

# PUBLIC INTEREST LAW ASSOCIATION OF PAKISTAN

Monthly Updates Summary on PILAP Litigation Cases

## May 2018 Update

Case No.	The Court	Reference	Advocate	Updates
1	Supreme Court of Pakistan	C.P.105/2011 <b>Access to Justice</b>	The case is in limbo and no advocate assigned.	No updates this month.
2	Lahore High Court	WP-EPA 9137/2012 <b>Ravi River Pollution</b>	Ahmed Rafay Alam	No updates this month.
3	Sindh High Court	C.P. No. 1267/2016 <b>Sindh Education</b>	Muhammad Najeeb Jamali	No updates this month.
4	Lahore High Court	WP-7877/2015 <b>Land Demarcation</b>	Ahmed Rafay Alam	No updates this month
5	Supreme Court of Pakistan	Const.P19/2017 <b>Nuclear Disaster Management</b>	Salahuddin Ahmed	No updates this month.
6	Sindh High Court	C.P. No. D-3823 <b>Heritage Building</b>	Zubair Ahmed	The hearing listed for 3 <sup>rd</sup> May and then 29 <sup>th</sup> May but case is deferred.
7	Lahore High Court	N/A <b>BT Cotton</b>	Ahmed Rafay Alam	The case has come up in the court on 25 <sup>th</sup> April 2018. Order issued to Punjab EPA and Agriculture board for 5 <sup>th</sup> June 2018 to submit their responses/reports.

The chronological details of each case are given below for reference.

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## LITIGATION PROGRESS TRACKING REPORT

### Case #1: Access to Timely Justice: (PILAP)

C. P. No. 105/2011 against Federation of Pakistan and Others in the Supreme Court of Pakistan

Abridged Prayer: 'To declare that "inexpensive and expeditious justice" is the "inalienable" right of every citizen of Pakistan within the meaning of Article 9 of the Constitution of Pakistan, and any further delay and procrastination by Respondent No.1 in abjuration of the "right to inexpensive and expeditious justice", amounts to a denial of the fundamental rights to the public at large, which act is unconstitutional, unlawful, illegal, and a refusal to concede to the people of Pakistan the fundamental rights guaranteed to them in the Preamble, Articles 2-A, 4, and 25 of the Constitution of Pakistan.'

- Note: Case in limbo, currently no strategy for or lawyer pursuing the case.
- The court has set hearing dates but not pursued by PILAP/Legal teams.
- 25<sup>th</sup> October 2011: Case was registered and listed for hearing.
- 12<sup>th</sup> June 2014: PILAP sent letters to CM Punjab & CM Sindh to evoke their interest in the case and provision of resources, task force and budget for better 'Access to Justice'. Acknowledgment and letters came from CM Punjab only but no real initiative noticed.
- 1<sup>st</sup> April 2015: Dismissed for Non-Prosecution
- 1<sup>st</sup> March 2016: On appeal, re-listing of petition was allowed.
- PILAP had a resolution to leave the Supreme Court petition and submit at Sind High court but no further progress recorded in this regard.
- Need to have Lawyer for the pursuance of case. Hiring process started in Oct 2017.
- President PILAP has met Mr. Arshad Tayebaly, Senior Partner, Mohsin Tayebaly & Co. in order to bring them on board and engage lawyers.

## Case #2: River Ravi Commission: (PILAP)

Writ Petition No. WP-EPA 9137/2012 against Government of Punjab and Others in the Lahore High Court through Advocate Ahmed Rafay Alam

In response to the prayer for damages of wastewater drainage to the river 'Ravi', the Court has constituted the "River Ravi Commission" and directed WASA, EPA Punjab and Government of Punjab to enact recommendations of the commission and the court. The RRC is pursuing the case with developments and informing courts of the progress routinely.

