (6) Deputy Secretary, Ministry of Petroleum.

8. It is expected that the Federal Government will form such commission/committee within fifteen days. It is further expected that such forum will decide the issue preferably within two months with compliance report to this Court.

9. As regard the merits of the instant suit, it would suffice to say that since the plaintiff has consented to proposal of restoration of *its* license by defendant No.1 on payment of the compensation amount, as was ordered by authority, the purpose of the suit stands served and same is dismissed as such, however, with direction that defendant No.1 shall restore license of plaintiff on payment/deposit of compensation because revocation of license was result of such *failure* alone, within eight days after compliance.

Needless to mention that steps emanating from the FIR would not be prejudiced by instant order of this Court in any manner. Let a facsimile copy of this order be sent to learned Additional Attorney General as well learned counsel for defendants, for compliance.