

IN THE SUPREME COURT OF PAKISTAN, ISLAMABAD

(Original Jurisdiction)
HRC No.16143-P/2014

To

1. The Attorney General for Pakistan, Islamabad.
2. Mr. Sajid Ilyas Bhatti, DAG, Islamabad.
3. The Advocate General, Islamabad.
4. The Advocate General Punjab, Lahore C/o DR(L)
5. The Advocate General Sindh, Karachi C/o AR(K)
6. The Advocate General KPK, Peshawar C/o DR(P)
7. The Advocate General Balochistan, Quetta C/o O.I (Q)
8. The Secretary Law & Justice Commission of Pakistan, Islamabad.
9. The Chief Secretary, Government of Punjab, Lahore C/o DR(L)
10. The Chief Secretary, Government of Sindh, Karachi C/o AR(K)
11. The Chief Secretary, Government of KPK, Peshawar C/o DR(P)
12. The Chief Secretary, Government of Balochistan, Quetta C/o O.I (Q)
13. The Secretary, Ministry of Law, Justice and Human Rights, Islamabad.
14. The Secretary Law, Government of Punjab, Lahore C/o DR(L)
15. The Secretary Law, Government of Sindh, Karachi C/o AR(K)
16. The Secretary Law, Government of KPK, Peshawar C/o DR(P)
17. The Secretary Law, Government of Balochistan, Quetta C/o O.I(Q)
18. The Secretary Ministry of National Health Services, Regulations and Coordination, Government of Pakistan, Islamabad.
19. The Secretary Health, Government of Punjab, Lahore C/o DR(L)
20. The Secretary Health, Government of Sindh, Karachi C/o AR(K)
21. The Secretary Health, Government of KPK, Peshawar C/o DR(P)
22. The Secretary, Health, Government of Balochistan, Quetta C/o O.I (Q)
23. The Secretary Local Government, Punjab, Lahore C/o DR (L)
24. The Secretary Local Government, Sindh, Karachi C/o AR(K)
25. The D.G, Pakistan Environmental Protection Agency, Islamabad.
26. The Director General, EPA, Punjab, Lahore C/o DR(L)
27. The Director General, EPA, Balochistan, Quetta C/o O.I (Q)
28. The Director General EPA, Sindh, Karachi C/o AR(K)
29. The Director General EPA, KPK, Peshawar C/o DR(P)
30. The Secretary M/o Overseas Pakistanis & Human Resource Development, Islamabad.
31. The Secretary, Labour Department, Punjab, Lahore C/o AR(L).
32. The Secretary, Labour Department, Sindh, Karachi C/o AR (K).
33. The Secretary, Labour Department, KPK, Peshawar C/o DR (P)
34. The Secretary, Labour Department, Balochistan, Quetta C/o OI (Q).
35. The Secretary, Mines and Mineral Department, Punjab, Lahore C/o DR(L).
36. The Secretary, Mines and Mineral Department, Sindh, Karachi C/o AR(K).
37. The Secretary, Mines and Mineral Department, KPK, Peshawar C/o DR(P)
38. The Secretary, Mines and Mineral Department, Balochistan C/o O.I (Q)
39. The Chairman, PEMRA, Islamabad.
40. The Secretary Information, Government of Pakistan, Islamabad.
41. The Secretary Information, Government of Punjab, Lahore C/o DR(L)
42. The Secretary Information, Government of Sindh, Karachi C/o AR(K)
43. The Secretary Information, Government of KPK, Peshawar C/o DR(P)
44. The Secretary Information, Government of Balochistan, Quetta C/o O.I(Q)
45. The Chief Commissioner Islamabad.
46. The Chief Pakistan Bureau of Statistics, Islamabad
47. The Federal Ombudsman of Pakistan, Islamabad
48. The Provincial Ombudsman, Punjab, Lahore C/o DR(L)
49. The Provincial Ombudsman, Sindh, Karachi C/o AR(K)
50. The Provincial Ombudsman, KPK, Peshawar C/o DR(P)
51. The Provincial Ombudsman, Balochistan, Quetta C/o O.I (Q)
52. The District Collector, Sheikhpura.
53. The District Officer Labour, Gujrawala.
54. Mr. Muhammad Raheel Kamran Sheikh, ASC
55. Mr. Usama Khawar, S/O Khawar Mahmood R/O Village Nutt Kallar, P.O Ghulab Singh, Tehsil Kamoki Dist. Gujranwala.
56. Mr. Yahya Farid, R/O H# 65, St. No. 2, Sector 2, Airport Housing Society, Rawalpindi

457

12/4/18

Ministry of Labour & Mineral Development
Department JSR
Inward No. 1104-2018
Date 11-04-2018

CIM

A. arrange
a meeting
with the
stakeholders
to devise an
action
plan
for imple-
mentation
of this Court
order at
once.

12/4/18

Cont...

