

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

CP D 951 of 2024
CP D 2816 of 2015
CP D 6797 of 2019
CP D 7822 of 2019
Suit - 67 of 2024
CP D 1683 of 2024
CP D 1684 of 2024
CP D 4692 of 2024
CP D 4693 of 2024

Date	Order with signature of Judge(s)
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25.04.2025

Messrs. Anwar Kashif Mumtaz, Usman Alam, Atta Muhammad Qureshi, Muhammad Aleem, Qazi Umair Ali, advocates for the petitioner

Messrs. Anas Habib, Abdul Basit for Dr. Shahnawaz Memon, Zakia for Ameer Bakhsh Metlo, Syed Jamal Bukhari, Shahryar Ahmed, advocates for respondents

Ms. Mehreen Ibrahim, Deputy Attorney General
Mr. Akbar Khan, Assistant Attorney General
Mr. Sandeep Malani, Assistant Advocate General Sindh

Barrister Ghazi Khan Khalil advocate files Vakalatnama on behalf of respondent which is taken on record.

It is jointly submitted that identical petitions have been disposed of by Division Bench of this Court in CP D 2689 of 2017 dated 21.01.2025. The relevant part is reproduced as follows:

Per learned counsel, these matters pertain to challenge by trans-provincial entities to imposition / collection of W.W.F. in the wake of the 18th amendment to the Constitution and subsequent pronouncements of the Supreme Court, including *Sui Southern Gas Company Ltd. vs. Federation of Pakistan* reported as 2018 SCMR 802. It remains the petitioners' case that trans-provincial entities may be treated independently of Provincial fiscal laws. These matters have been pending since 2013.

Notwithstanding the aforesaid, it was brought to the attention¹ of the Court that the Council of the Common Interests² had been seized of the matter and had been pleased to decide, on Agenda Item 14 bearing NO. CCI.14/1/2019 dated 23.12.2019, as follows:

“119. The CCI considered the Summary dated 23rd May, 2019 submitted by Ministry of Overseas Pakistani & HRD and observed that none of the provinces has developed a workable mechanism for resolution to address the post-devolution issues of pension of migrating employees. The Council held that being trans-provincial and inter-provincial matter, both the organizations i.e. EOBI &

¹ As denoted vide orders dated 16.10.2024 and 14.11.2024.

² Created per Article 153 of the Constitution.

WWF should remain with the Federal Government to perform its functions under Employees Old-Age Benefits Act, 1976 and Workers Welfare Fund Ordinance, 1971, till such time a mutually agreed mechanism is developed.”

The Court was assisted with the pertinent provision³ of the Constitution stipulating that decisions of the CCI are subject to challenge vide reference to the Parliament, hence, it was argued that post 2019 no occasion remained for these matters to continue to be entertained in writ jurisdiction.

The Council of the Common Interests is a representative body constituted *inter alia* to facilitate comity between the federating units and each Province has representation therein. In the event of either the Federal Government or a Provincial Government is dissatisfied with a decision of the Council, they remain at liberty to precipitate a reference before a joint sitting of the Parliament. Despite repeated opportunity, recorded vide orders dated 16.10.2024 and 14.11.2024, it is nobody's case that the aforesaid decision of the Council has been referred / assailed before the Parliament.

Therefore, the respective learned counsel have sought that all these matters be disposed of in terms of the Council of Common Interests' decision on Agenda Item 14 bearing NO. CCI.14/1/2019 dated 23.12.2019, referred to supra. Order accordingly.

It was articulated on behalf of the petitioners that their liberty to challenge the vires of the enactment, as and when occasion arises, not be curtailed by orders herein. The respondents' learned counsel articulated no cavil in such regard. Order accordingly.

Office is instructed to place copy of this order in connected matters.

In view hereof it is sought that these petitions may be disposed of in the same terms. Order accordingly. Office is instructed to place copy of this order in connected matters.

Judge

Judge

Amjad

³ Article 154(7) - If the Federal Government or a Provincial Government is dissatisfied with a decision of the Council, it may refer the matter to Majlis-e-Shoora (Parliament) in a joint sitting whose decision in this behalf shall be final.