

INQUIRY REPORT

AGAINST

CAPT (R) MUHAMMAD MAHMOOD (PAS/BS21),

EX-COMMISSIONER RAWALPINDI DIVISION.

By

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Inquiry Officer / DG Civil Services Academy

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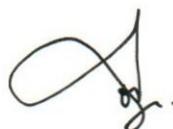
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I – INTRODUCTION

1. In order to resolve traffic-related problems of the twin cities i.e. Islamabad and Rawalpindi, Government of Punjab decided to undertake Rawalpindi Ring Road (R3) Project in 2016. In 2017, Rawalpindi Development Authority (RDA) engaged M/s NESPAK with Joint Ventures (JVs) as Transaction Advisor (TA) to prepare R3 project proposal on Public Private Partnership (PPP) mode. M/s NESPAK and JVs submitted the proposal which included alignment starting from Banth (N5) and terminating at Thallian (M2). The total length of the project was 58km including 38.4km main road alignment, 12.5km Rawat Link road and 7.1km rehabilitation of Fateh Jang road.

2. In 2018/19, Punjab Government decided to execute the R3 project through Asian Infrastructure Investment Bank (AIIB) loan so RDA engaged M/s Zeeruk Int, with JV in Sept 2019 for feasibility study and detailed design of R3 project. M/s Zeeruk and JV proposed the alignment from Radio Pakistan (N5) to Sangjani (N5) (63 Km) including the famous Attock Loop and Paswal Zigzag. M/s Zeeruk alignment excluded Rawat Link road & rehabilitation of Fateh Jang road and extended the R3 beyond M2 Motorway to connect with CPEC, M1 and N5. One of the key driving factors considered to extend the alignment was reservation of National Highway Authority (NHA) to accommodate heavy traffic on Motorways M2 & M1 and Capital Development Authority's (CDA) view point to connect the proposed Ring Road with Margalla Avenue (being constructed by CDA). In 2020, M/s NESPAK with JV's reviewed the M/s Zeeruk alignment and finalized with minor improvements. The key improvements included interchanges design, removal of unnecessary curves, avoided graveyard and giving the right of way for toll plaza. The total length of final proposed project was 65.3km.

3. The said project was to be implemented under the supervision of Commissioner Rawalpindi, who was Capt. (Retd) Muhammad Mahmood (PAS/BS-21).



However, in April 2021, Mr. Mahmood was removed from the post of Commissioner Rawalpindi and a three-member fact finding inquiry committee was notified on 27th April, 2021 by Mr Jawwad Rafique Malik- the then Chief Secretary - to look into the role of interested parties including government functionaries as well as private individuals, with particular reference to the role of ex-Commissioner Rawalpindi, Mr. Mahmood, as well as then DG RDA, Consultants and the Land Acquisition Collector (LAC) in respect of various charges of corruption, inefficiency and misconduct (**Annexure 108**). Three members of the fact finding Inquiry Committee, which had to report its findings within 10 days, included:

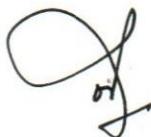
- i. Convener: Mr. Gulzar Hussain Shah, who replaced Mr. Mahmood as Commissioner Rawalpindi Division
- ii. Member: Additional Commissioner (Coordination) Rawalpindi Division, who at that time was Mr. Jahangir Ahmad
- iii. Member: Deputy Commissioner, Rawalpindi, who at that time was Capt. (Retd.) M Anwar-ul-Haq

4. It is pertinent to mention that Mr. Gulzar Shah sent the fact finding inquiry report to Chief Secretary Punjab without incorporating viewpoints of the other two members on 7th May 2021 (**Annexure 110**) and other two members wrote dissenting notes (**Annexure 109 & 111**) to the competent authority. Mr. Gulzar Shah alluded Mr. Mahmood as pivotal "node" of rent seeking syndicate and recommended criminal and disciplinary proceedings against him. Two other members of the committee did not find any major irregularities in the project. However, dissenting views of the two members were not given any weightage in subsequent departmental inquiry of Mr. Mahmood, which was conducted by Mr. Muhammad Ali Shahzada (PAS/ BS-22) who recommended Mr. Mahmood's "termination" from service to the competent authority. Meanwhile, before conclusion of departmental inquiry, an FIR was registered by Anti- Corruption Establishment (ACE),



Punjab, against Mr. Mahmood on 13th July 2021 and he was arrested by ACE for 13 days. Later on, he was sent to judicial custody (jail) and remained in jail for more than 4 months (129 days). Mr. Mahmood was granted bail on 18th Nov 2021 by the Lahore High Court on the basis of lack of evidence. After the accused got bail from the court, he was given show-cause notice by the competent authority. In reply, the accused pointed out legal lacunae in departmental inquiry due to which de-novo inquiry was ordered by the competent authority and Establishment Division notified the same vide Inquiry Order No.1/7/2021-D.1 on 20th April, 2022 (**Appendix - I**) and appointed the undersigned as Inquiry Officer to conduct inquiry proceedings against Capt. (Retd.) Muhammad Mahmood (PAS/BS-21), Ex-Commissioner, Rawalpindi Division, Rawalpindi. A team comprising Additional Commissioner Revenue (assisted by Financial Specialist PMU and Assistant Commissioner, Revenue, Commissioners' Office, Rawalpindi), Rana Aftab Ahmad, Deputy Director (General) and Mr. Abdul Hameed, Deputy Director (Legal), Anti-Corruption Establishment, Punjab, were also appointed as Departmental Representatives under Rule 9(1)/(c) of the Civil Servants (Efficiency and Discipline) Rules 2020, to perform the functions mentioned in Rule 15 of the Rules *ibid*. The TORs, charge sheet against Mr. Mahmood and statement of allegations against him are attached given in (**Appendix – I**).

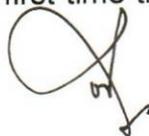
5. This de-novo inquiry has been conducted, to look into the charge sheet issued by Establishment Division against the accused, Mr. Mahmood, in accordance with the provisions contained in Rule 10 read with Rule 12 of the Rules *ibid* and has been completed well within the prescribed limit of sixty (60) days from the date of issuance of the inquiry order. **The Inquiry Officer is submitting the inquiry report with clear findings as to whether the charge or charges have been proved or not proved and with specific recommendations regarding exoneration or imposition of minor or major penalty or penalties upon the accused officer. The undersigned has also endeavored**



to recommend future course of action concerning other key players / individuals involved, as well as recommended future course of action on the viability of the Rawalpindi Ring Road Project, keeping in view its national importance and the "Public Interest" of the twin cities involved.

Now it is up to the competent authority to either agree or disagree with these specific recommendations which originally were not part of the charge sheet I was asked and mandated to inquire and recommend. Because of the very fact that these recommendations have directly arisen out of the subsequent consequences directly associated with the conduct of the original fact finding inquiry report. I am duty bound being a "Civil Servant" to comment upon these.

6. The inquiry was conducted in three sessions by calling all the defense as well as prosecution witnesses, the accused and Departmental Representatives (DRs) at one place and at one time, ensuring all the elements of justice are taken care of and the legal provision as well the legal process under E&D rules is strictly adhered to. In order to prepare and submit his reply to the charge sheet issued by Establishment Division in de-novo inquiry order, Mr. Mahmood, requested for the provision of several documents from the DRs. After provision of the required record, the accused submitted his reply to the undersigned - the inquiry officer – on 13th May, 2022. Then, letters were issued by the undersigned on 14th May, 2022 to the accused, DRs and witnesses to appear before Inquiry Officer, on 19th May, 2022, for recording their statements and cross-examination as per E&D Rules, 2020. Thereafter, the accused, the DRs and the witnesses appeared before the undersigned on 19th May, 2022, where ample opportunity was given to all the participants including Mr. Gulzar Shah, the convener of the fact finding inquiry committee for giving their statements and cross-examining them in presence of the accused. It is worth mentioning that it was the first time that the accused was given his due legal right to



be heard and was given the opportunity to cross examine the witnesses as well as the departmental representatives. The second session of inquiry proceedings took place on 24th May, 2022 where some of the witnesses, the accused and the DRs were asked to appear before the undersigned to record their statements. During this session, the witnesses present in the session recorded their statements and were cross- examined by the accused in the presence of inquiry officer as well as the departmental representatives. The third & last session of the inquiry was conducted on 28th May, 2022 in which the remaining witnesses, the DRs and the accused were again given an opportunity to cross examine and to record their statements thus ensuring that no stone is left unturned to ascertain true facts of the case. The names of witnesses, their presence and dates of their appearance before the inquiry officer are given in **(Appendix – V)**.

7. A concerted, diligently deliberated conscious effort has been made to give crystal clear findings and recommendations after conducting this *de-novo* inquiry keeping in mind the very fact that this inquiry could have ever lasting implications for undertaking future mega development projects of such nature and importance in general and PPP mode of financing in particular.

It is thus my endeavor to analyze the project holistically with forward and backward linkages in order to fully explore and to better understand the legal as well the technical issues confronted by this unique and inimitable PPP project of such scope, dimensions and importance being undertaken by the Government of the Punjab. In order to conduct said holistic analysis of the Project, it is imperative to assess the accuracy and reliability of the FFIR which was the principal basis of action taken against the accused.



II – CRITICAL APPRAISAL OF R3 FACT FINDING INQUIRY REPORT

8. As mentioned in para 3 above, the Fact Finding Inquiry Committee was notified on the 27th of April 2021, vide Notification **No. SO (I&C-I) 5-9/2021**, with the TORs to investigate 9 issues regarding the Rawalpindi Ring Road (R3) project (**Annexure 108**). It is reiterated that the committee was composed of the following members:

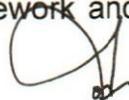
- i. Commissioner, Rawalpindi Division (Convener)
- ii. Additional Commissioner (Coordination), Rawalpindi Division (Member)
- iii. Deputy Commissioner, Rawalpindi (Member)

9. The Fact Finding Inquiry Report (FFIR) that was produced by the Convener of said committee did not include the input of the other two members of the committee, who submitted their own dissenting reports that were contrary to the one submitted by the Convener.

10. The FFIR is the primary document on which the entire structure of the charges and allegations against the accused rests. Therefore, it is imperative to conduct a critical appraisal of the FFIR to discern its reliability as an evidential document. To assess the accuracy of the evidence that FFIR presents to prove the charges leveled against the accused, recourse shall also be made to the dissenting reports and statements of witnesses heard and submitted during the current inquiry.