SUBJECT: HUMAN RIGHTS CASE No 16143 - P / 2014

(IN THE MATTER REGARDING HAZARDOUS EMISSION OF DUST BY STONE/MARBLE CRUSHING & GRINDING CAUSING SILLICOCIS)

Take notice that above noted HR Case came up for hearing before the Court on **03.04.2018** and while disposing of the Case, an order was passed, certified copy of which is enclosed herewith;

You are, therefore, required to ensure compliance on your part, of the enclosed Court Order in letter & spirit.

Islamabad: 9th April, 2018



(Sr. Court Associate)
(Human Rights Cell)
Ph:051-9203557
Fax:051-9219516

IN THE SUPREME COURT OF PAKISTAN
(ORIGINAL JURISDICTION)

PRESENT: MR. JUSTICE MIAN SAQIB NISAR, HCJ
MR. JUSTICE UMAR ATA BANDIAL
MR. JUSTICE IJAZ UL AHSAN

HUMAN RIGHTS CASE NO.16143-P OF 2014
*(Application by Usama Khawar & Yahya Farid regarding
Hazardous emission of dust by Stone/Marble Crushing &
Grinding)*

In attendance: Mr. Sajid Ilyas Bhatti, DAG
Mr. Raheel Kamran Sheikh, ASC
Mr. Tariq Mehmood Jehangiri, AG, ICT
Ms. Asma Hamid, Addl.A.G. Punjab
Mr. Shehryar Qazi, Addl.A.G. Sindh
Mr. Zahid Yousaf Qureshi, Addl.A.G. KPK
Mr. Ayaz Swati, Addl.A.G. Balochistan

Mr. Qasim Mirjat, AOR

Dr. Rahim Awan, Secretary, Law & Justice
Commission of Pakistan

Mr. Habib-ur-Rehman, S.O. (Statistics)
Mr. Hamid Javed Awan, Dir. RWP
Mr. Farhat Abbas, Information Officer Punjab
Syed Arshad Jillani, Chief Inspector of Mines Sindh ✓
Syed Ali Ashraf Naqvi, Joint Secretary Labour
Sindh
Mr. Waqar Hussain, Addl. Dir. EPA Sindh
Mr. Ashraf Ch. Inspector Mines RWP
Mr. Asif Sohail, Director (Litigation) M/o NHR&C
Mr. Mujahid Ali Shah, Director Mineral KPK
Mr. M. Atif, Inspect of Mines, Quetta
Mr. Ata-ur-Rehman, Addl. Secy. Labour, KPK
Mr. Fazal Razzaq, Chief Inspector, Mines, KPK

Date of hearing: 3.4.2018 ✓

...
ORDER

Pursuant to our order, the recommendations have been
made by the committee, placed on the record *vide*
H.R.M.A.No.209/2018, which read as under:-


"A. Legislative Reforms/ Measures

- (i) On the directions of the Supreme Court of Pakistan, the
LJCP in consultation with all the stakeholders prepared

ATTESTED
[Signature]
Sr. Court Associate
Supreme Court of Pakistan
Islamabad

a consensual comprehensive draft law on OSH and shared with provinces for enactment. The province of Sindh has enacted the Occupational Safety and Health Act 2017 which is enforced with effect from 2nd January 2018 while other provinces have yet to enact such legislation. It has been more than two years that the provinces and Federation through ICT administration is being persuaded for enactment of OSH law but of no avail. On realization the importance of issue and its benefits the representatives committed that legislation will be enacted within six weeks. Accordingly, it is **recommended that the Federal and provincial governments of Punjab, Khyber Pakhtunkhwa, Balochistan and ICT may be directed to enact OSH law within the committed period.**

