

ORDER SHEET  
THE HIGH COURT OF SINDH AT KARACHI

**CP.No.D-1127 of 2024**

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Date: Order with signature(s) of the Judge(s)  
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1. For hearing on CMA No. 5286 of 2024
2. For hearing of main case

**26<sup>th</sup> September 2024**

Mr. Muhammad Arif, advocate for petitioner  
Mr. Sheharyar Mehar, AAG. Along with Sikandar Hassan, Deputy Secretary (Legal), Finance Department, Government of Sindh, Engineer Abdul Malik, Assistant Director (Technical), Sindh Environmental protection Agency, Shahzad Muzaffar, D.D. Coal Mines

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**Salahuddin Panhwar,J:-** Pursuant to order dated 13.08.2024, Director General Coal Mines Development has submitted reply of show cause notice. Being relevant paragraph No.6 is reproduced herewith:-

“6. That all permit holders for coal conducting coal mining at Districts Jamshoro and Thatta Coalfield areas are being directed to furnish quarterly progress report of CSR activities as required under Rule-111 (10) of Sindh Coal Mining Concession Rules, 2020, which is reproduced below:-

“**Corporate Social Responsibility:** All companies engaged in exploration and exploitation of coal/coat-based power generation shall work for local community and nearby poor and marginalized people; shall allocate a budget of 0.25% of the yearly profit (average profit of preceding 3-years) in capacity of Corporate Social Responsibility (CSR); and shall submit quarterly progress of CSR activities to the Licensing Authority.”

2. In similar way, Finance Department Government of Sindh has submitted report in respect of revenue generated by the Coal and Mines Department from year 2013 to 2023, which is to the tune of Rs.25.322 billion. On query, representative of D.G. Mines, present in Court is unaware about the utilization of CSR activities as required under Rule 111(10) of Sindh Coal Mining Concession Rules 2020. Besides, this Court in different judgments

directed that Coal and Mines Department shall ensure welfare of the mining areas as due to removal of mines health of the area people gravely affects. Vide order dated 22<sup>nd</sup> August 2023 passed in CP.No.D-699 of 2019 & CP.No.D-907 of 2019 at Sukkur Bench, this Court directed that:-

“Accordingly, Deputy Commissioners Tharparker, Jamshoro and other districts where coal extraction plants/ thermal powers are currently operating shall ensure implementation of the directions contained in the judgment of **Abdul Hakeem Khoso** (supra) as well as of the judgment passed by this Court. Needless to mention that resources are need of time, therefore, all companies have been allowed to extract minerals. However, it must be emphasized that the environment, including the climate, cannot be compromised for the sake of resource’s extraction. Similarly, historical and cultural sites, ancient monuments, and declared/undeclared wildlife sanctuaries cannot be jeopardized on the ground of extraction of resources and their safety must be observed while working on the sites. Hence, Deputy Commissioners are bound to apply the judgment of this Court passed in CP. No. D-1105 of 2018 [Re-Nadir Ali S/o Khan Muhammad Bugti vs. The Province of Sindh & others] in the High Court of Sindh Bench at Sukkur, in its letter and spirit, at this juncture, before dilating further, upon the impact caused to the ecosystem, from these sort of industrial undertakings, it is essential to reproduce the noteworthy crux, which lead to passing of such judgement, dated 18-05-2023, at Sukkur Bench of Sindh High Court, as during the course of proceedings, some glaring and significant discoveries surfaced before the Court, which cannot even otherwise be left unattended, as such, the discoveries incorporated therein the judgment, particularly in paragraphs no.6, 7, 8 and 17, are also reproduced herewith for the purpose of understanding:-

6. Before proceeding with the earlier orders, it needs to reiterate here, that the crushers may be used to **reduce the size, or change the form, of waste materials, so they can be more easily disposed of or recycled**, or to reduce the size of a **solid mix** of raw materials (*as in rock ore*), so that the pieces of different composition can be *differentiated*; however, **crushing plants** installed are failed to act with the conditions laid down in the mining permit as lease holders have to prevent hazards to human or animal or life or the property of others and the environment as well. Besides, at the site there are activities of **dynamite blasting** and crushing the rocks, which causes respiratory disorders not only to human but animals as well, due to *inhalation* of fine dust particles, so also causing damages to the **historical sites declared as heritage sites**, which are *protected* under relevant laws, lowers agricultural yield as the dust covers the leaf surface of the plants and poor visibility near the crushers. Nevertheless, stone crushing was known to affect both surface and ground water regime.

7. Pursuance to order dated **16.02.2023**, the Director General, Mines & Minerals Development Department, Sindh Karachi, files