11. **Critical appraisal of Fact Finding Inquiry Report in light of comments of dissenting Members of Fact-Finding Inquiry Committee, statements of witnesses and the record / documentary evidence produced before me:**

It is found that the Fact Finding Inquiry Report is an illegal and mala fide foundation to build the whole case. The framework and structure of the FFIR follows the TORs and



issues mentioned in the notification **No. SO (I&C-I) 5-9/2021** notified by Chief Secretary on 27th of April 2021 (**Annexure 108**). In the various sections of the FFIR, the Convener Mr. Gulzar Shah, addresses the 9 issues mentioned in the TORs. An assessment of the genesis of the TORs and the way the Fact Finding Inquiry was conducted will reveal that the FFIR is an illegal document developed using mala fide intent. **It is a settled principle of law that if the original document which is the basis of action is illegal and void, all the superstructure, in the form of subsequent administrative and criminal actions, based on it also fall with the original document.**

12. **Proving the Illegality of FFIR:**

i. The first question that must be asked is that under which law was the Fact Finding Inquiry Report notified. The notification of Fact Finding Inquiry Committee dated 27th April 2021 (**Vol – II: Annexure 108**), does not mention any law under which the Fact Finding Inquiry Committee was notified. To inquire about a Project of this scope and significance, it was imperative to have a solid legal basis for initiating such a Fact Finding Inquiry. This raises questions as to the legality of the Fact Finding Inquiry Committee as well as questions about how such broad TORs originated.

It is noted that the principal Rules that deals with efficiency and disciplinary proceedings against civil servants are the **Civil Servants (Efficiency & Discipline) Rules 2020**. Under this law, Rule 18(2) mentions the mechanism of probe or fact finding inquiry:

“18(2): In case of members of All Pakistan Service posted in a Province, Establishment Division may refer a case to the Chief Secretary concerned for probe or fact finding inquiry and may initiate proceedings on

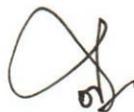


the findings of that probe or fact finding inquiry, or on its own if no findings are received within two months.”

As per the notification of Fact Finding Inquiry Committee dated 27th April 2021, there is no mention that the case for constitution of fact finding inquiry committee has been referred to the Chief Secretary by Establishment Division. **This irregularity of procedure warrants the question that under what legal provision did the Chief Secretary constitute the Fact Finding Inquiry Committee to probe the case of the accused.** In case a probe was deemed necessary by the Chief Secretary, it would have been commensurate with the law to refer the case to the Establishment Division to initiate proceedings against the accused in the manner prescribed in the Rules, especially in light of the fact that at the time of initiation of FFIR, the accused was not at the disposal of Government of Punjab. The statement of Mr. Jawwad Rafique, Former CS Punjab, indicate that TOR's of the FFIC were being dictated from elsewhere **(Annexure – H)**. Since the aforementioned Rules were not followed, it is asserted that the constitution of the Fact Finding Inquiry Committee with its broad TORs was illegal, and hence the FFIR by extension is illegal and *void ab initio*.

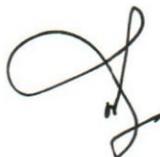
ii. The FFIR was made the basis of action to be taken against the accused despite the fact that it is a minority report which is countered by the reports of the remaining two members of the Fact Finding Inquiry Committee. It is an established legal practice that the minority view cannot take precedence over opposing views of the majority. The fact that the minority view was processed is a clear violation of this basic and established principle of law.

iii. As per the statement of former Member PPP/Head PPP cell, “*the Commissioner Rawalpindi (Convener of Fact Finding Inquiry Committee, Mr.*



*Gulzar Shah) in his capacity as the Project Director of the R3 project, had already made up his mind to halt the bidding process and had already declared his views, which ultimately formed the basis for notification of the Fact-Finding Inquiry Committee led by him. **How can it be presumed that an officer who has framed the issues himself, and had already declared his views on those issues, can chair the Inquiry Committee himself and ensure a fair probe in the wake of his declared/preconceived notions?*** This is a clear case of conflict of interest which should be kept in view while ascertaining the veracity of unsubstantiated conjectures reported by the Convener of Fact Finding Inquiry Committee. (refer to the written statement of Dr. Farrukh Naveed, Ex-Member PPP – P&D Board and **(Annexure – P)**).

iv. Various officers including *“members of the PPP P&M Board, Administrative Departments and agencies including HUD&PHE, C&W, Punjab Ring Road Authority/ Executing Agency, PPP Cell/ PPP Authority as well as P&D Board have not been consulted during the course of said inquiry which is a clear and blatant violation of the Punjab Govt. Rules of Business. All these departments remained part of the decision making process relating to R3 project but **the inquiry officer acted in a manner which was not fair and inclusive, rather the inquiry was conducted in isolation with preconceived/declared objectives to be presented as findings of the inquiry**”* (as per statement of former Member PPP/Head PPP cell), **(Annexure – P)**. It would have been in fitness of things if their input/comments were solicited as well for reaching any logical conclusions of the inquiry. Thereafter, an ex post facto effort to seek comments of these relevant organizations was made by the convener which was declined by all the departments. According to the statement of Ex-DG RDA,

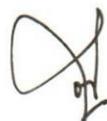


“During the fact finding, the undersigned was never once called before the Committee to explain the reasons for various actions and decisions to be taken in good faith to promote a public good” (Annexure – L). Such statements as well as the failure of the Convener of the Fact Finding Inquiry Committee to coopt technical members in the fact finding process and his failure to incorporate the views of the dissenting members of the Fact Finding Committee prove that the Convener conducted his inquiry in isolation. **This failure to include input from various departments is a clear violation of Rules 5(a) & (b) of the Punjab Govt. Rules of Business (ROB) 2011.** Subject summary (Annexure – 112) was submitted to the Chief Minister by the then Chief Secretary, Punjab without consultation with the relevant departments. The Chief Secretary’s Office was bound to ensure processing of CM Summary as per ROB 2011, which was not followed.

From the contents of the summary it is clearly observed, despite as stated by the Convener of the Fact Finding Inquiry Committee in para 3, that **input from prescribed and necessary departments i.e. Law, C&W, P&D, Finance, Board of Revenue and HUD&PHE may be obtained which were not taken, is tantamount to violation of above stated provisions of ROB.**

v. The initiation of the subject summary (Annexure – 112) itself by the Convener of the Fact Finding Inquiry Committee directly to the Chief Minister is also fraught with glaring acts of omission and violations of following provisions related to Punjab Govt. Rules of Business (ROB) 2011. Rule 3(3) of ROB states:

“The Business of the Govt. shall be distributed among several departments in the manner indicated in the Second Schedule”.



In the Second Schedule, the subject of land acquisition and compensation falls under the heading 'Board of Revenue'. It clearly reflects that letters pertaining to Land Acquisition fall under the jurisdiction of Board of Revenue and any matter thereof to be brought into the knowledge or requiring orders of Chief Minister has to be initiated by Board of Revenue or has to be routed through Board of Revenue. **However, in the present case, summary was directly initiated by the Convener of Fact Finding Inquiry Committee which in his capacity as Commissioner Rawalpindi, he was not authorized by law to initiate. It is also violation of Rule 10(1)(c) and 14(2) of Punjab Govt. Rules of Business 2011.**

The Commissioner was not authorized under the law to initiate a summary directly to the Chief Minister. The subject summary in question was neither initiated by the Chief Secretary, Departmental Secretary or the Board of Revenue nor was routed through the offices of its respective Administrative Department of the Board of Revenue. It points towards further illegalities in the process by which the FFIR was conducted, and negligence of Chief Secretary's Office.

vi. The report is also legally defective, for having violated the principle of natural justice, i.e. requiring an adequate notice, ensuring a fair and unbiased hearing (AUDI ALTERAM PARTEM). The accused was never served any notice by the Convener of the Fact Finding Inquiry Committee to explain his position with regard to any queries in his mind towards his conduct and role in the issue under scrutiny. **Serious allegations on the conduct and work ethics of the accused have been reported without affording any opportunity to the accused to defend the same. This is in violation of Articles 4 and 10A of the**



Constitution of the Islamic Republic of Pakistan, which deal with the *“Right of individuals to be dealt with in accordance with law”* and the right of *“a person [to] be entitled to a fair trial and due process”*. As an experienced government officer holding the post of Commissioner, the Convener of the Fact Finding Inquiry Committee had a legal duty to ensure that basic and fundamental Constitutional provisions are followed during the fact-finding inquiry process. The Chief Secretary’s Office also had the opportunity and responsibility to ensure fair trial and due process, and it is unfortunate to note that he failed on both accounts.

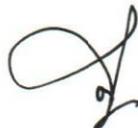
vii. **Various allegations are made against individuals for being involved in an alleged Rent Seeking Syndicate; however, no evidence of any nature what so ever to prove such claims has been presented in the FFIR.** The Convener of the Fact Finding Inquiry Committee was working under the self-anointed impression that he had to dismantle various nodes of corruption in a presumed Rent Seeking Syndicate. When inquired during the current inquiry proceedings, **the Convener of the Fact Finding Inquiry Report could mention only conjectures and vague, anecdotal evidence to substantiate his claims.** In paras 37 to 39 of the Fact Finding Inquiry Report, all individuals or housing societies condemned by the Convener have been incriminated using the words that they *“may have”* or were *“possibly”* part of the **alleged Rent Seeking Syndicate.** Even the Anti-Corruption Department could not come up with or find any evidence against all those on whom charges were leveled. Such incrimination of government officials by the Convener of the Fact Finding Inquiry Committee in the absence of any evidence violates the principle of law that every individual is innocent until proven guilty. **The burden of proof**



is on the prosecutor or the person leveling the charge to prove beyond reasonable doubt that a crime has been committed by the accused. These principles of law and natural justice have been violated by the Convener of the Fact Finding Inquiry Committee. This too is in violation of Articles 4 and 10A of the Constitution of the Islamic Republic of Pakistan, which deal with the "Right of individuals to be dealt with in accordance with law" and the right of "a person [to] be entitled to a fair trial and due process". It is reiterated that seemingly a seasoned government officer in the post of Commissioner, the Convener of the Fact Finding Inquiry Committee is expected and is duty bound to adhere to basic provisions of the constitution and law.

viii. **The conduct of inquiry by a junior officer (Convener of the Fact Finding Inquiry Committee) of an officer senior in rank to him (the accused) is a clear violation of the established legal practice and precedent that an officer senior in rank to the accused must conduct the inquiry of the junior officer.** While the E&D rules explicitly mention this legal principle in Rule 9(1)(a) regarding the appointment of Inquiry officer, the same principle can be applied to conduct of Fact Finding Inquiry due to the fact that firstly, this principle is an established legal practice and secondly, fact finding inquiries are envisaged under the framework of the E&D Rules (Rule 18(2)) and it would be legally sound to interpret that the same legal principle applied in Rule 9(1) should apply to Rule 18(2) of the same law as well.

ix. The Chief Secretary's Office did not ensure legal veracity of the case by not objecting to illegal and mala fide processing of the FFIR. Enough red flags were raised which he ignored. Mr. Jawwad Rafique, the then Chief Secretary Punjab, confessed that the directions were being conveyed from



elsewhere. He admitted the same fact while recording his statement on 28th May 2022 before the inquiry officer (**Annexure – H**). Some of the opportunities and responsibilities where Mr. Jawwad Rafique could have brought legal and rational sanity to the case are mentioned below:

- a. He could have asked the Establishment Division, Government of Pakistan to follow the process as envisaged under Rule 18(2) of E&D Rules 2020 to initiate the fact finding inquiry.
- b. He could have appointed an officer senior in rank to the accused to conduct fact finding inquiry under Rule 9(1)(a) of E&D Rules 2020.
- c. He could have changed the FFIC composition on submission of dissenting reports by two members of the inquiry committee and ordered a de-novo inquiry excluding Commissioner Rawalpindi being the successor in office and having conflict of interest.
- d. He could have ensured initiation of summary for the Chief Minister through respective administrative departments and not by the then Commissioner Rawalpindi Division.
- e. He could have ensured processing of the complaint initiated by the then DG RDA and summary for CM by the then Commissioner Rawalpindi through respective administrative departments.
- f. He could have ensured consultation with departments specially Law, FD, P&D, BOR & PHE&HUD being the relevant departments as required under Rule 3(3) and Rule 5(a)(b) of ROB 2011.