- (ii) Factories Act, 1934 is enforced Punjab, Balochistan and ICT whereas, the governments of Khyber Pakhtunkhwa and Sindh have as enacted their own laws i.e. the Khyber Pakhtunkhwa Factories Act, 2013 and the Sindh Factories Act 2015 to regulate the affairs of the labour in factories. All these laws have OSH provisions applicable to industrial establishments with 10 or more workers. **The Provincial governments may be directed extend the scope of the Acts to industrial units employing even five workers.**
- (iii) The Government of Punjab has notified the Punjab Hazardous Occupation (Silicon) Rules 2015 under the Factories Act, 1934 which provides procedure for declaring any operation hazardous, restriction of employment in unsafe conditions, medical certification of workers and safety measures. **Pending OSH legislation, in exercise of powers under Section 33 Q of the factories Act 1934, Section 46 of the Khyber Pakhtunkhwa Factories Act, 2013 and Section 47 of the Sindh Factories Act 2015 the provinces may consider notification of such rules for declaring any manufacturing processes detrimental to health and safety and prohibiting it by order.**


ATTESTED

Sr. Court Associate
Supreme Court of Pakistan
Islamabad

al

- (iv) The terms and conditions of employment of mines workers are regulated by Mines Act, 1923 which has a separate chapter related to safety, health and welfare of persons employed in mines, including gas and oil fields. Besides, it also provides inspection system to keep track of health and safety violations and imposition of fines for such violations. However, it is quite surprising that there is no mechanism for regular follow up medical examination as provided in the Factories act 1934. It is, **therefore recommended that each provincial government should formulate and notify rules for regulating the follow up medical examination of the persons employed in mines.**

B. Administrative Measures

- (i) Pursuant to the Court's directions, in the province of Punjab, **Occupational Safety and Health Council** has been constituted to evolve strategies for the protection of workers' rights by addressing issues related to health and safety of workers in the industrial and commercial establishments. Likewise, in Sindh, Khyber Pakhtunkhwa and ICT have constituted high level Core Committees are constitutes to ensure implementation of this Court's order related to safety and taking actions against hazardous emission of dust and stone, marble crushing & grinding. Review of composition of these committees/ councils revealed that in the Punjab Province the representative of the key stakeholders i.e. the Chamber of Commerce and Industry and workers' federations/ unions are included in the Council as its members. **It is, therefore, recommended that other provinces may be directed to include the representatives of the Chamber of Commerce and industry and of workers for their input and ownerships of the decisions.**
- (ii) The OSH Council constituted by the Province of Punjab in 19.09.2014 has met a only thrice and its last meeting was held on 05.08.2015, it is also recommended that such **Councils/Committees shall be directed to meet**

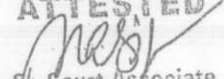
ATTESTED

Sr. Court Associate
Supreme Court of Pakistan
Islamabad

quarterly to adequately discuss and address the challenges related to occupational safety and health concerns in their respective provinces.

- (iii) The Government of Balochistan has neither a Core Committee nor constituted an OSH Council to address the issues of health and safety of workers; therefore, the Government of Balochistan should immediately constitute committee having representation of all the stakeholders including Chamber of Commerce and industry and workers' associations/federation.
- (iv) Inspector of Mines may be directed to develop and implement a robust inspection system for effective enforcement of mining laws and to take action against illegal mining activities.
- (v) The Hazardous Substance Rules, 2003 framed under Environmental Protection Act 1997 has provision of safety precautions for workers and employer. Directions may be issued to the relevant authorities for strict compliance.

C. Prevention & Protective Measures:

- (i) To carry out periodic assessments, the Punjab Labour Department has devised a checklist on OSH to be used during labour inspections. This OSH checklist may be used for inspection in other provinces with suitable modification.
- (ii) The West Pakistan Hazardous Occupations (Miscellaneous) Rules 1963 specify various manufacturing and utilization processes as hazardous. Under the rules, the Chief Inspector is competent to declare any process hazardous. Therefore, the chief inspectors may be directed to reassess the manufacturing processes of various industries for notifying hazardous processes.
- (iii) Being a potential source to cause Silicosis, all Cement Factories be directed to establish a Silicosis Diagnostic Centre in their factories to monitor the ill

ATTESTED

 St. Court Associate
 Supreme Court of Pakistan
 Islamabad

Compliance
 Int.

effects of inhalation of dust particle emitting from various processes carried out for the manufacturing of Cement.


- (iv) To ensure health and safety, the provinces in consultation with relevant Environmental Protection Agencies should notify safe distance and guidelines for stone crushing units and mines.
- (v) All kind of mining and stone crushing activities near the archeological and tourists sites should be completely banned.
- (vi) Under the law, the employers are obligated to ensure compliance to safety standards at workplaces, the provision of a "Hygiene Card" to every worker and compulsory vaccination and inoculation of all workers, to have an emergency/disaster management plan to cater to any emergency situation. The relevant authority should prepare an effective monitoring mechanism to ensure compliance of these obligations.
- (vii) The labour departments may be directed to ensure strict compliance of Section 23 of the Factories Act, 1934, Section 24 of Khyber Pakhtunkhwa Factories Act, 2013 and Section 25 of the Sindh Factories Act, 2015 which provides that each worker in a factory is provided with a Hygiene Card and its entries shall be updated during the months of January and July every year after examination by a designated doctor to diagnose any contagious or infectious disease.

