

CJ Saved These Trees Before, Will He Do It Again?

Referenced news item captioned above, appearing in the Daily News dated 26th November 2009 (Copy of the news item enclosed). The Concerned Citizen Society of Pakistan (CCP) have requested the HCJ to take immediate suo moto action against illegal cutting of over 5000 mature trees, some over a 100 years old, for a highly controversial Canal Widening Project, the legality of which is unclear. It is stated that the Government of the Punjab has approved the Project of road widening at the estimated cost of Rs. 3.15 billion. It is alleged that the Project is being executed without the legal requirement of having carried out the environment impact assessment as provided under the Environmental Protection Act 1997. The CCP have expressed the apprehension that the Government may carry out the felling of trees during the Eid holidays to thwart any possible legal action and frustrate possible court orders. The CCP has expressed the strong apprehension that all the trees might be illegally cut down during Eid holidays to execute this project due to the eagerness and greed of Government officials and contractors, which would cause irreparable loss and further endanger the right to life of the citizens of Lahore. The CCP have accordingly requested the HCJ for immediate action in the matter. It is stated in the above mentioned news item that earlier on, in the year 2006, the CJP under a suo moto action had also issued an order to save these trees from being felled.

It is stated that earlier, the matter of cutting old trees due to the widening of Lahore Canal Road, was brought to the notice of the Court through filing of Constitution Petition No. 16/2006 by Lahore Conservative Society with other Environment and Heritage loving societies and persons. The case came up for hearing a few times but was dismissed in default in January 2008 (Copy enclosed).

The issue of causing damage to environment by cutting trees has been taken up by the Court in successive suo moto actions:

1. Suo moto Case No. 10/2005 (New Murree Project). In this case the Court on the statement of the Provincial Government to the effect that the New Murree project has been shelved, as it was considered devastating in terms of the impact on the environment, therefore, the Court held that since the project has been disbanded, thus the suo moto case has fructified and was disposed of accordingly.
2. Suo moto Case No. 3/2006 (Action on Cutting of Trees in Jehangir Park, Karachi). In this case the City District Government Karachi (CDGK) had conceived a project of construction of car parking facility on a portion of the Jehangir Park, as a result of which many trees would have been felled; plus the people would have been deprived of the facility of using the Park. In this case the CDGK ultimately decided to drop the Project of construction of car

parking and intimated the decision to the Court. The Court directed that even though the Project has been abandoned, however, the CDGK was restrained from any such plan in future. It was further directed to restore the status of public park and develop the same (copy of the order enclosed). In this case the Court placed reliance on its earlier ruling i.e. C.P.No. 36/2005 (Moulvi Iqbal Haider Vs, CDA and others)

3. Human Right Case No. 2359/2006 (Cutting of Trees for Lawyers Society in Bahawalpur). In this case, on the apprehension of cutting down trees on a piece of land, allocated for the construction of Lawyers Colony in Bahawalpur, the Court asked for report. The Government of Punjab in its response conveyed to change the site of the Lawyers Colony to another place. This way, the petition became infructuous and was disposed of accordingly.

Perusal of case law on the issue of felling of trees which seriously threaten the environment and could lead to Ecological disaster, the Court record has been fairly consistent, in as much as, it always intervened to prevent environmental pollution/degradation, in line with crucial fundamental right in the Constitution of Pakistan. Article 9 provides, inter alia, the right to life. As held in the case of Shehla Zia v WAPDA (PLD 1994 SC) the Court observed that life doesn't mean mere vegetarian existence but quality life, including the right to health and clean environment. Quality life, of course, necessitates the availability of basic facilities including construction of roads/buildings and industry, however, this has to be balanced viz a viz. the need to live in clean environment and good hygienic conditions. To do so, the Government passed the Environmental Protection Act 1997, which obliges all agencies/authorities to carry out an environmental assessment of every major project. As stated in the above mentioned news item, the widening of the Canal Road Project will cost Rs.1.5 billion. Such project needs to be executed after careful consideration of the impact the project will have on the environment. It should not be carried in haste, much less during the Eid Holidays, merely to defeat the provision of law and prevent any intervention by a court under the law.

HCJ may, therefore, consider taking suo moto action in the matter to prevent the violation of law and safeguard the right to life/health of citizens.

