

IN THE SUPREME COURT OF PAKISTAN
(Original Jurisdiction)

Present:

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

HUMAN RIGHT CASE NO. 21950-S OF 2009

(Complaint by Dr. Rahila Magsi,
Ex. Zilla Nazim, Tando Allahyar)

For the complainant	:	Mr. Abdul Hafeez Pirzada, Sr. ASC. Mr. K.A. Wahab, AOR. with Dr. Rahila Magsi, complainant.
On Court notice	:	Mr. Yousaf Leghari, AG Sindh Mr. Abdul Fateh Malik, Addl. AG Sindh. Mr. Tariq Ahmed Memon, DCO Mr. Shakeel Ahmed Sheikh, Dy. Director, Ministry of Education. Mr. Ramzan Parpar, EDO Education. Mr. Asghar Sh. Dy. Secy: BOR. Mr. Ghulam Qadir Marri, owner of the land.
Date of hearing	:	09.03.2010.

ORDER

IFTIKHAR MUHAMMAD CHAUDHRY, CJ. – This matter pertains to construction of a public school in District Tando Allahyar. It is the grievance of the complainant that for the construction of school, the landed property owned by one Ghulam Qadir Marri, situated at a considerable distance from the Town Tando Allahyar, has been negotiated by the concerned authorities on a higher rate of five to six lac rupees per acre, without adopting the proper procedure under the Land Acquisition Act, 1894.

2. Comments were called from the DCO, Tando Allahyar and the Senior Member Board of Revenue, etc. Comparative statement of rates of the land produced by senior Member Board of Revenue; reflects that the land was purchased by Ghulam Qadir Marri and others around the year 2007 at the cost of Rs.12,011.44 per acre but the said land is being acquired at a very higher rates. Admittedly there are many other factors which are required to be taken into consideration before acquiring the land for a public project like establishing school to include road facility, provision of electricity, water etc. and congenial atmosphere.

3. From the documents placed on record, nothing is indicated as to whether any survey was conducted before giving proposal to purchase the land of Ghulam Qadir Marri and others. Mr. Abdul Hafeez Pirzada, Sr. ASC contended that there are so many owners of the property in the area including the complainant Mrs. Rahila Magsi, who are willing to provide land for construction of public school free of cost. The DCO and the Revenue Officer present in Court state that her property is also situated faraway from the Tando Allahyar Town. Be that as it may, we cannot allow the parties, as it appears from their submission before us, to settle their political/personal account with each other in present proceedings. The object need to be that when the Government has to spend a huge amount for public purposes, such as school in the instant case, it should get the best property for the purpose of establishing a public project. Learned Advocate General Sindh, who has appeared on Court notice states that the Government shall acquire property suitable for the purpose of completion of project by following the procedure available under the Land Acquisition Act by issuing notices through the Board of Revenue.

4. Mr. Ghulam Qadir Marri is also present in Court. He states that he has not charged a single penny so far in respect of the land owned by him because he has given only proposal for the purpose of giving property and no violation of law has so far been made by him.

Keeping in view the above circumstances of the matter, we are of the opinion that since huge money has to be spent on this project, the concerned authorities i.e. Board of Revenue, Secretary Revenue, DCO should acquire more suitable land for the project where they can get more facilities, so the children of the area get proper education over there.

Thus for the foregoing reasons, we dispose of the matter with direction to the Board of Revenue, the Land Acquisition Officer concerned, the Provincial Secretary Education and the DCO concerned to acquire suitable land for the project of public School, according to law instead of negotiating the matter with the owners of the land for acquiring the same on higher rates. The process in this behalf must be completed within a period of three months so the funds allocated for this purpose are utilized properly.

Karachi,
09.03.2010.
Irshad /*

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12/3/10

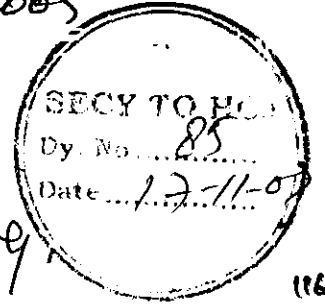
NOT APPROVED FOR REPORTING.



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No. ZNTA / (392) / 2009
ZILA NAZIM SECRETARIAT
TANDO ALLAHYAR.
Dated: 14/11/2009

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H.R. MEMO 21950-5/09

To,

✓ The Honourable Chief Justice,
Supreme Court of Pakistan,
Islamabad.

Subject: MIS-APPROPRIATION OF FUNDS IN ACQUISITION OF LAND FOR ESTABLISHMENT OF PUBLIC SCHOOL AT TANDO ALLAHYAR.

I have the honor to state that the Government of Sindh has sanctioned the schemes under ADP for establishment of public schools in some districts, which includes district Tando Allahyar for which the cost of land was initially kept in PC-I as Rs. 300,000/- per Acre for an area of 50 acres, being acquired for this purpose.

In this regard, the Secretary Education & Literacy Department Government of Sindh had asked the D.C.O Tando Allahyar to identify the suitable land to be acquired under the Land Acquisition Act 1894 in terms if PC-I.


As regards the land in District Tando Allahyar, it is learnt that D.C.O Tando Allahyar has identified following land without taking into consultation with Education Department, Government of Sindh and technical experts which is not suitable for establishment of Public School in terms of following facts.

1. That the land identified for this purpose is situated in Deh Jariyon, Taluka Chamber which is about 41 Kilometers away from Tando Allahyar.
2. That the land in question does not possess basic amenities viz Electricity. Gas as well as Road.
3. That the land is reportedly barren and lying uncultivated since long time for which Revenue Authorities in conveyance with the owner of this land have reported its market value/ cost as rupees above Rs.500,000/- per acre which even does not value / cost Rs. 50000/-per acre.
4. That the land in question is located at remote areas which involves law and other situation for the security of students and faculty members.

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5. That the selection of this land is meant to given under favor to a political man who belongs to Ruling Government.
 6. That the value of land has now been increased in PC-I from Rs. 300,000/- to Rs.500,000/- with malafide intention by P&D Department for the reasons not known.

In view of above, it appears that an attempt is being made to usurp the huge government of funds on acquisition of land at exorbitant rates of a less value/poor class of land to make the scheme useless in future.

It is therefore requested to kindly intervene into this matter and save huge government exchequer, amounting to Rs. 2,50,00,000/- (Two Crore Fifty Lacs) being misappropriated and some suitable land in terms of availability of all basic facility may be selected by Technical experts of Provincial Government for this Purpose keeping in view the silent features of scheme so that the public of this district may get quality education through establishment of this educational institution.


DR. RAHILA MAGSI
ZILA NAZIM
TANDO ALLAHYAR