- 11<sup>th</sup> May 2011 First Hearing: The court ordered Attorney General, Punjab to be present on next hearing and EPA, the Amici Curiae and respondents to provide more information. The court assigned the case to Green Bench.
- 18<sup>th</sup> May 2012: Notice issued to the Secretary Industries, Secretary Local Government, as well as, DCO, Lahore who will depute a senior officer along with record to assist the court on the next date of hearing
- 1<sup>st</sup> June 2012: The court ordered Secretary, EPD, Lahore to appear to explain if there are cheaper technologies and to propose a commission for assisting the court during onward trial.
- 8<sup>th</sup> June 2012: The River Ravi Commission established by the court, to restore the natural ecology of the River Ravi. The commission is to file an interim report on the progress made within two months.
- 7<sup>th</sup> December 2012: The court ordered to publicize 'Interim Report' filed by the commission and invite comments from general public. Also invited RRC members to be present for discussion on 'Bioremediation Project' in the report during next hearing.
- 1<sup>st</sup> February 2013: The court directed the Commission to prepare a brief report highlighting the technical difference between the pilot 'Bioremediation Project' and the proposals of the M.D. WASA with JICA.
- 1<sup>st</sup> March 2013: The River Ravi Commission, WASA and P&D Departments were directed to proceed with the approved Bioremediation Project and submit their progress report regarding the same before the next date of hearing. MD WASA was advised to coordinate with JICA for their proposal and submit detailed report which will provide technical background and cost breakdowns.
- 8<sup>th</sup> December 2015: The Chief Secretary, Government of the Punjab was directed to proceed with the recommendations of the River Ravi Commission and take immediate steps for setting up the Bioremediation Project at the earliest and submit an interim report regarding the progress made in this regard within one month.
- 28<sup>th</sup> January 2016: The progress noticed and advised for next hearing.

- 27<sup>th</sup> August 2017: According to the Chair of the River Ravi Commission, WASA Lahore has given the go ahead for the construction of a Bioremediation Plant.
- 15<sup>th</sup> September 2017: WASA has given presentation about construction of pilot plant. A committee is announced to oversee design and construction. Environmental Protection Department (EPD) will carry out a topographic survey and inform the committee for evaluation.
- 30<sup>th</sup> November 2017: Following update received from Advocate Rafay Alam Sb. in email: "No updates as yet. WASA and its technical team are taking their time on the design of the bioremediation plant. I'll see if I can convene a brief meeting with them later this week to speed things along."
- 01<sup>st</sup> March 2018: No significant progress, Advocate Rafay Alam Sb. planning to convene a meeting next week.
- 08<sup>th</sup> March 2018: NIGBE presented plan with WASA for construction of BR plant at a better site. The change was accepted but needed more documents so NIGBE will provide further documentation for approval and go ahead.

On April 27, 2018, ARA: "The ball is now in WASA Lahore's court. They have all the approvals and budget to carry out necessary procurement of materials and construction to build bioremediation plant. At our last meeting however we were only concerned about WASA's proposed timeframe (about a year) and wanted it reduced by half." There will be no hearings until the completion of the plant.

### Case #3: Right to Education Case: (PILAP)

Constitutional Petition No. 1267/2016 against Government of Sindh and Others in the Sindh High Court on 3<sup>rd</sup> March 2016 through Advocate Muhammad Najeeb Jamali

The abridged prayer to the court:

- (i) Declare that the Respondents are under a constitutional obligation to provide free and compulsory education to all children in Sindh and the rest of Pakistan between the ages of five and sixteen years;
- (ii) Declare that Pakistani children have a right to be educated in any school of their choosing and that it is the Respondents constitutional obligation to subsidizes / fund the cost of education of these children;
- (iii) Direct the Respondents to take all necessary legislative, financial, and administrative measures within a period of six months to ensure the provision of free and compulsory education;