Submitted

27-11-2009

HCJ

CJ saved these trees before, will he do it again?

Our correspondent

LAHORE: Where do the citizens go when their own rulers contemplate sinister moves of indulging in illegal actions during religious holidays, and this is exactly what may just happen in Lahore in the coming Eid holidays.

Concerned Citizen Society of Pakistan (CCP) has pleaded the honourable Chief Justice of Pakistan Iftikhar Muhammad Chaudhry to take suo moto action against the illegal cutting of thousands of mature trees, some over a 100 years old, for the highly controversial 'Canal Widening' Project, the legality of which is under question itself.

In a letter to the CJP the CCP stated that the Punjab government approved the project, which is estimated to cost Rs3.15 billion and the details of which have been kept covert by the relevant authority. The letter points out that the government has not conducted an Environment Impact Assessment (EIA) for the Rs3.15 billion project which it is bound to conduct for all projects worth more than Rs50 million according to Pakistan Environmental Protection Act, 1997.

There are no details available to the public, yet the chief minister has announced that work on the road-widening would start immediately after Eidul Azha. Given the track record of the government departments involved, it is feared that the priceless, speechless trees (more than 5000 trees) will be the first casualty of this unplanned and illegal development.

It is feared that to thwart the efficacy of a legal action and to frustrate possible court orders, the Punjab government will launch an operation to cut a large number, if not all, of these trees overnight.

Reminding the CJP, of his 2006 decision in which he saved these trees that form the backbone of Lahore's proud green through a suo moto notice, in which the previous government was ordered to stop the illegal cutting of trees that it had started to implement a similar illegal scheme costing over Rs700 million, the letter pleaded for a similar measure at this crucial hour.

It is an undeniable fact that the EIA conducted for this purpose was rejected overwhelmingly by the citizens of Lahore at the public hearing after a spurious EIA was conducted in

haste and the government tried to push it through without meeting its obligations under the law.

It is pertinent to mention that a case is pending in the Lahore High Court against the EIA for the previous project. And now, against all logical reasoning, merits and legality, this new project by the government of Punjab has been announced that is more than four times bigger than the previous one.

The letter further pointed out the possibility of personal reasons motivating this project mentioning that in the present economic crisis, the feasibility of a Rs3.15 billion project which is also blatantly against the environment is not just questionable but needs be investigated as to why is this project being prioritized whereas many other projects with must positive public impact are pending.

The project envisages felling of over 5000 mature trees and taking away 51 acres of green land from the general public. This has been the lifeline of the Lahorites for a century. The felling of these trees would cause irreparable damage to the city by increasing the ever-growing pollution.

It is a settled matter

amongst urban planners the world over that widening of roads in this way can never provide a solution to the traffic problems of an urban area, the decision regarding the road-widening is also against the master-plan of the city and suffers from major defects in terms of urban planning and transparency. The illegality and insanity of degradation of the Lahore Canal in order to create an expressway cutting through the heart of the city, has been discussed in detail by other concerned groups.

CCP objected on the fact that the government has never before, and neither this time, consulted any established and well respected urban planners for such plans. It seems that the entire decision making process only involves yes-men in bureaucracy or others who are interested in such projects for ulterior reasons.

Expressing it as the most urgent matter of concern CCP feared that the trees might be cut illegally during the Eid Holidays to push this project due to the eagerness and the greed of government officials and contractors which would cause irreparable loss and hence endanger the right to life for the citizens of Lahore.

SUO MOTO ACTION TAKEN BY THE HON'BLE CHIEF JUSTICE OF PAKISTAN ON THE NEWS ITEMS PUBLISHED IN "THE DAILY NEWS" DATED 26-11-2009, RESTRAINING THE CHIEF SECRETARY, PUNJAB, SECRETARY ENVIRONMENT PUNJAB AND CONCERNED PROJECT MANAGER TO CUT DOWN THE TREES.