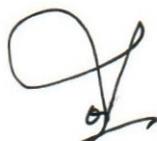
In light of the foregoing Mr. Jawwad Rafique former Chief Secretary Punjab is held responsible for not availing above mentioned opportunities to ensure fair trial and due process of Law, as enshrined in Article 4 and 10A of the Constitution of Islamic Republic of Pakistan.

13. **Proving mala fide intent of Convener of FFIC**

i. Non-inclusion of the reports of other two inquiry members clearly and categorically points out the mala fide intentions of the Convener of Fact Finding Inquiry Committee, especially in light of the fact that **the dissenting members of the Fact Finding Inquiry Committee disproved all allegations leveled against the accused based on their investigations, record and statement of witnesses.**

ii. As per the statement of former Member PPP/Head PPP cell (Annexure – P), ***“the fact finding report is misleading and based upon conjectures without any substantial evidence produced in support of most of the allegations. Certain facts have been misreported to create a scenario which could support the objectives already framed by the Convener.”*** The assumption of CM approved alignment (para 3 of FFIR) has been drawn and relied upon by the Convener of the FFIR; which is a clear case of misrepresentation of facts with an intent to mislead the Competent Authority. The relevant paragraph of FFIR is reproduced as under:

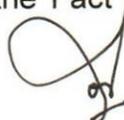
“Since summary discussed supra, submitted on the basis of NESPAK proposed alignment, and the approval was accorded by the CM on the basis of duly made comments by the departments & Chairman P&D Board – the Exhibit A is therefore a CM approved alignment. Any changes in the essentials of this



alignment [...] therefore would require approval of the Chief Minister before proceeding any further”.

As commented in the statement of former Member PPP/Head PPP cell, *“the summary in question was initiated by C&W Department to seek approval of the Chief Minister for change of executing agency from C&W to RDA and none of the paragraphs approved by the Chief Minister has had any proposal for approval of the route alignment by the Chief Minister. The route alignment was not even described in the said summary by any of the contributing departments. **Then how come it has been construed that the alignment proposed by NESPAK has had the status of ‘CM Approved Alignment’?**”* Thus, it was not only erroneous but also mala fide, concealment of facts and misrepresentation on part of the Convener of the Fact Finding Inquiry Committee to construe that the alignment proposed by NESPAK held the status of ‘CM Approved’ alignment. Former Member PPP/Head PPP cell further comments that *“**facts have been distorted and misreported to create an assumption of CM approved alignment with a view to challenge the alignment developed later for R3 project in PPP mode**”*. Such cherry picking and distortion of facts can be seen throughout the FFIR. As per statement of Ex-DG RDA (Annexure – L). *“it appears that the whole edifice of fact finding report is based on selective reading and subjective interpretation of record to cast aspersion on the officers who have performed their duties with utmost diligence and honesty. It is unfortunate that the report is conjectural at best and tendentious at worst.”*

iii. The then Commissioner Rawalpindi, Mr. Gulzar Shah, even before his appointment as Convener of the Fact Finding Inquiry Committee had revealed



his intentions and views regarding the R3 project which blatantly expresses his preconceived notions, fitting perfectly with his fabricated narrative (reference: written statement of former Member PPP/Head PPP cell) (**Annexure – P**). Prior to the last date for bid submission on 27th April 2021, the minutes of the Pre-Bid meeting (which were necessary for the potential bidders viz a viz required clarifications) were never issued by the Commissioner Rawalpindi as PD of R3. This shows that **“the new PD R3 (Mr. Gulzar Shah) had already made up his mind to call off this bid without making a reference to relevant competent forum i.e. Project Review Committee (PRC) / Board to accord prior approval in this regard”**. Various references were made to former Member PPP/Head PPP cell by PD/Commissioner Rawalpindi regarding cancellation of RFP and quashment of the bidding process without the endorsement of the Executing Agency (**Annexures A and C of written statement of former Member PPP/Head PPP cell**). This course of action was relentlessly, obsessively and single mindedly pursued by the Ex-Commissioner / PD Mr. Gulzar Shah even prior to the notification of the Fact Finding Inquiry Committee itself dated 27th April 2021. **In the absence of any cause of action, the Commissioner/PD’s moves to quash and sabotage the project reveal his preconceived objectives and mala fide intent regarding the project even before the initiation of the Fact Finding Inquiry.**

iv. **The complaint which was initiated by former DG RDA on the 26th of April 2021 for the Constitution of Fact Finding Inquiry Committee was signed under coercion and duress (Annexure – I).** This was the complaint that was submitted to the Chief Secretary that contained the seven questions and concerns which formed the TORs for the Fact Finding Inquiry Committee. Former



DG RDA (Capt. (R) Abdul Sattar Isani) has stated on oath – dated 24th May 2022 that *“there was no information at the back of fact finding inquiry (Annexure – M). Whole narrative was constructed by then Commissioner Rawalpindi. TORs of Fact Finding Inquiry Committee were drafted by Gulzar Shah sb. I was threatened for serious consequences and was forced to sign the complaint by Gulzar Shah sb. which was not based on facts. I did not find any illegality or malafide in the R3 project during inquiry.”* These findings clearly point towards mala fide intent on part of the Convener of Fact Finding Inquiry Committee.

v. Further unequivocal evidence points towards there being **MALA FIDE INTENT BEHIND THE FFIR**. Then Additional Commissioner (Coordination) Rawalpindi one of the dissenting FFI Committee member mentions on oath that (Annexure – J).

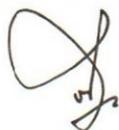
“There was no complaint against Capt. Mahmud prior to the posting of Mr. Gulzar Shah as Commissioner.

All questions and whole narrative was framed by Mr. Gulzar Shah in front of me and I was a witness to it and affirm it on oath of Holy Quran.

The Chief Secretary office only issued the probe mentioning all questions framed by Mr. Gulzar Shah. It would be first example where an officer framed allegations and then inquired them.

I was persuaded rather been made to face more than that in case of refusal to sign his probing report especially on the night of 6th & 7th May 2021”

Such acts to coerce the other members of the Fact Finding Inquiry Committee point towards clear mala fide intent on part of the Convener.



vi. Further doubts have been raised on the intent of the Convener of Fact Finding Inquiry Committee by the statement of former Deputy Commissioner Rawalpindi, another dissenting member of the FFI Committee (para 3 of written statement at **Annexure – I**). Closely observing the case first-hand, he concludes that the accused ***“was unfairly targeted despite carrying a flawless reputation”***. He further comments that ***“therefore, whether it was convener’s vested interest to sabotage the project by quashing the RFP and denotifying the Land Acquisition Awards which were beyond his powers or was it his moral indecisiveness or abasement to political and bureaucratic pressure needs to be thoroughly probed. This will set an example for the Civil Servants to uphold both the independence and the dignity of their positions and the institutions they command”***. Above referred political and bureaucratic pressures were cross validated by other witnesses like the former Chief Secretary Punjab, DG RDA, Additional Commissioner Coordination and Member PPP P&D Board (Refer to their respective written statements).

vii. The course of action taken by the then Commissioner Rawalpindi immediately upon posting, and prior to his appointment as Convener of Fact Finding Inquiry, provides further indication of prima facie mala fide intent on his part. **While the inquiry was initiated on the 27th of April, the then Commissioner Rawalpindi took charge on the 10th of April and the very next day on the 11th of April went to investigate Paswal Zigzag without any apparent cause of action.** In his statement, the convener of Fact Finding Committee Mr. Gulzar Shah did admit of meeting the Chief Secretary Punjab before he took charge as Commissioner Rawalpindi and reiterated the Chief Secretary’s directions to inquire into the so called controversial project in



question. **It is a clear indication that the Commissioner was acting on the basis of mere hearsay, conjecture and preconceived notions, even before the initiation of the Fact Finding Inquiry Committee.** During the course of inquiry proceeding, these facts were confirmed by the Convener of the Fact Finding Inquiry Committee himself as well as the then Director General of Rawalpindi Development Authority.

viii. R3 project was to be implemented in PPP mode. The said mode of financing is still new to the public sector and very few officers have the ability and the know how to undertake such projects in PPP mode. As per Notification of Fact Finding Inquiry Committee, dated 27th April 2021, the Convener of the Committee was authorized to co-opt any other member for technical assistance. **However, he being the Convener by design did not co-opt any engineer, legal, financial or PPP expert to assist the Committee in understanding the legalities and technicalities of the project.** Meaning thereby that the convener because of his very conduct has proved to be biased, partial and prejudiced in the instant case. **Without any prior experience of PPP projects, the Convener of the Committee did not have the competence to assess a PPP project of the scale of the Rawalpindi Ring Road.** That is why several conclusions are reached by the Convener in the FFIR based on assumptions and without any legal backing or evidence. The perfect example is the Convener's erroneous insistence that the alignment needs to be approved by the CM. There is no law that distinguishes between "Road Alignment" and "Road Project" separately. Similarly, there is no law which identifies the Chief Minister as competent authority for Road Alignment approval (refer to the statements of Chairman P&D Board and Officers of P&D Department at **Annexures – A,D,E & R**). **By not**



coopting the legal and technical experts to ensure impartiality and accuracy of the report, the Convener has revealed mala fide intent in trying to present his own narrative riddled with technical irregularities.

ix. Furthermore, complete lack of knowledge on part of the convener about the Laws for appointment of Land Acquisition Collector is glaringly evident on reading the FFIR. The Convener asserted that prior to giving LAC powers to Waseem Ali Tabish for Attock District, it was necessary to get NOC/permission from S&GAD as well as Board of Revenue. On the contrary, Commissioner was the competent authority to appoint any officer as Land Acquisition Collector: under Section 3(c) of Land Acquisition Act 1894 *“the expression ‘Collector’ means the Collector of a District appointed under the Punjab Land Revenue Act 1967 and includes any officer specially appointed by the Board of Revenue or the Commissioner”*. **Such knowledge of legal and technical details was essential as a prerequisite for conducting such Fact Finding Inquiry. The Convener has revealed mala fide intent in trying to present his own interpretation riddled with technical illegalities / irregularities.**

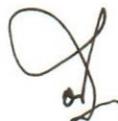
x. The comments regarding then ACR, Rawalpindi Division in FFIR further point toward an irregularity in the assertions made in FFIR. The FFIR suggests the name of said ACR for recommendation for Civil Award for “his hard work, presence of mind and staying steady under immense peer pressure”. However, the ACR in his written statement and upon questioning revealed that “during the period of probe no one has directly influenced the undersigned.” (Annexure – F). **This is clearly another distortion of facts by the Convener of the Fact Finding Inquiry Committee to mislead and create an atmosphere of**



suspicion and uncertainty, feeding into his ideological construct of a conspiracy hatched by the rent seeking syndicate.