statement, wherein it has been mentioned that in compliance with the directions contained in **para-12** of aforesaid order, the draft Rules "**The Sindh Mines and Minerals Governance Rules 2023**" has been forwarded for vetting to the Law Department. In this regard a letter dated 27<sup>th</sup> February, 2023 has been addressed to the **Secretary** to Government of Sindh, Law and Parliamentary Affairs and Criminal Prosecution Department Sindh Karachi, and annexed. Thus, the Secretary law department shall ensure vetting of the draft rules submitted by the Mines and Minerals department in line of relevant laws including, **The Environmental Protection Agency Act, 1997, The Pakistan Environmental Protection Act 1997, i.e National Environmental Quality Standards (NEQS)** and international protocols settled by the international organizations i.e United Nations, UNESCO. Needless to say that the Pakistan being signatory of various UN Conventions including "Convention concerning the protection of the World Cultural and Natural Heritage 1976, and certain rules are framed to rules and principals to governing the protected areas, resources and heritage i.e Rule 136 to 141 which says that the area, land, and its resources are the common heritage of mankind and the same are bestowed in humans as a whole, on whose behalf the Authority shall act, even the State should not alienate, or lease particularly the raw materials, extracted, mined therefrom, except in accordance the law and rules, regulations and procedures of the Authority. The State is responsible to protect, preserve and save these areas from damage and all the activities ought to be for the benefit of the human beings without discrimination as the right to life is not restrained to biological physical life but more than and as enlightened the scope of Article 09 of the Constitution of Pakistan by the Supreme Court of Pakistan in the case of **Shehla Zia Vs WAPDA PLD 1994 SC 693**.

*Article 9 of the Constitution provides that no person shall be deprived of life or liberty save in accordance with law. The word life is very significant as it covers all facts of human existence. The word life has not been defined in the Constitution but it does not mean nor can be restricted only to the vegetative or animal life or mere existence from conception to death. Life includes all such amenities and facilities which a person born in a free country is entitled to enjoy with dignity, legally and constitutionally. A person is entitled to protection of law from being exposed to hazards of electromagnetic fields or any other such hazards which may be due to installation and construction of any grid station, any factory, power station or such like installations. Under the common law a person whose right of easement, property or health is adversely affected by any act of omission or commission of a third person in the neighbourhood or at a far-off place, he is entitled to seek an injunction and also claim damages, but the Constitutional rights are higher than the legal rights*

*conferred by law be it municipal law or the common law.*  
*Such a danger as depicted, the possibility of which cannot be excluded, is bound to affect a large number of people who may suffer from it unknowingly because of lack of awareness, information and education and also because such sufferance is silent and fatal and most of the people who would be residing near, under or at a dangers distance of the grid station or such installation do not know that they are facing any risk or are likely to suffer by such risk. Therefore, Article 184 can be invoked because a large number of citizens throughout the country cannot make such representation and may not like to make it due to ignorance, poverty and disability. Only some conscientious citizens aware of their rights and the possibility of danger come forward.*

Therefore, Director General, Mines and Minerals shall ensure that **no permit/license** for crushing plants is issued *except* fulfillment of the criterion contained under draft rules as mentioned above and the *committees* comprised in view of the **amended rules**, who shall examine all licenses /permits issued to different crushing plants for mining purposes and if any licenses is not fulfilled the criterion of present rules; that shall be considered as cancelled. Suffice it to say, that the **Rule 133** of the amended rules, with regard to contribute in corporate Social responsibility shall be complied with in its letter and spirit. Being relevant, **Rule 133** is reproduced as under:-

133. Corporate Social Responsibilities (CSR): (1) All the large and small scale mineral title or permit holders shall be responsible to pay prescribed amount of CSR fund in the mining area for the welfare of local inhabitants, which include infrastructure development, education, health, social services, environmental up-gradation, beautification, uplifting socio-economic conditions in order to improve quality life and make the mineral title holders responsible to the rights of local inhabitants in the prescribed manner the Government of Sindh may determine from time to time by crafting a CSR policy accordingly.

2) The Mining companies and mineral title/permit holders would contribute an amount as determined by the Government of Sindh, annually, towards the social uplift of the local population through establishment and self-sustained maintenance of community improvement projects and would participate in Government efforts to sustain the development level of mineral bearing areas on depletion of the mineral resource. The Government of Sindh will collect this contribution and spend on the welfare projects prepared in consultation with local representatives of the area/region. Out of such contributions, training and employment opportunities shall be provided to the local employees by foreign and national, mineral exploration and production companies in Sindh.

3). There shall be some arrangements (production bonus) out of the production slab of minerals to be determined through the policy mechanism for the welfare of inhabitants of the mining areas or the proximity areas of the district concerned to be levied by the Government of Sindh through mines and mineral development department.

Besides, Director General shall ensure compliance of paragraph No.3 of order dated 16.2.2023 which reads as under:-

**3. It is pertinent to mention that merely providing such class will not serve the purpose, unless those licenses are examined and if same are not falling within criterion at the sites, those mines shall be stopped. DG Mines and Minerals Department also refers Rule 134, which speaks as under:-**

**“134. Restriction on grant of area for Mining purpose and Stone Crushing activity: (1) There shall be a complete ban on the mining and stone crushing activity in any historical / religious / heritage / Culture /public places including old archeological/historical hills/mountains having historical identity etc. or any vital installation, irrespective of sites of mentioned areas / locations.**

**2. Subject to sub rule (1) the already granted mineral title and mineral permits shall stand cancelled.**

**Any person who shall carry out illegal mining directly or indirectly which is detrimental to any historical /religious /heritage /cultural /public place or any vital installation shall be punished with an imprisonment which may extend to six month or a fine of rupees up to five hundred thousand or with both”.**

3. Accordingly, Director General Coal Mines Development, Government of Sindh shall be in attendance and submit complete breakup of contracts awarded by the authority as well as mechanism to award the contract whether by public auction or by using their discretionary powers.

4. That report shall also submit details of CSR activities and compliance of order of this Court as referred above. Failure thereof would be considered as pejorative act liable contempt of Court. Learned MIT-II Additional shall ensure compliance. To come up on 24.10.2024.

JUDGE

JUDGE