I have gone through the note put up by the Registrar whereby attention has been drawn towards news item published in "The Daily News dated 26-11-2009 wherein it has been stated that Government of Punjab intends to cut down over five thousand mature trees, some of those are hundred years old, under the garb of canal widening project. The news items further report that the Government has not conducted an environmental impact assessment for the said project which is likely to cost Rs.3.15 billion. This controversy had remained subject matter of the proceedings initiated in year 2006 by filing a petition under Article 184(3) of the constitution as well as in exercise of Suo Moto jurisdiction on the news item, but it seems that at that time the project was postponed. It is apprehended that if expedient legal action is not taken the Government of Punjab shall succeed in cutting the trees during Eid holidays, meaning thereby that any action if taken by this Court later on it shall be an futile exercise and prima facie violation of the ^{of the citizens} rights) under Article 9 of the Constitution of Islamic Republic of Pakistan shall be perpetuated.

It may be noted that it is not the first case in which the Supreme Court has exercised the Jurisdiction. Earlier to this Court had taken up the matter of 'New Murree' project which now has been dropped by the Punjab Government on having considered that accomplishment of project is impossible for number of reasons. Similarly in the case of 'Jehangir Park' wherein District Government, Karachi was prevented not to convert said park into a parking plaza. Reference of mini Golf Club is yet another example in this context.

(2)

Thus keeping in view above precedents as well as for the reasons that such action by the Government is contrary to Article 9 of the Constitution, I direct that let the news item published in "The Daily News" dated 26-11-2009 be treated as a petition under Article 184(3) of the constitution and pending its decision the Government of Punjab through Chief Secretary as well as the Secretary Environment and officer Incharge of the project are hereby restrained to undertake any exercise in this behalf including cutting and falling down the trees. A Comprehensive report shall be submitted in Court at Islamabad on 1st December, 2009. Notice to Advocate General Punjab be also issued. Instant restrained order shall be served upon Chief Secretary Govt: of Punjab with direction to implement it accordingly.

LAHORE

DATED 27-11-2009

DRS

CCP Save! These Trees Before Will Be Done Again?

The news item captioned above appearing in the Daily News dated 26th November 2009. The Concerned Citizens Society of Pakistan (CCP) have requested the Government to take immediate suo moto action against illegal cutting of over 5000 mature trees, some over a 100 years old, for a highly controversial Canal Widening Project, the legality of which is unclear. It is stated that the Government of the Punjab has approved the widening of road widening at the estimated cost of Rs. 3.15 billion. It is alleged that the project is being executed without the legal requirement of having carried out the environmental impact assessment as provided under the Environmental Protection Act 1987. The CCP have expressed the apprehension that the Government may carry out the widening of road during the Eid holidays to thwart any possible legal action and frustrate the citizens' concerns. It is stated that earlier on in the year 2006, the CCP under a suo moto petition had also issued an order to save these trees from being felled. The CCP has expressed the growing apprehension that all the trees might be illegally cut down during the widening of road project due to the eagerness and greed of Government contractors, which would cause irreparable loss and further endanger the lives and health of the citizens of Lahore. The CCP have accordingly requested the Government to take immediate suo moto action on the matter (Copy of the news item enclosed).

CCP

C.I saved these trees before, will he do it again?

Our correspondent

LAHORE: Where do the officials go when their own rules become obsolete? Minister Inayatullah Khan has pleaded his innocence in illegal actions during religious holidays, and it is not clear when they may get their own rules updated in the coming months.

The former Chief Minister of Punjab (C.M.P.) has pleaded his innocence in illegal actions during religious holidays, and it is not clear when they may get their own rules updated in the coming months.

In a letter to the C.I.P., the government approved the project, which is estimated to cost Rs3.15 billion and the details of which have been kept secret by the relevant authority. The letter points out that the government has not conducted an Environmental Impact Assessment (EIA) for the Rs3.15 billion project and it is to be conducted for a project worth more than Rs50 million according to Pakistan Environmental Protection Act, 1997.

There are no details available to the public, yet the chief minister has announced that work on the road-widening would start immediately after Eid-ul-Azha. Given the track record of the government departments involved, it is feared that the priceless, speechless trees (more than 5000 trees) will be the first casualty of this unbridled and illegal development.

It is feared that to thwart the efficacy of a legal action and to frustrate possible court orders, the Punjab government will launch an operation to cut a large number, if not all, of these trees overnight.

