

*Order Sheet*  
IN THE HIGH COURT OF SINDH AT KARACHI  
**Constitutional Petition Nos. D – 7530/2019, D-2193/2019,  
D-5817/2019, D-98/2019, D-1171/2018, D-5057/2017,  
D-1625/2020, D-5083/2020, D-3178/2019 & D-6389/2020**

| Date | Order with signature of the Judge |
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**24.12.2020 :**

Syed Shoa-un-Nabi, advocate for the petitioners in C.P. No. D-6389/2020.

Mr. Gazain Zafar Magsi, advocate for the petitioner in C.P. No. D-7530/2019.

Syed Abrar Ahmed Bukhari, advocate for the petitioner in C.P. No. D-98/2019.

Syed Amir Ali Shah Jilani, advocate for the petitioners in C.P. Nos. D-5817/2019 and D-5057/2017.

Petitioner Muhammad Javed Iqbal present in person in C.P. No. D-1171/2018.

Mr. Naveed Ahmed Khan, advocate for respondent No.9 in C.P. No. D-1171/2018.

Mr. Ali Safdar Depar, Assistant A.G. along with Chiragdin Hingoro, Special Secretary, Local Government Department, Government of Sindh.

M/S Iqbal Khurram, Saeed Akhtar and Chaudhry Arif, advocates for KMC along with Senior Director (Law) KMC, Afaaq Saeed Financial Advisor KMC and Syed Athar Hussain Deputy Director (Land) KMC.

Mr. Muhammad Idrees, advocate for DMC (West), Karachi.

Mr. Afzal Saeed Khan, Law Officer, DMC (Central), Karachi.

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On 16.12.2020, the following order was passed :

*“ A statement dated 07.12.2020 has been filed by learned AAG along with letter dated 01.12.2020 issued by the Services, General Administration & Coordination Department, Government of Sindh, to show that a meeting of the Committee, as directed by this Court vide order dated 19.11.2020, was held on 23.11.2020. Mr. Najam Ahmed Shah, Secretary Local Government Department, Government of Sindh, who is present in person, has submitted a statement dated 16.12.2020, according to which two meetings were held on 23.11.2020 and 15.12.2020 in pursuance of the aforesaid order, wherein it was proposed that the special grant-in-aid of Rs.430.000 million per month given to KMC be enhanced to Rs.600.000 million per month with effect from November 2020 towards partial satisfaction of the post-retirement benefits of their retired employees. Vide order dated 19.11.2020, the Committee constituted by this Court was directed to explore the possibilities of resolving the subject issue and the modes for such resolution. Therefore, in addition to the above monthly grant-in-aid to KMC, the Committee shall submit a report to this Court on the next date of hearing in relation to a one-time grant to KMC for settlement of the subject liability. Issue notice to the Chief Secretary Sindh for compliance.*

*In compliance of the direction given by this Court, KMC has submitted a list of its immovable properties, which shows that bungalows and apartments in posh areas of Karachi are in possession of their officers. Copy of the above list has been*

*provided to the above named Secretary Local Government Department, who shall verify whether the said properties belong to KMC or not, and shall submit a report in this behalf to this Court on the next date of hearing. It has been pointed out that in addition to above properties, about 250 beach huts situated in Hawksbay are owned by KMC, which are on lease on nominal rates. Learned counsel for KMC states that leases of all such huts have been cancelled by KMC, whereafter some of the lessees have resorted to legal proceedings. We are of the view that the subject liability, which is about **4,246.999 million** according to the KMC's own statement, cannot be settled by the monthly grant-in-aid given by the Government of Sindh and/or the one-time grant that may be given by the Government of Sindh. Thus, the only option left is to sell the assets of KMC, including the beach huts, so that legitimate dues of its retired employees can be settled. Before passing any order in this behalf, we direct the Administrator KMC to identify at least 25 properties from the list submitted today that may be sold in the first instance. Let notice be issued to the Administrator KMC for compliance. Additionally, learned counsel for KMC undertakes to communicate this order and the next date of hearing to the Administrator KMC.*

*By consent, adjourned to 22.12.2020 at 1:00 p.m.”*

Despite specific direction by this Court, the Committee constituted by this Court vide order dated 19.11.2020 and the Chief Secretary Sindh have not submitted compliance report in relation to the one-time grant to be granted to KMC for settlement of the subject liability.