Conclusion of Critical Appraisal of R3 FFIR

14. It is evident from the conjectures drawn by the convener that the Report against the accused is mala-fide in nature based on unsubstantiated claims, misleading distortion of facts and having been drawn by the convener through a process which was not fair, transparent, impartial, legal and un-biased as well as violative of the principles of natural justice. **The Convener of the Fact Finding Inquiry Committee, Mr. Gulzar Shah, distorted and twisted the facts to create, nurture and sustain a self-crafted ideological framework of a rent seeking syndicate and conveniently placed the accused at the very center of this cartel. The idea of a rent seeking syndicate is based on conjectures, false assumptions and mala fide inferences. These assertions are devoid of any supporting evidence.** The statements of the defense witnesses (Mr. Anwar ul Haq, Mr. Jahangir, Ms. Ammara and Dr. Farrukh clearly points out to this very fact – **Annexure – I,J,L, & P**). Entire framework employed by the Convener of the Fact Finding Inquiry Committee is in violation of Articles 4 and 10A of the Constitution of the Islamic Republic of Pakistan, which deal with the “Right of individuals to be dealt with in accordance with law” and the right of “a person [to] be entitled to a fair trial and due process”. It is again reiterated that an experienced government officer in the post of Commissioner, the Convener of the Fact Finding Inquiry Committee, had a duty to ensure that Constitutional provisions and rule of law must be followed during the fact-finding inquiry process and all legal processes are undertaken as per rational legal model instead of mere anecdotes and conjectures.



Key Findings

15. In light of the foregoing arguments substantiated by facts, legal provisions and the statements of witnesses:

- i. Fact Finding Inquiry Report is declared as illegal, mala fide driven with ulterior motives
- ii. Fact Finding Inquiry Report was null and void
- iii. All the subsequent actions taken thereafter were illegal having no standing in the eyes of the law and are declared void ab initio.

16. It was not just the convener of FFIC (Mr. Gulzar Shah) but also the Chief Secretary's Office that failed to ensure fair trial and due process of Law.

A handwritten signature in black ink, consisting of a large, stylized loop followed by a vertical stroke and a small flourish at the bottom.

III – CHARGE SHEET AGAINST CAPT (R) MUHAMMAD MAHMOOD (EX-COMMISSIONER RAWALPINDI DIVISION)

17. In light of the reply / defense submitted by the accused, perusal and scrutiny of the documentary evidence presented, examination and cross examination of the witnesses, legal provisions and analysis of each allegation: my comments on every charge leveled against Mr. Mahmood are listed below:

18. **Charge I**

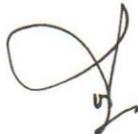
He while having no authority, issued Variation Order (VO) and unlawfully added scope of work for M/s Zeeruk Pvt. Ltd. and JV (Zeeruk & JV). M/s Zeeruk & JV had their scope limited to Rawalpindi Ring Road route alignment of 38.4 Km. Rawat Link Road 12.5 Km and Rehabilitation of Fateh Jang Road 7.1 Km. The VO got issued by him suffered from the following illegalities and irregularities and exercise of powers not vested in his office:

Comments

The documentary evidence produced before me and the statements recorded by the witnesses revealed neither any illegality nor irregularity in exercising of powers vested in Project Director (PD) Rawalpindi Ring Road (R3) and Project Management Unit (PMU).

Charge IA

Neither he nor the Project Management Unit (PMU) headed by him had the authority to issue the VO since the services contract was executed between Rawalpindi Development Authority (RDA) and M/s Zeeruk & JV and only RDA could issue a VO on lawful grounds.



Comments

Reply of the accused can be viewed at page 10 of Appendix – III.

The Variation Order was legally issued by DPD PMU as an authorized representative of RDA (the client) vide special condition SC1.6 of the services contract signed/executed between RDA & M/s Zeeruk International (Pvt) Ltd. The documentary evidence produced before me corroborates the same legal position (**Annexure 133**). In addition, the statements recorded by Mr. Asif Janjua Director (Admin & Finance), RDA (**Annexure – C**) and Mr. Aziz-Ullah Khan Deputy Director, RDA (**Annexure – R**) substantiate the above mentioned legal position. Hence the charge is not proved.

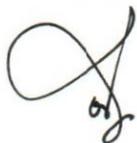
Charge IB

Through the VO, he illegally enhanced the scope of work whereby drastically changing the route alignment of Rawalpindi Ring Road to 66.3 Km long route of which 24 Km fell in District Attock. Nature and extent of such scope change required fresh bidding process which he willfully ignored.

Comments

Reply of the accused can be viewed at page 11 of Appendix – III.

The service agreement signed between RDA and M/s Zeeruk Intl. Pvt. Ltd. in Sep 2019 covered the scope of work up to 58.1 Km; route alignment falling both in Rawalpindi and Attock Districts. Subsequently the scope of work was enhanced on valid and technical grounds by 6.5 Km (10%) to 64.6 Km. Clause 59(c)(iv) of PPRA 2014 allows variation up to 15% without going into fresh bidding. The scope enhancement was based on consultant's advice, stakeholders' consultations, technical grounds and executing agency site visit. The statements recorded by Mr. Asif Janjua Director (Admin & Finance), RDA (**Annexure – C**)



and Mr. Aziz-Ullah Khan Deputy Director, RDA (**Annexure – R**) substantiate the above mentioned legal position. Hence the charge is not proved.

Charge IC

Route alignment in the scope of M/s Zeeruk prepared by M/s NESPAK, formed the basis of the Summary approved by the Chief Minister in March, 2018. Nature and extent of change in M/s Zeeruk scope of work, also because 24 Km of the illegally changed alignment fell in Attock District, necessitated that the changed scope was approved by the Chief Minister before fresh bidding process was started. He willfully ignored the necessity of seeking such approval and changed the scope through the illegal VO.

Comments

Reply of the accused can be viewed at page 14 of Appendix – III.

It was considered view of the departmental representatives and prosecution witnesses that the Summary for the Chief Minister initiated in 2018 did not include approval of the Ring Road alignment. As per the statements of the former Chairman P&D Board (**Annexure – A**), approval of R3 alignment was to be processed under PPP Act and it was the responsibility of the executing agency i.e. RDA. Accordingly, R3 alignment approval was sought from RDA Governance Body on 10 July 2020. Hence the charge is not proved.

Charge ID

He, through the illegal VO, made M/s Zeeruk submit an alignment which was conveyed to M/s NESPAK by DG, RDA as already carried out deliverables of TAS by the design consultant M/s Zeeruk & JV. This illegally emerged alignment was subsequently used by him for land acquisition and also as part of a Request for

Proposal (RFP) which, in addition to being based on this illegal alignment, was advertised ultra vires the PPP Act, 2019, as discussed in Section 1 of the Fact Finding Inquiry Report.

Comments

Reply of the accused can be viewed at page 16 of Appendix – III.

RFP was advertised on the direction of PRC of PPP Authority as part of bidding process under PPP Act. (MOM of 13th PRC meeting held on 19 Feb, 2021 refers). Hence Charge not proved.

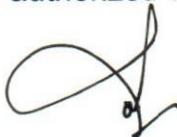
19. **Charge II**

Final decision on inclusion of Attock loop/Paswal Zigzag and issuance of VO was subject to holistic Comparative Analysis containing Cost benefit Analysis to the Project Steering Committee (PSC). This was not done and he took decisions himself. On his order, a VO was issued by Mr. Muhammad Abdullah to M/s Zeeruk on 20.03.2020 in which scope of work was enhanced from Radio Pakistan to N-5 Sangjani. Taking such decision regarding extension was mandate of the PSC headed by the Chairman P&D Board which had to consider all relevant facts regarding, scope, time and cost variations before making any such decision.

Comments

Reply of the accused can be viewed at page 19 of Appendix – III.

Documentary evidence reveals that the holistic comparative analysis containing cost benefit analysis was submitted to PSC on 29 Jan, 2020. As per clause 59(c)(iv) of PPRA 2014, approval for change in scope of work within 15% was within the competency of the procuring agency (RDA through its authorized representative i.e. DPD PMU), as already



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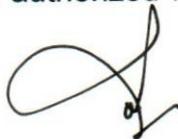
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described in charge 1B above and it was not the mandate of PSC. Hence the charge is not proved.

20. **Charge III**

He kept the authorities in the dark regarding emergence of alignment on the basis of unlawful addition in the scope of work. In the following instances, he had a chance to disclose illegal emergence of the alignment while complying with the following directions but he ignored these directions:

Comments

Perusal of record reveals that the whole process was very transparent and every stakeholder was taken on board before finalization of the alignment. The record and the statements of the witnesses corroborate the transparency element. Finalization of Ring Road alignment was the responsibility of engineering consultants based on traffic studies and Geotech Survey. The engineering consultants have recorded in their respective statements that finalized alignment was scientifically best proven, economically/financially feasible and technically optimal (**Annexures – S,T,U & W**). As per record, the enhanced alignment was presented at more than dozen forums and no one objected to it.

Charge IIIA

Direction of the 3rd Project Steering Committee in its meeting held on 24.06.2020 for seeking the Chief Minister's approval to (the illegally emerged) route alignment: "Commissioner, Rawalpindi / Project Director, RRR should finalize discussions with the stakeholders including NHA, CDA. SPD etc. regarding alignment and initiate the case for briefing of the Chief Minister about the project as well as alignment options supported by the appropriate data".



Comments

Reply of the accused can be viewed at page 22 of Appendix – III.

The record shows that the Chief Minister was apprised about the route alignment twice while chairing the meetings of PPP P&M Board on 3 July 2020 & 4 Sep 2020. Similarly, according to the record, the PSC direction was not to seek approval from CM but advised to initiate a case for briefing the CM which was initiated and CM noted as “seen”. The compliance report clearly highlighting the route alignment was submitted twice by DG RDA through Commissioner Rawalpindi Division on 27 June 2020 and 26 Sep 2020. Hence the charge is not proved.

Charge IIIB

Direction by 3rd PPP, P&M Board in the meeting held on 03.07.2020 for presenting the illegally emerged route alignment to Chief Minister “Route alignment of RRR Project shall be finalized in separate meeting to be chaired by the Chief Minister.” However, no separate meeting with the Chief Minister Punjab was held for finalization of route alignment for R3 Project as decided in the 3rd PSC and 3rd PPP P&M Board meetings held on 24.06.2020 and 03.07.2020 respectively.

Comments

Reply of the accused can be viewed at page 26 of Appendix – III.

Though there was a suggestion by former Chairman P&D Board to arrange a separate meeting for the Chief Minister on route alignment which was recorded in the PPP P&M Board meeting dated 3 July 2020. However, no legal cover could be found to back the Chairman P&D Board direction. R3 Project including route alignment was to be processed under PPP Act wherein the Chief Minister was the Chairman of PPP P&M Board and chair



was supposed to take decisions as part of the Board and not as Chief Minister separately. The direction of the Chairman P&D Board for a separate meeting with the Chief Minister on route alignment has no foundation in the eyes of law. On contrary to that, the direction of Chairman P&D Board was also contradictory to his direction where he clarified that finalization of alignment was the responsibility of Executing Agency based on technical & economic analysis. Hence the charge is not proved.