Reminding the C.I.P. of his 2006 decision in which he saved these trees that form the backbone of Lahore's proud green through a suo moto notice, in which the previous government was ordered to stop the illegal cutting of trees that it had started to implement a similar illegal scheme costing over Rs700 million, the letter pleaded for a similar measure at this crucial hour.

It is an undeniable fact that trees are being cut for this purpose was rejected overwhelmingly by the citizens of Lahore at the public hearing after a spurious EIA was conducted in

waste and the government tried to push it through without meeting its obligations under the law.

It is pertinent to mention that a case is pending in the Lahore High Court against the EIA for the previous project, and now against all logged reasons, merits and legality this new project by the government of Punjab has been announced that is more than four times bigger than the previous one.

The letter further pointed out the possibility of personal reasons motivating this project mentioning that in the present economic crisis, the feasibility of a Rs3.15 billion project which is also blatantly against the environment is not just questionable but needs be investigated as to why is this project being prioritized whereas many other projects with most positive public impact are pending.

The project envisages felling of over 5000 mature trees and taking away 51 acres of green land from the general public. This has been the lifeline of the Lahorites for a century. The felling of these trees would cause irreparable damage to the city by increasing the ever-growing pollution.

It is a settled matter

amongst urban planners the world over that widening of roads in this way can never provide a solution to the traffic problems of an urban area. The decision regarding the road-widening is also against the master plan of the city and suffers from major defects in terms of urban planning and transparency. The illegality and absurdity of degradation of the Lahore Canal in order to create an expressway cutting through the heart of the city has been discussed in detail by other concerned groups.

C.I.P. objected on the basis that the government has not consulted any established and well respected urban planners for such plans. It seems that the entire decision making process only involves yes-men in bureaucracy or others who are interested in such projects for ulterior reasons.

Expressing it as the most urgent matter of concern C.I.P. feared that the trees might be cut illegally during the Eid holidays to push this project due to the eagerness and the greed of government officials and contractors which would cause irreparable loss and hence endanger the right to life for the citizens of Lahore.

IN THE SUPRME COURT OF PAKISTAN
(Original Jurisdiction)

PRESENT:

Mr. Justice Iftikhar Muhammad Chaudhry, CJ.

Mr. Justice Mian Shakirullah Jan

Mr. Justice Tariq Parvez

Suo Moto Case No.25 of 2009

(Regarding Cutting of Trees at Canal
Widening Project Lahore)

On Court Notice: Ch. Khadim Hussain Qaiser, Addl. A.G. Pb.
 Mr. Imtiaz Abid, Chief Engineer, TEPA, LDA
 Mr. Israr Saeed Khan, Project Director, TEPA, LDA
 Mr. Nawaz Malik, Dy. Director (L & A)

Volunteer Appeared: Ms. Imrana Tiwana, Architect/Convenor,
 Lahore Bachao Tehrik
 Ms. Saima A. Khawaja

Date of hearing: 01.12.2009

ORDER

Chief Secretary, Government of Punjab, in response to the notice dated 27.11.2009 has filed Environmental Approval for the project of widening of existing canal road (Lahore) under process whereas apprehension of the general public is that a good number of old trees shall be chopped. However, this approval is signed by Assistant Director (EIA). We inquired from Dy. Director Nawaz Malik about the actual report of EIA, which is to be issued by the Provincial Environmental Protection Agency, he replied that the Chief Secretary is the EIA. But *prima-facie* we are not inclined to accept this report as EIA. In this behalf the Secretary and D.G. Environment should have attended the Court along with complete record of proceedings on the basis of which, this report of EIA was prepared. However, Ms. Imrana Tiwana, a professional architect appeared along with other professionals in the field of environment and stated that the apprehension of the citizens of the Lahore is that, by spending huge amount of Rs.3.15 billions, the heritage of Lahore is being destroyed only for the purpose of extending benefits to 8 to 10% of the total population of the city of Lahore, whereas there are so many other ways & means, which can be followed and this amount can be spent for other purposes, including providing transportation facility etc. and traffic rush on this canal road can be minimized by adopting alternate routs i.e. Multan Road and Main Buliward Road. She quoted examples of the

foreign countries where in order to save the heritage, the governments of the time have taken drastic steps, on the basis of which such like constructions, to control the traffic were demolished and the original positions of the heritage have been restored.