A statement dated 22.12.2020 and a compliance report dated 21.12.2020 have been filed on behalf of KMC along with list of its 25 properties as directed by this Court. The said list shows that the property mentioned at serial No.1 therein is in possession of 05 Corps HQ ; the properties mentioned at serial Nos.4 and 5 are occupied by the Sindh Police ; for the property mentioned at serial No.3, the Government of Sindh has made a request for its transport department ; and, the properties mentioned at serial Nos.15 to 25 have been rented out for the purposes of petrol pumps. According to the above list, only the bungalows mentioned at serial Nos.6 to 14 are being used as residence for the officers of KMC. From the above, it appears that the properties mentioned at serial Nos. 1 to 5 cannot be sold at present, and there is a possibility of litigation if any attempt is made to sell the properties mentioned at serial Nos. 15 to 25 as the same are on rent for petrol pumps. It further appears that only the properties mentioned at serial Nos. 6 to 14, which are bungalows in possession of the officers of KMC, can be sold. In paragraphs 1 and 4 of the above report, KMC has stated that the said bungalows are worth billions of Rupees.

It is urged by learned counsel and officials of KMC that the above mentioned bungalows and the 250 beach huts at Hawksbay should not be sold ; firstly as they will not fetch proper market price in the prevailing circumstances ; and secondly as the beach huts will provide a regular source of income to KMC. In paragraph 5 of the above report, KMC has stated that the present rate of rent of Rs.100.00 per square yard for the beach huts will be enhanced to Rs.50,000.00 per month as compared to the present annual rent of only Rs.16,000.00. They request that either a reasonable time should be granted to KMC to settle the subject liability of outstanding post-retirement benefits or the Government of Sindh should be directed to provide a grant-in-aid in order to bailout KMC from the present crisis.

The state of affairs prevailing in KMC clearly indicates that its management has miserably failed to manage the accounts in a prudent and proper manner. The only reason for the present financial crisis, which is increasing on daily basis in an alarming manner, is mismanagement and lack of planning and foresight on the part of KMC. We are constrained to observe that the Government of Sindh, having supervisory control and jurisdiction in respect of KMC, is equally responsible for not taking timely action in relation to wrong decisions taken by KMC at the wrong time. The submission made on behalf of KMC regarding retention of its valuable properties cannot be ignored as once its properties are sold in order to settle the subject liability, KMC will not be able to generate sufficient funds for acquiring such properties in future. Therefore, we are not inclined to pass any order, at least for the time being, for sale of any of the above properties.

All the learned counsel, parties and their authorized representatives present in Court agree that pension is the fundamental right of retired employees which cannot be denied or delayed on any ground whatsoever. As noted above, despite specific direction by this Court, the Committee and the Chief Secretary Sindh have not submitted compliance report in relation to the one-time grant to be granted to KMC for settlement of the subject liability. It would not be out of place to mention here that in a similar situation, the Federal Government has recently approved and released a massive amount of about Rs.24.000 billion to bailout Pakistan Steel Mills for payment of outstanding post-retirement benefits to its retired employees. The entire said amount has been deposited with the Nazir of this Court in C.P. No. D-1388/2017 and other connected matters, whereafter the said amount has been and is still being disbursed to the retired employees of Pakistan Steel Mills.

In the circumstances discussed above, we direct the Government of Sindh to consider and provide a grant-in-aid in order to bailout KMC which grant should be commensurate to the subject outstanding liability of KMC. Let notice be issued to the Chief Secretary Sindh, Secretary Finance and Secretary Local Government, Government of Sindh, for compliance, who are directed to appear before this Court in person on the next date along with their compliance reports.

To be listed on **20.01.2021 at 11:00 a.m.**

JUDGE

JUDGE