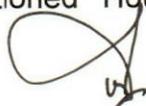
21. Charge IV

While overseeing the preparation of an RFP under the PPP Act, 2019, he violated provisions of Section 19(2) of the Act ibid and directed Deputy Project Director (DPD) to enter into direct negotiations with Capital Smart City & Islamabad Cooperative Housing Society as is evident from the minutes of Weekly Progress Review (Annex E1 & E2 of Fact Finding Inquiry Report). He got the Moorat interchange redesigned and got its cost escalated from Rs. 1.0 billion to Rs. 2.5 billion on the pretext of these unlawful negotiations and draft MOUs.

Comments

Reply of the accused can be viewed at page 27 of Appendix – III.

Section 19(2) of the PPP Act 2019 has been misconstrued whereas the negotiations with Housing Societies emerged after the approval of Charter of Commitment (CoC) for negotiations and permission by the RDA Governing Body during its meeting held on 10 July 2020. However, the record shows that the design of Murat interchange was based on technical grounds recommended by the Nespak through its advice dated 11 Jan 2021. Further, PDWP was apprised about the design change in its meeting held on 26 March 2021 and they approved the revised cost of land considering justified. The representatives of the above mentioned Housing Societies have recorded in their



statements that neither they have influenced Ring Road alignment nor PD R3 has benefited in any manner (**Annexures – Z,AA,AB & AC**). Hence the charge is not proved.

22. Charge V

In the meeting of Provincial Development Working Party (PDWP) held on July 24, 2020, member of the meeting and Secretary, Planning & Development (P&D) Department pointed to the need for approval of the route alignment and to the fact that RDA has no jurisdiction in District Attock. He conducted himself deceitfully in this meeting. Through this deceitful conduct, he transposed the context of approval of the Chief Minister granted in March 2018 on the Summary based on NESPAK 2017 alignment to the context of illegally prepared alignment of M/s Zeeruk in 2020 and thus got approval of the PC-I. Subsequently P&D Board on October 8, 2020 clarified, while responding to a Note initiated by DG RDA and also signed by Capt. (R) Muhammad Mahmood that PC-1 for Land Acquisition already stands approved. Approval of PC-I, however, does not constitute approval of alignment (Annex-G of the Fact Finding Report). The current Chairman P&D Board Mr. Abdullah Sumbal and Ex-Chairman Mr. Hamed Yaqoob Sheikh, confirmed that approval of PC-I does not constitute approval of alignment. Hence, the alignment was not approved and he was bent upon extending the Ring Road in Attock District against the advice and directions of all relevant forums.

Comments

Reply of the accused can be viewed at page 29 of Appendix – III.

There is no law which could substantiate the viewpoints of former Chairmen P&D Board that PC-I does not constitute the approval of route alignment. According to them, approval of any road alignment is the responsibility of the executing agency. In the instance case,



RDA being the executing agency accorded the road alignment approval during its authority meeting held on 10 July 2020. Therefore, no illegality could be found and thus the charge is not proved.

23. **Charge VI**

He not only steered the illegal emergence of alignment but also pushed land acquisition along this alignment despite clarifications by P&D Board and directions for seeking approval of the Chief Minister as stated at Serial No. V. He willfully disregarded these clarifications and willfully avoided recourse to lawful processes and ensured that land acquisition is done along the illegally emerged alignment. His willful disregard of lawful course resulted in the payment of approximately Rs.2.4 billion for the land acquisition along the illegally emerged alignment.

Comments

Reply of the accused can be viewed at page 31 of Appendix – III.

In light of the statements recorded by the witnesses and documentary evidence produced before me, no illegality could be found in approval of the Ring Road alignment by the competent authority. Therefore, the land accusation on the approved alignment was found to be legal and legitimate. Thus the charge is not proved.

24. **Charge VII**

Mr. Waseem Ali Tabish who was LAC for RDA and was working on deputation was granted powers to work as LAC in District Attock illegally by him. Moreover, no formal notification was issued in this respect making all the proceedings void ab-initio. Therefore, the land acquisition proceedings done by Mr. Waseem Ali Tabish



on his directions outside the RDA controlled area are illegal. Moreover, the land acquisition proceedings were started without basic approvals of the project.

Comments

Reply of the accused can be viewed at page 32 of Appendix – III.

Commissioner was competent to appoint any officer as Land Acquisition Collector under Section 3 (c) of Land Acquisition Act 1894. As mentioned above, the land accusation proceedings were based on the approved alignment, therefore all the subsequent land accusation proceedings were found to be legal and in accordance with the Land Acquisition Act 1894.

25. Charge VIII

He approved on a file (Annex H-I of the Fact Finding Inquiry Report) entrustment of powers of LAC to Waseem Ali Tabish, a PMS Officer on deputation to RDA, without getting NOC / approvals from Services & General Administration Department (S&GAD) and Board of Revenue (BOR), Punjab which were necessary given his status as a deputationist serving in RDA (an autonomous body) and given that RDA had no jurisdiction in District Attock, and given that BOR vide order issued in May, 2011, had empowered the concerned Assistant Commissioners as LACs; and in all land acquisitions in the Rawalpindi Division. Assistant Commissioners were exercising powers of LACs.

Comments

The Land Acquisition Act 1894 empowers the commission to appoint "any officer" of the Punjab Government to act as Land Acquisition Collector. The accused is justified in his



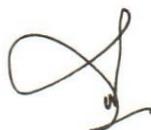
reply by clarifying that the Land Acquisition Act 1894 is a supreme law and the notification of Board of Revenue, Punjab is ultra vires. Charge not proved.

26. **Charge IX**

In September, 2020 he approved and got issued “Night Rendering Map” containing logos of RDA and Government of the Punjab without approval from either (Annex-J of the Fact Finding Inquiry Report). The Night Rendering Map (Annex-K of the Fact Finding Inquiry Report) galvanized R3 as an Economic Corridor and depicted Zones. Third PPP, P&M Board, had directed him to present ideas of SEZs to the Chief Minister for his approval. However, the Night Rendering Map was issued without such approval. The map is one of the many ways, including illegal acquisition, by which he was facilitating the Rent Seeking Syndicate for making rent seeking gains as described in the Fact Finding Inquiry Report.

Comments

According to the accused reply and the record available, the Night Rendering Map was made public on 7th Oct 2020 only after necessary approvals which inter alia included but not limited to PPP P&M Board meeting on 3 July 2020; the alignment and SEZs approval by RDA Board on 10 July 2020; Land Acquisition PC-I approval by PDWP on 24 July 2020; alignment and SEZs approval in PRC meetings held on 20 & 22 Aug 2020 respectively and PPP P&M Board meeting held on 4 Sep 2020. The intent of the accused to ensure transparency and avoid insiders' trading is appreciated. During the inquiry proceedings and as per the dissenting reports of the Fact Finding Inquiry Members, no evidence for rent seeking has been produced. Hence the charge is not proved.



27. Charge X

In addition to the Night Rendering Map, he maintained progress on the land acquisition along illegal alignment for the purpose of sustaining market hype for properties and real estate i.e. housing societies files etc. for helping the Rent Seeking Syndicate.

Comments

No evidence of monetary gain or pecuniary benefit has been provided by the departmental representatives. Therefore, I agree with the accused that the allegation is merely a conjecture. It is to be noted that the market hype for properties and real estate was an outcome of the project transparency and economic windfall. Hence the charge is not proved.

28. Charge XI

Record of the payments made in District Attock in a short span of time i.e. from 17th March, 2021 to 19th April 2021, shows payment of Rs. 2.05 billion on the basis of kind of land. While record of payments made in District Rawalpindi from 04.02.2021 to 15.04.2021 shows disbursement of Rs.372 million. On the basis of flat rate for each Revenue Estate, stark difference in rates by the respective DPAC in the two Districts is noticeable. He, as Project Director, willfully ignored these stark differences in the rates and the amounts disbursed in two Districts, which served his purpose of maintaining momentum on Attock Loop for benefitting the Rent Seeking Syndicate.

Comments

The accused is justified in claiming that the Commissioner had no role in Land Acquisition or price assessment. However, the explanations given by Deputy Commissioners of



Rawalpindi and Attock Districts reveal that the price assessment was in accordance with the Land Acquisition Act and BOR guidelines. Subsequent approval of Land Acquisition rate by the BOR is also an evidence of correct price assessment. Hence the charge is not proved.

29. **Charge XII**

In February, 2021, he became aware of the claim of price of Radio Pakistan's land but neither he made this claim part of the Revised PC-I, nor he disclosed this claim to the PDWP meeting he attended on March 26, 2021. While this claim on its own added over Rs. 4.48 billion to the land acquisition cost, it also formed a sound basis for escalation of land acquisition cost manifold if this fact was used by land owners for contesting the abysmally low assessment of the value of their lands. As a responsible officer, it was his duty, to disclose to the Government / P&D Board about the cost escalation because of Radio Pakistan's claim and also a highly probable further escalation because of the possibilities of claims of land owners asserting parity with the claim of Radio Pakistan.

Comments

As per the record, the claim of the Radio Pakistan Land could not be entertained under the Law. As per Punjab Land Acquisition Act 1894, already acquired land by any Government can neither be re-acquired nor compensated. Therefore, the cost claim of Radio Pakistan was not made part of the PC-I. It is once again highlighted that the Commissioner had no role in price assessment. Therefore, the charge is not proved.

30. **Charge XIII**

He while maintaining the pace of the project in order to get his illegal decisions implemented, utterly violated Section 19(2) of PPP Act. 2019 and entered into direct



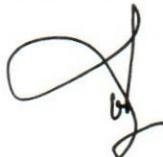
negotiations, without competitive public tendering, with private parties namely Islamabad Cooperative Housing Society and Capital Smart City, to negotiate access to them through interchanges. He did this to promote interests of rent seeking syndicate against the express provisions of law.

Comments

It has been noticed that PPP Act 2019 was not applicable on the allegation mentioned above. However, the explanation of the accused has been verified from the documents of RFP and it was found that no access was made part of the advertised R3 design for above mentioned Housing Societies. The representatives of the above mentioned Housing Societies have recorded in their statements that neither they have influenced Ring Road alignment nor PD R3 has benefited in any manner (**Annexures – Z,AA,AB & AC**). Once again the departmental representatives stated that no evidence of rent seeking against the accused has been found so far. Thus the charge is not proved.

31. Charge XIV

His statement before ACE, Punjab, is contradictory to the Summary approved by the Chief Minister Punjab in March 2018, initiated by C&W Department, Government of Punjab. Furthermore, he reported that major decisions were taken in the Project Steering Committee (PSC) meeting held on 31.01.2020. As per verification by P&D Board the said meeting was never held. It shows that the concept paper for Phase-II extension of R3 was never discussed in PSC or any other forum. Therefore, his claim and that of the DPD is misleading, against the facts and tantamount to transgression from authority.