PLZ ENSURE
STRICT
COMPLIANCE

COMPLIANCE

D. Compensation and medical care:

- (i) The Workmen's Compensation Act, 1923 including its provincial variants such as the Punjab Workers Compensation Act, 1923, Khyber Pakhtunkhwa Workers Compensation Act, 2013, Sindh Workers Compensation Act, 2016 provide healthcare benefits and identify occupational diseases arising during the course of employment and has fixed compensation (death grant and disability benefits) for workers affected due to

ATTESTED

Dr. Court Associate
Supreme Court of Pakistan
Islamabad

2


occupational diseases and accidents. The death grant varies between PKR 200,000 to PKR 500,000 amongst provinces with greater differences related to permanent or temporary disability. **Keeping in view rising inflation, it is recommended that that Provinces may be directed to enhance such compensation reasonably and the same should be made uniform across the country.**

Compliance

- (ii) Worker Welfare Boards established under Section 11 A of the Workers Welfare Fund Ordinance, 1971 and its provincial variants established under provincial laws after the 18th Amendment. In exercise of power under relevant law, each Province's Workers Welfare Board has a "Death Grant Policy." In Punjab, this comes to "an amount of PKR 500,000/- as death grant is provided to the family of deceased worker registered with EOBI and Social Security; however this condition is not mandatory for mine workers. During the course of meetings, it was reported that in each Province, the process for release grant takes months to complete which causes frustration among the family members, therefore, direction be issued to all Workers Welfare Boards for developing a uniform amount of death grant, and ensuring the early release of the same in order to facilitate a bereaved family, in their time of need.
- (iii) It has been reported that tens of thousands of cases are pending in labour courts increasing agonies of labourers and administrative issues for relevant departments. Therefore, the High Courts may be asked to issue directions to the labour courts for early disposal of cases.

E. Capacity Building & Data Collection:

- (i) The Supreme Court of Pakistan in its Order dated 14-7-2015 highlighted the absence of authentic baseline data of labour force critical for planning and implementing labour laws and issued directions to the provincial governments for Labour Force Survey (LFS). Despite


ATTESTED

 Sr. Court Associate
 Supreme Court of Pakistan
 Islamabad

lapse of considerable time, the directions have not been implemented in its true spirit, therefore, the provincial governments may be directed to complete the Labour force Survey without further delay.

- (ii) Each provincial government in collaboration with ILO develop and implement capacity building programmes for all officers in the field of inspection, safety, health, and welfare of the workers.

F. Awareness:

- (i) The Ministry of Information, Pakistan Television (PTV), Radio Pakistan and Pakistan Electronic and Media Regulatory Authority (PEMRA)¹ in collaboration with provincial labour and mines departments shall prepare and implement public awareness raising campaign in consultation with relevant departments.
- (ii) For safety, a worker is required to wear protective clothing specified for the work and no person can be engaged in hazardous work/occupation unless the certifying surgeon has provided the certificate of medical fitness for such work. Therefore a comprehensive awareness campaign through electronic media and radio may be launched.
- (iii) PEMRA be asked to issue directions to the electronic media for transmitting awareness messages under their Corporate Social Responsibility (CSR).
- (iv) The respective Labour departments should display on their web-sites general information for workers regarding silicosis, relevant registers, forms, inspection schedules and contact details of relevant labour and medical as directed by the Supreme Court of Pakistan in its order dated 14 July 2015."

ATTESTED

 Jr. Court Associate
 Supreme Court of Pakistan
 Islamabad

¹ Section 20(e) public interest broadcasting obligation, PEMRA Ordinance 2002)

2. All the Provinces and the Agencies are strictly required to follow these recommendations in letter and spirit. Any violation made shall be taken to be disobedience of the Court's order and appropriate action shall be taken against the delinquents.

3. In light of the above, the matter having borne fruit is disposed of.

CD — MIAN SAQIB NISAR, HCJ
SI — UMAR ATA BANDIAL
SI — IJAZ UL AHSAN

Certified to be true copy

Muhammad Nadeem
9.4.2018

Dr. Court Associate
Supreme Court of Pakistan
Islamabad