2. Be that as it may, Ms. Imrana Tiwana, who claims herself to be representing citizens of Lahore, is required to put up a comprehensive reply in this behalf. At the same time, the Chief Secretary as well as the Secretary and D.G, Environment shall also file comprehensive report in order to convince that under the present prevailing situation in the country i.e. economic and terrorism etc. whether it is viable to spend a huge amount at the cost of damaging the heritage as it has been alleged and whether environmentally it is feasible to chop the old and matured trees as some of them are more than 100 years old.

3. With the consent of the parties, we adjourn this case to 21st December, 2009. In the meanwhile no chopping/cutting of the trees shall be undertaken by the Government of Punjab. The Chief Secretary is required to implement this order accordingly.

Islamabad, the
1st December, 2009

Nisar/*
3/12

IN THE SUPRME COURT OF PAKISTAN
(Original Jurisdiction)

PRESENT:

Mr. Justice Iftikhar Muhammad Chaudhry, CJ.
Mr. Justice Anwar Zaheer Jamali
Mr. Justice Khilji Arif Hussain

Suo Moto Case No.25 of 2009

(Cutting of trees at Canal Widening Project Lahore)

Voluntarily appeared: Mr. Ahmer Bilal Sufi, ASC
 Ms. Imrana Tiwana, Architect/convener
 Mr. Rafeh Alam
 Mr. Kamil Khan Mumtaz
 Ms. Fariyal Ali Gohar
 Mr. Ali Habib, D.G. WWF, Pakistan

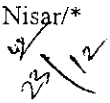
On Court notice: Ch. Khadim Hussain Qaiser, Addl. A.G. Pb.
 Mr. Salman Aslam Butt, ASC for LDA
 Sajjad Saleem Motiana, Secy. Environment, Pb.
 Dr. Shagufta Shahjehan, D.G. Environment
 Mr. Nawaz Malik, DD (L & E) Environment
 Mr. Naseem Shah, DD (E/A) Environment
 Mr. Shaukat Hayat, DO (Env.) Rawalpindi
 Mr. Israr Khan, Project Director, TEPA, Lahore
 Mr. Muhammad Younas Ch. Ch. Engineer, TEPA, Lr.

Date of hearing: 21.12.2009

ORDER

Adjourned to 15th January, 2010.

Islamabad, the
21st December, 2009
Nisar/*

Handwritten signature and date: 23/12

IN THE SUPREME COURT OF PAKISTAN
(APPELLATE JURISDICTION)

PRESENT:

Mr. Justice Iftikhar Muhammad Chaudhry, CJ.
Mr. Justice Ch. Ijaz Ahmed
Mr. Justice Ghulam Rabbani

Suo Motu Case Nos. 25 of 2009.

(Cutting of trees at Canal Widening Project
Lahore)

For Lahore Bachao Tehrik:

Mr. Ahmer Bilal Sufi, ASC
Ms. Inrana Tiwana, Architect/convenor
Ms. Fariyal Ali Gohar

On Court Notice:

Mr. Saeed Yousaf, Addl. A.G. Pb.
Mr. Salman Aslam Butt, ASC for LDA
Dr. Shagufta Shahjehan, DG, Environment
Mr. Naseem Shah, DD(E/A) Environment
Mr. Shaukat Hayat, DO (Env.) Rawalpindi

Date of hearing:

15.01.2010

ORDER

Both the parties have filed additional documents in support of their respective contentions, therefore, some time is required by them to go through the same so they may advance their arguments in the light of the law on the subject as well as the material previously filed and the one now brought on record.

2. With the consent, adjourned to 11.2.2010.

Islamabad
January 15, 2010
"A.Rehman"

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2/11

IN THE SUPREME COURT OF PAKISTAN
(ORIGINAL JURISDICTION)

PRESENT:

Mr. Justice Iftikhar Muhammad Chaudhry, CJ.
Mr. Justice Ch. Ijaz Ahmed
Mr. Justice Ghulam Rabbani

Suo Motu Case No.25 of 2009

(Cutting of trees at Canal Widening Project Lahore)

For Lahore Bachao Tehrik: Mr. Ahmer Bilal Sufi, ASC
Ms. Imrana Tiwana, Architec/Convener

On Court Notice: Ch. Khadim Hussain Qaiser, Add.A.G
Mr. Salman Aslam Butt, ASC for LDA
Dr. Shagufta Shahjehan, DG, Environment
Mr. Naseem Shah, DD(E/A)
Mr. Shaukat Hayat, DO (Env.) Rwp.