Comments

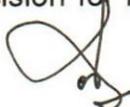
The statements of Ms. Ammara Khan, former DG RDA and Mr. Aziz-Ullah Khan DD RDA recorded before me (**Annexures – L&R**) whereby they admitted that they attended the PSC meeting held on 31 Jan 2020. The attendance sheet of the subject meeting produced before me is also an evidence of the fact that the subject meeting was held on the said date. Above stated evidence is sufficient to disprove the charge levelled against the accused.

32. Charge XV

He unilaterally decided to execute project in PPP mode in the 9th PRM meeting held on 15.02.2020. He further misquoted that all top management is on board on this issue. The documentary proof does not support his claim. It is evident from record that he was taking decisions on his own and later on tried to get the nod of higher fora by concealing the facts. M/S Zeeruk completed field survey of Attock Loop / Piswal Zigzag portion by installing ROW Centreline Markers on 12.03.2020 when alignment of the project was neither discussed nor approved by any forum. Taking such major decision at this stage was an attempt by him to illegally extend the Ring Road when the same was not even under consideration by any competent forum.

Comments

The explanation given by the accused in his reply has been verified and substantiated with the documentary evidence produced before me and by the departmental representatives as well. Many documents of the record reveals that the members of various approving forums have always advocated for PPP mode of financing throughout the planning phase of the project. Even the Planning Commission also endorsed the PPP mode of financing during its meeting held on 22 Nov 2021. The decision for mode of financing was never finalized as



evident from PDWP MOM held on 16 Nov 2018. PDWP decided to conduct “value for money” analysis for mode of financing through the consultant. Resultantly, M/s Zeeruk Intl. Pvt. Ltd. submitted “value for money” analysis in favour of PPP mode of financing in March 2020. Ultimately the Project was approved in PPP mode by the PPP P&M Board in its meeting held on 3 July, 2020. Therefore, the charge levelled against the accused to execute the project in PPP mode at his own could not be proved.

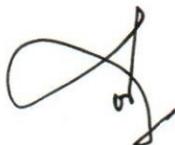
33. **Charge XVI**

He directed M/s NESPAK to review design and provide access at three interchanges for the benefit of upcoming housing societies. He also added “Nekarali interchange” in design despite that it is 9 Km away from populated area. These changes were got incorporated in design by him to seek undue benefits from the housing societies. Satellite Image Interpretation shows that he approved Service Roads in such areas which have very low population built-up areas. The service road has been proposed to facilitate housing societies.

Comments

Reply of the accused can be viewed at page 42 of Appendix – III.

As per the discussion with the engineering consultants and the documentary evidence produced before me it is clear that all the interchanges designs and subsequent changes were made by the consultants on technical grounds. It was responsibility of the consultants to ensure optimal route alignment and design of R3 which they have verified in their statements (**Annexures – S,T,U & W**). Furthermore, neither any evidence of monetary benefit or pecuniary gain has been produced before me by the departmental representatives nor any evidence from the Housing Societies have come on board. Rather the Housing Societies have clearly recorded in their statements that neither they influenced



the road alignment nor interchange design and nor benefited PD R3 in any form or manner **(Annexures – Z,AA,AB & AC)** LRRRA confirmed during the PRC meeting held on 19 Feb 2021 that same design features and standards as of Lahore Ring Road are being implemented for R3 project as well. Since the above mentioned charge appears to be based on assumption and not on evidence, therefore the charge is not proved.

34. Charge XVII

As per decision of Capital Development Authority (CDA), the case to seek approval of Federal Cabinet to align Ring Road with the sectorial limits of ICI in relaxation of approved Master plan of Islamabad, was never processed and forwarded to HUD & PHE Department. NOC from NHA, for use of CPEC route was not secured. This was basic prerequisite and project was advertised without NOC.

Comments

The reply of the accused is self-explanatory and substantiated with the documentary evidence. As per record, the Summary for Federal Cabinet was prepared and processed to be sent to HUD&PHE Department wherein the DG RDA stated, "that CDA Board is competent to grant the NOC for construction of this portion of R3". However, the Summary for Federal Cabinet was submitted to CDA on 28 April 2020. In addition, a mutual understanding was created between NHA and RDA to use CPEC route through a draft agreement which was submitted to HUD&PHE Department on 23 Feb 2021 and subsequently to NHA on 11 March 2021. The same fact was clearly brought to the notice of Project Review Committee of PPP Authority meeting held on 19 Feb 2021 in which a specific time period was granted for signing of the agreement. Since, the above mentioned charge is not based on facts placed before me, therefore, the charge could not be proved.



35. Charge XVIII

The directions of the Competent Authority regarding acquisition of land and construction of Ring Road in ICT by CDA was also neglected by him. He included ICT area in RFP and took no pains in getting the said direction implemented rather willfully violated it.

Comments

There were no such directions given to PD R3 on record. However, the record produced before me and the details provided by the accused in his reply recounts the efforts which were required to ensure that the project remains bankable along with encumbrance free ROW being a PPP Project. RFP was scrutinized and processed by PPP Authority which was subsequently approved by PRC in its meeting held on 19 Feb, 2021. I find no illegality or irregularity in the above mentioned charge.

36. Charge XIX

The revival of MIs NESPAK JV by RDA was illegal. M/s NESPAK JV was offered revival plan on 10.09.2020 when JV stood dissolved. With the dissolution of the JV, contract was null and void and could not be revived. RFP was floated by him and Ex-DPD at the time when the alignment of the project was not approved. Bidding process was to be initiated by Lahore Ring Road Authority (LRRRA) and not RDA. As per directions of the PPP P&M Board floating of RFP was the responsibility of LRRRA after extension of its jurisdiction and conversion into PRRA. He manipulated the situation and used RDA for floating of RFP to create irreversibility of the project.

Comments

Reply of the accused can be viewed at page 45 of Appendix – III.



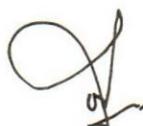
As far as revival of M/s Nespak JV is concerned, Mr. Asif Janjua, (Director Admin & Finance), RDA and Mr. Aziz-Ullah Khan (DD RDA), have recorded in their respective statements that the said revival was justified and in accordance with the law (**Annexures – C & R**) As per the record made available to me, it is crystal clear that the Ring Road alignment was approved by the competent authority and it was a legal alignment to advertise. Furthermore, as per directions of the PPP P&M Board, RFP was responsibility of LRRRA only after extension of its jurisdiction and conversion into PRRA. Until then the P&M Board allowed to float the RFP through existing institutional arrangements i.e. PMU/RDA. During perusal of the record, it was further noted that LRRRA was fully on board during the development of RFP and finally endorsed the RFP which was subsequently approved. The record shows that LRRRA even participated in the pre bid conference to ensure its ownership and take over in due course. No discrepancy in the law or record could be found to prove the above mentioned charge against the accused.

37. **Charge XX**

The cost of original PC-1 titled "Land Acquisition, Property Compensation, Afforestation & Shifting of Utilities for Rawalpindi Ring Road Project.' for 51.7 Km (up to CPEC Route) was Rs.6.247 billion, while cost of revised PC-I for 66.3 Km (up to Sangjani) was Rs. 16.3 billion. The addition of 14.6 Km distance costed approximately Rs. 10 billion. An amount of Rs. 2.06 billion has been paid for the acquisition of land on unapproved alignment which is loss to the national exchequer willfully caused by him.

Comments

Reply of the accused can be viewed at page 46 of Appendix – III.



Revised PC-I amounting to Rs. 16.3 billion was found justified and cleared by PDWP during its meeting held on 26 March, 2021. It has been alleged many a times in the above mentioned charges that all the actions were based on an unapproved and illegal alignment. It has been clarified at the start and it is clarified once again that the Ring Road alignment was scientifically best proven, economically/financially feasible and technically optimal as recorded by all the engineering consultants in their respective statements. Similarly, it is once again highlighted that the Ring Road alignment was approved by multiple forums and no one objected to it, which brings me to the conclusion that it was an approved, legal and optimal alignment. I find that any subsequent action with regard to Land Acquisition was legal and justified. Therefore, charge of loss to the National exchequer cannot be proved.

Key Finding

38. In light of the documentary evidence produced before me, the statement of the witnesses recorded before me, laws referred and defense made by the accused, not a single charge out of 20 main charges and 6 sub charges could be produced against the accused.

A handwritten signature in black ink, consisting of a large, stylized loop at the top and a smaller, more complex mark below it.

IV – CRITICAL APPRAISAL OF RAWALPINDI RING ROAD PROJECT

39. As a civil servant and Director General, Civil Services Academy who is responsible and mandated to train Officers of the Civil Services for future management and administrative assignments, I consider it my foremost duty and my inalienable right to take the liberty and comment upon the R3 project and its efficacy in terms of public welfare and interest.

40. The R3 project was made a part of the 1996 Master Plan of Rawalpindi. It was envisaged back then keeping in view that R3 will be a need of the twin cities of Rawalpindi and Islamabad. Between the censuses of 1998 and 2017, the population of Rawalpindi has grown at an annual rate of 2.52% and that of Islamabad at 4.90%.¹ While there have been road infrastructure projects within these cities, the unnecessary pressure of traffic, especially heavy vehicles, on IJP Road, N-5 and Srinagar Highway has been a constant cause of concern for the commuters of these cities. R3 project should be implemented, and be designed in a way that this load is eased out keeping in view of the welfare of local commuters.

41. The 20-year Master Plan of Rawalpindi (1996-2016) was envisaged and approved in 1996 in view of the accelerated population growth and urban development needs of the city. Rawalpindi Ring Road (R3) was also proposed as part of this Master Plan to decongest the twin cities of Islamabad and Rawalpindi and mitigate traffic issues. The project remained shelved for more than two decades when, after considerable lapse, it was revived in 2017. The Rawalpindi Ring Road project was conceptualized to achieve the following multidimensional objectives:

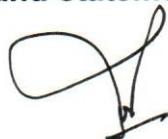
¹ Pakistan Bureau of Statistics, Census 2017



- To act as a traffic bypass for Rawalpindi for traffic coming from N5 (GT Road), eliminating the need to pass through Rawalpindi and IJP Road to travel towards Peshawar, consequently decongesting the twin cities;
- To build a ring road around the twin cities to provide effective mobility and access across them. The ring road would act as a funnel to reduce the traffic congestion within the cities as well;
- To cater for the future urban growth needs of the twin cities for the next 20 years; and
- To facilitate the development of economic zones.

42. Keeping in view these objectives, various alignment proposals were considered and analyzed on technical basis to develop the most optimal alignment. The 2017 NESPAK alignment envisaged connecting N5 GT Road with M2, which necessitated the need to revise the alignment design as it would fail to achieve the primary objectives of the project. NHA raised concerns with terminating Ring Road R3 on Motorway M2, which would have resulted in an influx of 33,000 vehicles daily from GT Road (N5) to Motorway M2, causing long queues and congestion on toll plazas. The current M2 neither has adequate lanes nor the load bearing capacity to sustain such an influx and would require an expensive merger plan to upgrade the current M2 & M1. Furthermore, it would expose the traffic to multiple tolls, consequently resulting in traffic congestion. It also doesn't achieve the objective of decongestion of twin cities, one of the major goals of undertaking the Ring Road in the first place (**refer to Ring Road Map at Appendix – X**).

