

**ORDER SHEET**  
IN THE HIGH COURT OF SINDH KARACHI  
C.P. No. D-2551 of 2018

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**DATE**

**ORDER WITH SIGNATURE OF JUDGES**

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**Present**

**Mr. Justice Muhammad Ali Mazhar.**

**Mr. Adnan Iqbal Chaudhry.**

**M/s.East West Insurance Co. Ltd.....V/s..... The President of Pakistan  
& others**

**07.09.2018**

Syed Younus Saeed, Advocate for the Petitioner  
Respondent No. 3 Khawaja Daud Masood is present in person  
Mr. Zahid Khan, Assistant Attorney General.

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**Muhammad Ali Mazhar, J:** Brief facts of the case are that Respondent No. 3 filed a Complaint No. 561/2016 before Federal Insurance (Ombudsman) against the petitioner for the delay in settlement of the claim of losses caused to his contractual work at Thor Nala Basha Dam Project because of flood on 27<sup>th</sup> July, 2015. On 03.11.2017, the learned Federal Insurance (Ombudsman) had passed an interim order, the concluding paragraph-17 is reproduced as under:-

*“It appears that there are serious violations of law and rules being committed by the Respondent Company but without touching the merits of the matter at this juncture the issue of Surveyor’s appointment be settled in the first instance. The SECP should appoint independent Surveyor afresh to carry out assessment of loss who should submit the report within 30 days of their appointment, whereafter hearing of the matter will be resumed. In the meantime, both the parties are advised to enter into meaningful negotiations for an amicable settlement”.*

Being dissatisfied with this order, petitioner filed a representation under Section 14 (1) of Federal Ombudsmen Institutional Reforms Act, 2013. On representation to the President, an order was passed on 13.03.2018, it was observed in the order that the findings of the learned FIO are quite sustainable and the Insurance Company has unnecessarily filed this representation. It was further observed in the order that in such circumstances, representation is liable to be rejected having no merits and the recommendations/findings/orders of FIO are sustainable and maintainable being unexceptional in nature. Finally, it was held that

no ground stand made out for interference and the representation is devoid of any merits and is liable to be rejected. We are of the firm view that the representation was filed against an interim order, which had not attained finality. In the interim order, the directions were issued to appoint an independent Surveyor afresh to carry out assessment of loss and in the meantime, both parties are also advised to enter into meaningful negotiations for an amicable settlement if any. Against the interim order, representation has also been dismissed. At the moment, there is no final order in field, which may be examined by us in constitutional jurisdiction. We have also examined the interim order as well as order passed on representation which are based on sound reasoning hence we are not inclined to interfere. If any final order is passed, naturally the petitioner may have remedy to challenge it. At this juncture, learned Counsel for the Petitioner argued that various legal objections were raised in the reply before the Federal Insurance (Ombudsman) regarding the maintainability of complaint but these objections were not considered. Admittedly, at this stage only an interim order is in field and no final order has been passed by the Federal Insurance (Ombudsman). However, before the final order, all objections were considered regarding the maintainability as well. Learned Counsel for the petitioner agrees that if some directions are issued to the Federal Insurance (Ombudsman) to decide the legal objections of the petitioner at the time of passing final order then he would be satisfied. Respondent No. 3, present in person, has also no objection on this proposal.

As a result of above discussion, this petition is disposed of with directions to Federal Insurance (Ombudsman) that at the time of passing final order in this case all legal objections raised by the petitioner shall be considered in accordance with law and a fair opportunity will also be provided to the representative/Counsel for the petitioner to appear and argue the case.

**JUDGE**

**JUDGE**