Date of hearing: 11.02.2010

ORDER

Court time is over. Adjourned to be fixed in the 2nd week of March,
2010.

Islamabad, the
11th February, 2010
Nisar/*

13/2
at: Bait

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

Present:

Mr. Justice Javed Iqbal
Mr. Justice Muhammad Sair Ali
Mr. Justice Tariq Parvez

**S.M.C.No.25/2009, HRC.Nos.16167-P/2009, 18867-P/2009, 20069-P/2009 a/w
SMC.25/2009, 1048-P/2010**

1. Action regarding cutting trees at Canal Widening Project Lahore upon a news clipping published in "The Daily News" dated 26.11.2009
2. Ahmad Rafay Alam
3. Ali Hassan Habib
4. Syed Azhar Hussain Rizvi
5. Akhlaq Ahmed Khan

VOLUNTARY APPEARED:

Ms. Imrana Tiwana, Architect/Convener
Mr. Rafeh Alam
Mr. Kamil Khan Mumtaz
Ms. Fariyal Ali Gohar
Mr. Ali Habib, DG, WWF-Pakistan

ON COURT NOTICE:

Mr. Salman Aslam Butt, ASC
Sajjad Saleem Motiana, Secy. Environment Pb
Dr. Shagufta Shahjahan, DG Environment, Pb
Nawaz Malik, DD (L@ E) Environment Pb
Naseem Shah DD (E/A) Environment Pb
Shaukat Hayat, DO (Environment) Rwp
Israr Khan, Project Director, TEPA, Lahore
Muhammad Younas Ch, Chief Engineer, TEPA, Lahore

Date of Hearing: 8.3.2010

ORDER

Mr. Ahmar Bilal Sufi, learned ASC is not present due to sad demise of his mother. Matter adjourned. To be fixed after two weeks.

Islamabad,

8.3.2010

Iqbal Naseer /*

13/3

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:

MR. JUSTICE IFTIKHAR MUHAMMAD CHAUDHRY, C.J.
MR. JUSTICE CH. IJAZ AHMED
MR. JUSTICE KHALIL-UR-REHMAN RAMDAY

Suo Moto Case No.25/2009.

(Cutting of trees of Canal Widening Project Lahore)

For Lahore Bachao Tehrik: Mr. Ahmer Bilal Sufi, ASC
 Ms. Imrana Tiwana, Architect/convener

On Court notice: Mr. Saeed Yousaf, Addl. A.G. Pb.
 Mr. Salman Aslam Butt, ASC for LDA
 Dr. Shagufta Shahjehan, DG, Environment
 Mr. Amjad Warraich, Director PHA
 Mr. Asrar Saeed Khan, P.D. TEPA
 Mr. Ehsanul Haq, M.D. TEPA.

Date of hearing: 25.03.2010

ORDER

Mr. Salman Butt learned counsel stated that some time be given to the Project Director for further studying the issue and submitting some alternate solution of the same. Adjourned to a date in office after three weeks.

Islamabad
25-03-2010
A. Rehman

r/
v/

IN THE SUPREME COURT OF PAKISTAN

(Appellate Jurisdiction)

PRESENT:

MR. JUSTICE IFTIKHAR MUHAMMAD CHAUDHRY, C.J.

MR. JUSTICE CH. IJAZ AHMED

MR. JUSTICE GHULAM RABBANI

Suo Moto Case No.25/2009 &
H.R.Cs.No.16167-P/09,18867-P/09,
20069-P/09,1048-P/2010,20350-P/09
& 21399-P/2009

(Cutting of trees at Canal Widening Project Lahore)

For Lahore Bachao Tehrik: Nemo

On Court's notice: Mr. Saeed Yousaf, Addl.A.G. Pb.
Dr. Shagufta Shahjehan, DG, Environment

Date of hearing 19.4.2010

ORDER

There is a request for adjournment on behalf of Mr.

Salman Butt, ASC. Adjourned to a date in office.

Islamabad

19-4-2010

A. Rehman