43. Hence, terminating ring road on M2 according to 2017 NESPAK alignment was self-defeating, inefficient and unsustainable as evident from the statements of the technical stakeholders (**refer to attached comparative analysis of 2017, 2020 and 2021 alignment options (Appendix - IX) and statements of technical consultants, Capt. (R)**



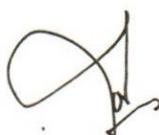
M. Anwar ul Haq and Ammara Khan). This consideration initiated the need to consider an alternate route for R3 and the scope of the project was enhanced to include the Attock loop. It was NHA's insistence that a complete N-5 to N-5 solution should be considered which was duly endorsed by CDA, Islamabad. Since there was hardly any open space available between Motorway M2 and Islamabad International Airport, the consultants proposed the alignment skirting around the airport and included land from Attock District.

44. Based on the statements of the engineering consultants during the inquiry, M/s NESPAK, Zeeruk International (Pvt.) Ltd. and other stakeholders like NHA, it is evident that R3 2020 alignment evolved out of an extensive consultative process among various stakeholders which aimed at developing the most effective, viable and sustainable R3 alignment keeping in view the objectives and technical aspects of the project. The draft of the new alignment was discussed at various forums and it was agreed that the project needs to be more than a road project, therefore, new special economic zones, hubs, and centers should be developed along the new alignment to cater the development needs of the city for next 20 years. The alignment was conceptualized to cater to all of these needs.

Issues in R3 Project of 2021

45. Once R3 Project under PPP mode was cancelled by Mr. Gulzar Shah, former PD R3, in April 2021, a revised R3 Project was initiated by him. A comparative analysis of three routes / alignments presented in the past in the years 2017, 2020 & 2021 has been attempted with the help of the engineering consultants, which led to determination of the optimal route for the R3 project. Prima facie subsequent alignment / project approved during the period of Mr. Gulzar Shah suffered from following illegalities / irregularities:

- I. Final alignment will not be able to achieve the project objective to decongest the twin cities of Rawalpindi and Islamabad.



- II. The Land Acquisition was de-notified illegally specially for the carriage way portion thus the significant increase in re-acquisition cost.
- III. Land Acquisition cost of the carriage way for 38.3 Km has increased significantly from Rs.2.4 billion to Rs. 5.89 billion. Thus, causing a loss of Rs. 3.5 billion to the Government exchequer.
- IV. ROW of carriage has been reduced from 110 m to 90 m leaving no space for service road in future.
- V. The project is being implemented without the traffic merger plan on M2 as directed by ECNEC.
- VI. M2 traffic merger plan is likely to cost Rs. 50 billion approx.
- VII. R3 section from M1 to Sangjani is likely to cost another Rs.10 billion approx.
- VIII. Total project cost for N5 to N5 solution is estimated around Rs. 90 billion approx.
- IX. Total loss to the government is expected between Rs. 60 to Rs. 70 billion.
- X. No cost of R3 O&M has been accounted for the project.
- XI. The contract award was illegal being implemented in ADP mode, in the absence of M1 & M2 traffic merger plan, environment impact assessment NOC, land acquisition, NOCs from various departments / agencies, re-location of utilities and detailed design of Ring Road.

Public Private Partnership

46. Attention is drawn also to Public Private Partnership (PPP) mode of project management. In addition, for their financial viability and quickness of implementation, PPP projects should be encouraged in view of public welfare. PPP projects provide the



government from a relief in bearing the costs of mega infrastructure project. With PPP, the projects also bring about the benefits of better project design, construction and operation. For cash-strapped developing countries, PPP is a brilliant opportunity for development of medium- to long-term public welfare projects, urban growth and regeneration for uplift of the masses. Many developing countries including Oman, United Arab Emirates and Kingdom of Saudi Arabia are already following the PPP mode for development of projects. Since 2019, there are at least 10 mega projects being executed in Kingdom of Saudi Arabia in PPP mode.

47. In Pakistan, Sindh is already far ahead of other provinces in PPP projects. In Punjab, the Public Private Partnership Act 2019 provides the necessary legal cover for such projects. These must be encouraged keeping in view the development goals of Pakistan. The future of development is PPP. Unfortunately, the concept has already been defeated before it began to bear fruits. Examples of these are RFPs of Vehari-Multan and Chiniot-Sargodha roads, for which no one from private sector gave any bid. It is imperative that successive governments lay emphasis on PPP mode of project management as part of important development goals of the country.

Conclusion of Critical Appraisal of R3 Project

48. The action taken against the accused on the basis of this mala fide and legally flawed FFIR led to the erroneous incarceration and incrimination of the accused. Since the removal of the accused Mr. Mahmood from the post of PD of the project, the Rawalpindi Ring Road project itself has not only been derailed and stalled but also turned into a useless project, unrecognizable and un-implementable. The future course of action of R3 project undertaken by the convener of the FFIC Mr. Gulzar Shah has not only jeopardized the bright future for similar PPP projects but also costed the exchequer far more than what it was being envisaged in the RRR project under scrutiny that was being

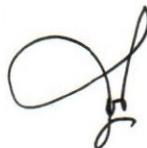


pursued during the tenure of the accused. **The disabling environment for PPP created by this FFIR, quashment of PPP bidding process of R3 and changes made to the R3 project under question by the Ex-Commissioner Rawalpindi / PD Mr. Gulzar Shah have caused an irreversible damage to the PPP mode of financing.** Two noteworthy projects already advertised and tendered last year under the PPP model in the Punjab have failed to secure any bids from any private partner till date. Such is the level of distrust and apprehension prevailing in the investment sector. I am utterly disappointed and constrained to say in the face of overwhelming evidence presented before me during the conduct of this de-novo inquiry that the **FACT FINDING INQUIRY REPORT** under question and scrutiny as well as subsequent steps taken by Mr. Gulzar Shah can easily and safely be termed as **A CLASSIC EXAMPLE OF HOW TO DESTROY A MEGA PROJECT OF NATIONAL IMPORTANCE WITH MALA FIDE INTENTIONS.** (the overwhelming evidence in the form of written statements by the technical experts and professionals of Zeerak, Nespak, KPMG, PMU, PPRA, as well as Dr. Farrukh the head of PPP Cell and Dr. Salman Shah the Deputy Chairman of the PRC of PPP Board testifies to my above contention).

Key Findings

49. Mr. Gulzar Shah's mala fide and illegal actions, his lack of knowledge of project functioning, especially of PPP projects, and ill-will have not only falsely implicated the accused but also resulted in sabotaging an essentially indispensable development project catering to the needs of the twin cities of Rawalpindi and Islamabad.

50. In light of the Legal and Regulatory Frameworks presented to me, documentary evidence made available to me, the statements of the witnesses recorded before me and in light of the foregoing explanations given against each charge, I have reached to the following conclusions:



- I. There is no law that distinguishes between “Road Alignment” and “Road Project” separately. Similarly, there is no law which identifies the Chief Minister as competent authority for Road Alignment approval. The written statement of Ex-Chairman P&D Punjab Mr. Hamed Yaqoob Sheikh is instructive to resolve this contentious point (**Annexure – A**). The written statements submitted by the various consultants and engineers during the course of the inquiry proceedings, also give an expert and technical opinion based on which the above finding has been concluded as such.
- II. Rawalpindi Ring Road Project remained under study/feasibility since Nov 2016 until it was finally approved in Feb 2021 under PPP Act.
- III. R3 enhanced alignment was the optimal and approved alignment.
- IV. The R3 project pursued by Mr. Gulzar Shah is not based on the optimal alignment and suffers from serious illegalities / irregularities causing huge loss to the Government.

51. In addition, I will quote the very words of Dr. Salman Shah the Chairperson of Project Review Committee of the PPP Board of the Punjab from his written statement submitted to the inquiry officer:

***“UNFORTUNATELY THE VERY VIABLE PPP PROJECT THAT WAS
CRITICAL FOR THE DEVELOPMENT OF PUNJAB AND RAWALPINDI
DIVISION, THAT WOULD HAVE GENERATED TRILLION OF RUPEES OF
ECONOMIC ACTIVITY WAS DERAILED DUE TO UNVERIFIED
CONJECTURES”***



V – SUMMARY / CONCLUSIONS

52. The undersigned was appointed by the competent authority as Inquiry Officer, and Inquiry Order was issued on 20th April 2022, under Rule 2(1)(c) read with Rule 9(1) of the Civil Servants (Efficiency and Discipline) Rules, 2020 to conduct *de novo* inquiry proceedings against Capt. (R) Muhammad Mahmood (PAS/BS-21). The inquiry was conducted in accordance with the provisions contained in Rule 10 read with Rule 12 of the Rules *ibid*. **THE OUTCOME OF THE SAID INQUIRY IS THIS REPORT.** As earlier discussed and justified the undersigned has taken the liberty of enhancing and expanding the very scope of this inquiry in order to have a holistic approach to understand the legal, technical and development issues connected with this R3 project. **THE KEY FINDINGS OF THIS INQUIRY REPORT ARE:**

53. **FFIR:** The fact finding inquiry report by Mr. Gulzar Hussain Shah (PAS/BS-21) as Commissioner Rawalpindi Division formed the basis of the origination of all subsequent administrative and criminal actions, including the change of R3 alignment and ultimately halting of the project. This report was illegal and mala fide, and reflects Mr. Gulzar Shah's ulterior motive to implicate the accused without any iota of evidence what so ever and alter the very project of National Importance and public welfare.

54. **CS Office:** The negligence and misconduct of the Chief Secretary's Office has been established beyond doubt. Mr. Jawwad Rafique, Former Chief Secretary Punjab, did not appoint senior officers for the fact finding inquiry and ignored the dissenting reports of Capt. (R) M. Anwar ul Haq (ex-DC Rawalpindi) and Mr. Jahangir Ahmad (Additional Commissioner Coordination Rawalpindi) and forwarded only Mr. Gulzar Shah's FFIR thus failing to exercise and apply an independent mind that led to the acceptance of a mala fide and illegal FFIR and subsequent initiation of E&D inquiry against the accused in Establishment Division and subsequent adverse actions initiated against the accused Mr.



Mahmood by the Anti-Corruption Establishment. He did not use his good office to seek feedback from various stakeholders (technical, government or private sector) to understand the true facts of the case as the dignity and high stature of his office demanded. Such convenient absence of due diligence is not expected from the senior most Administrative office of the Punjab, and is thus construed as misconduct.

55. **Charge Sheet:** In light of the reply of the accused, the documentary evidence produced before the undersigned, the statements of witnesses and laws referred, none of the 20 main charges and 6 sub-charges were proved against the accused:

Charge I: Not proved. No illegality was found in exercise of powers by the accused as Project Director R3 and Project Management Unit (PMU).

Charge IA. The variation order was legally issued by Deputy PD, PMU as an authorized representative of RDA.

Charge IB. The scope of work was enhanced on technical grounds, and was covered legally in the service agreement signed between RDA and M/s Zeeruk International (Pvt.) Ltd.

Charge IC. Route alignment was the responsibility of executing agency (RDA) and hence no specific approval was required from the Chief Minister.

Charge ID. RFP was advertised as a part of bidding process under PPP Act.

Charge II: Not proved. Approval for 15% change in scope of work was within the competence of the procuring agency (RDA through DPD PMU) and was not required to be presented before PSC.

Charge III: Not proved. The process was transparent and enhanced alignment was presented at a number of forums and was not objected to by any of them.



Charge IIIA. Chief Minister was apprised about the route alignment twice and case briefing was submitted which the CM noted as "seen".

Charge IIIB. Suggestion by former Chairman P&D Board to brief the CM in a separate meeting was merely advisory in nature as evident from his statement that the alignment was the responsibility of the Executing Agency based on technical and economic analysis.

Charge IV: Not proved. Records show that Moorat interchange's redesigning was based on technical grounds as recommended by NESPAK and PDWP was subsequently apprised about the change. The representatives of housing societies recorded in their statements that they had no role in this change.

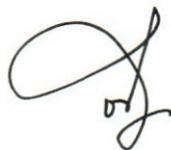
Charge V: Not proved. There are no legal grounds to support the contention that PC-1 does not constitute approval of route alignment. As mentioned earlier, Chairman P&D reported that the route alignment is the responsibility of Executing Agency.

Charge VI: Not proved. As no illegality was found by various forums on R3's alignment, therefore the land acquisition on the approved alignment was found to be legal and legitimate.

Charge VII: Not proved. As per section 3(c) of the Land Acquisition Act 1894, the Commission is competent to appoint any officer as Land Acquisition Collector (LAC). Therefore, all land acquisition proceedings done by the LAC appointed by the accused as Commissioner were legal and in accordance with law.

Charge VIII: Not proved. The appointment of LAC was found legal.

Charge IX: Not proved. The Night Rendering Map was made public only after necessary approvals.



Charge X: Not proved. No evidence of market hype for properties and real estate in the form of personal or monetary gains was found.

Charge XI: Not proved. Price assessment was in accordance with law and was subsequently approved by BoR Punjab.

Charge XII: Not proved. Radio Pakistan's claim was invalid as per law and therefore not made part of PC-1.

Charge XIII: Not proved. No evidence of rent seeking against the accused was found.

Charge XIV: Not proved. The PSC meeting was attended by the then DG RDA and DD RDA, along with the accused and other representatives of the departments.

Charge XV: Not proved. The project was approved in PPP mode by the PPP P&M Board in a meeting on 3rd July 2020.

Charge XVI: Not proved. There is no evidence to support that the service road was proposed to facilitate housing societies. The statements recorded by their representatives to prove the contrary.

Charge XVII: Not proved. NOC was granted by CDA and was termed as sufficient and a draft agreement between NHA and RDA was submitted to HUD&PH Department.

Charge XVIII: Not proved. No illegality in the RFP with respect to ICT area was found.

Charge XIX: Not proved. LRRRA was a part of the bidding process.

Charge XX: Not proved. Revised PC-1 of Rs. 16.3 billion was found justified and was cleared by PDWP during its meeting on 26th March 2021.



56. **R3 Project:** In light of the documentary evidence and the statements of technical experts, a comparison has been attempted to compare various aspects of the three alignments (2017, 2020 and 2021); the 2020 alignment was found to be the optimal alignment given the nature, scope and objectives of the project (**Appendix – IX**).

57. The so called 2021 alignment of RRR is a result of the fact finding inquiry report of Mr. Gulzar Hussain Shah (the then-Commissioner Rawalpindi Division) and is based to the best of my understanding (substantiated by the written statements of the experts enclosed) on whimsical and non-technical assumptions and findings and gotten approved by the concerned authorities and forums by misrepresentation and concealment of facts.

A handwritten signature in black ink, consisting of a large, stylized loop followed by a vertical stroke and a small flourish at the bottom.

VI – RECOMMENDATIONS

Based on the findings stated in parts II, III & IV of the inquiry report, the following recommendations emanate:

A. Capt. (R) Muhammad Mahmood (PAS/BS-21, Ex-Commissioner Rawalpindi) former PD R3 project to be exonerated from all the charges levelled against him.

Examining all documentary evidence, recorded witness statements, related laws and technical opinion provided led to the conclusion that not a single charge out of the 20 main charges and 6 sub-charges in the charge sheet could be proved against Capt. (R) Muhammad Mahmood. All charges and sub-charges were probed at great length from all angles (legal, factual and technical) during the inquiry. These have been discussed in detail in Chapter III along with supporting evidence, the gist of which is that neither the mala fide of accused was established nor any legal or technical lacunas were found in the project. Therefore, **it is recommended that he be exonerated u/s 16(5) of the Civil Servants (Efficiency & Discipline) Rules, 2020 from all the charges levelled against him.**

In my personal opinion, it is now the singular and foremost responsibility of the State through the Competent Authority to officially acknowledge the steadfastness, perseverance and resolve of Capt. (R) Muhammad Mehmood in the face of extraordinary obstacles and adverse circumstances artificially manufactured against him. His dedication, hard work and commitment to duty and public service must be saluted and must be presented as an example to all cadres of the Civil Service of Pakistan. I am certain that it will help in boosting the morale of an already demoralized administration.

B. Disciplinary proceedings to be initiated against Mr. Gulzar Hussain Shah (PAS/BS-21), convener Fact Finding Inquiry Committee for manufacturing an



illegal and mala fide report and the legality of procedures followed and approvals undertaken for the 2021 alignment of R3 project.

The Fact Finding Inquiry Report (FFIR) submitted by ex-Commissioner Rawalpindi Division Mr. Gulzar Hussain Shah on 7th May 2021 formed the basis of all subsequent administrative and criminal actions against the accused. This report was mala fide and illegal, with the defined and pre-conceived motives of implicating the accused. This is evident from the fact that none of the charges levelled against the accused were proved by facts, and were only substantiated by conjectures, fancy phrases like “rent-seeking syndicate” and “reckless speed”, and failed to establish mala fide of the accused Mr. Mahmood in the execution of R3 project.

Furthermore, the legality of procedures followed and approvals undertaken for the 2021 alignment of R3 project by Mr. Gulzar Shah must also be thoroughly investigated and inquired by a team of technical experts and is proceeded against accordingly.

Therefore, **it is proposed that disciplinary proceedings to be initiated against Mr. Gulzar Shah** u/s 16(4) of the Civil Servants (Efficiency & Discipline) Rules, 2020 on the following grounds:

- **Illegality of FFIR:** Criminal negligence of merit and fairness and producing an illegal FFIR.
- **Irreparable Loss to the government and misuse of authority:** Intentionally withholding minutes of the pre-bid meeting as PD R3 and issuing a reference dated 24th April 2021 (even before the institution of fact finding inquiry committee) for cancellation of the RFP, prematurely quashing the bidding process and de-notifying the Land Acquisition Awards which were beyond his powers, leading to disastrous consequences for the country as well as jeopardizing the careers of many honest and well performing civil servants.



- **Criminality:** For threatening and forcing subordinate officers to sign cooked up reports and complaints devoid of any cause of action or facts
- For getting officers transferred on grounds of their dissenting opinions and creating an environment of fear, extortion, undue and unlawful pressure.

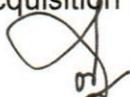
The aforementioned actions of Mr. Gulzar Shah constituting misconduct, need to be thoroughly probed to set an example for civil servants to uphold both the independence and dignity of their positions and the institutions they command.

C. Disciplinary proceedings may be initiated against Mr. Jawwad Rafique Malik (ex-Chief Secretary Punjab (PAS/BS-22) for his negligence, oversight and conduct unbecoming of an officer and not being worthy of holding the office of the stature of Chief Secretary Punjab.

Mr. Jawwad Rafique Malik's (ex-Chief Secretary Punjab) negligent oversight points either to a connivance of convenient silence or a strategic feigned ignorance of statutory rules, regulations and laws to enable Mr. Gulzar Shah to carry on with his mala fide intentions and witch hunt. His irresponsible conduct made matters worse.

D. Appreciation must be accorded to officers who stood up for fairness and truth in spite of immense pressure exerted otherwise and maintained their integrity, dignity and composure against all odds.

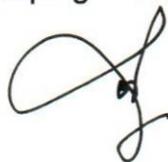
It is recommended that appreciation letters are issued to the officers and placed in their dossiers who dissented, disagreed and had to put up with the shenanigans of Mr. Gulzar Hussain Shah and zero support extended to them by their boss the Chief Secretary Punjab Mr. Jawwad Rafique Malik. These include: Capt. (R) M. Anwar ul Haq (ex-DC Rawalpindi), Mr. Jahangir Ahmad (ex-Additional Commissioner Coordination Rawalpindi), Ms. Ammara Khan (ex-DG RDA), Mr. Ali Annan Qamar (ex-DC Attock), Mr. Waseem Ali Tabish (ex-Land Acquisition Collector, RDA) and Dr. Farrukh Naveed



(ex-CEO PPP Authority). In addition, it is recommended that owing to his technical expertise and immense contributions in setting up of not only the PPP cell in the P&D Department of the Punjab but also keeping in mind his untiring efforts to put in place a PPP institutional framework for the formulation and implementation of multiple PPP projects in different sectors of province of the Punjab, he must be reinstated as head of the PPP Cell.

- E. A third party validation may be conducted through an independent and credible engineering consulting team under the auspices of the Chairman Planning and Development board of the Punjab and the Deputy Chairman Planning Commission of Pakistan to determine the optimal route for Rawalpindi Ring Road Economic Corridor Project, considering but not limiting to all past options.**

In view of the inquiry proceedings and revelations therein (as discussed at various points in this report), it was found that a great amount of time and effort was expended by the accused as Project Director in figuring out the optimal route for R3 project. While evaluating this, special focus was made on comparing project lengths, trip lengths, control access, operating speeds, rights of way, costs, government shares of funding, axle controlled regime, number of stops, decongestion, connectivity with road infrastructure, and a host of other factors of the three alignments (2017, 2020 and 2021). Technical factors and expertise as well as financial factors, all point towards the 2020 alignment being the optimal one. However, for due diligence, it is proposed that a third party validation, from an independent and credible engineering consultancy team, must be undertaken to evaluate all past options as well as new ones to determine the optimal route for R3 project keeping in view the greater "Public Interest".



F. Long awaited R3 project must be revived on its optimal route/alignment (as suggested above) after meeting all codal formalities to provide long awaited and promised relief to the residents of the twin cities of Rawalpindi and Islamabad at the earliest.

I will take the liberty to reiterate the very words of Dr. Salman Shah the Chairperson of Project Review Committee of the PPP Board of the Punjab from his written statement submitted to the inquiry officer, as the last word: ***“unfortunately the very viable PPP project that was critical for the development of Punjab and Rawalpindi Division, that would have generated trillions of rupees of economic activities was derailed due to unverified conjectures”***

**“SURELY, CONJECTURES ARE OF NO AVAIL IN THE MATTER
OF TRUTH AT ALL”**

Al Quran (Surah Younas 36)