- 4<sup>th</sup> March 2016: First Hearing: The Court ordered to issue notices to respondents.
- Several hearings put up in the Courts Daily list but the case is still pending.
  - 22<sup>nd</sup> March 2016 - Discharged
  - 27<sup>th</sup> October 2016 - Adjourned
  - 8<sup>th</sup> December 2016 - Adjourned
  - 18<sup>th</sup> January 2017 - Adjourned
  - 16<sup>th</sup> February 2017 - The Court could not see the petition in available time and will be put up on some next date for hearing.
  - 12<sup>th</sup> April 2017 - Adjourned
  - 10<sup>th</sup> May 2017 - The Court could not see the petition in available time and will be put up on some next date for hearing.
  - 15<sup>th</sup> August 2017 - The Court could not see the petition in available time and will be put up on some next date for hearing.
- 10<sup>th</sup> August 2017: Chief Justice (CJ) of Sindh High Court (SHC) Justice Ahmed Ali M Shaikh took 'suo motu' notice of a report regarding the lack of basic facilities in schools of Sindh province. He has also sought a detailed report to this effect from the Secretary Education Sindh within a week.
- 28<sup>th</sup> August 2017: Dr. Amjad Waheed has proposed a letter to be sent from PILAP President praying court to bring effectiveness to petition in coherence to the court's advice to the Education Secretary.
- 3<sup>rd</sup> October 2017: A request is sent today to Chief Justice SHC for meeting with PILAP delegates Mr. Anwar Kashif Mumtaz and Mr. Saad Amanullah Khan in addition to a letter sent last month to persuade for the urgency of petition.

- 14<sup>th</sup> October 2017: SHC Justice Munib heard the case and has advised PILAP for an actionable plan so that he can pass judgment on during next hearing *24<sup>th</sup> November 2017*. Both Dr. Amjad Waheed and Advocate Najeeb Jamali attended the hearing. Dr. Amjad is meeting with Advocate Najeeb and Saad Amanullah Khan on Monday to plan a response. Next date of hearing Nov 24, 2017.
- 24<sup>th</sup> November 2017: In the last meeting, Dr. Amjad Waheed and Advocate Najeeb handed over a workable plan for review in the courts, which the court can then order the government. Tentative date for hearing on December 24.
- 28 February 2018: As per Advocate Muhammad Najeeb Jamali, next hearing date is granted on 8<sup>th</sup> March 2018.
- 8th March 2018: The Court could not see the petition in available time and will be put up on some next date for hearing.
- Next tentative date of hearing date 7th September 2018 (auto-fix) as per SHC website.

#### Case #4: Land Demarcation/Rezoning: (PILAP)

Writ Petition No. WP-7877/2015 against Lahore Development Authority and Others in the Lahore High Court through Advocate Ahmed Rafay Alam

The prayer sought the court orders to Lahore Development Authority to stop re-zoning agricultural lands to residential and carry out 'Environmental Impact Assessment' before amendments to 'Master Plan' with reference to PILAP's concerns on such grounds.

- 20<sup>th</sup> March 2015: First Hearing: The Court issued notice to LDA and the Government of Punjab to appear for next hearing on 27<sup>th</sup> March 2015.
- 12<sup>th</sup> December 2016: Meetings of Legal team with LDA regarding Master Plan change.
- No further progress/updates available at the moment



## Case #5: Nuclear Petition: (PILAP)

C. P. No. 19/2017 against Government of Pakistan and Others in the Supreme Court of Pakistan through Advocate Salahuddin Ahmed

PILAP has challenged the construction of Nuclear Power Plant close to the city of Karachi, Sindh and prayed the courts to declare it: (i) unlawful being close to city; (ii) the evacuation plans not sufficient (iii) stop construction of K2 and K3 plants on similar grounds.

- 1<sup>st</sup> February 2017: On filing of the petition, the Registrar denied the hearing and ordered that “the petition be returned as it is not before a proper forum”.
- 9<sup>th</sup> May 2017: On appeal, hearing of petition was allowed but first hearing date is not granted after re-listing.
- The Supreme Court is in recess currently and will start regular hearings in September 2017.
- 25<sup>th</sup> October 2017: The SC bench again raised the query why we were not pursuing this case before the High Court. Our reply was that the public importance of the matter required direct hearing before the SC. Advocate Salahuddin has impression that there was some reluctance on part of some members of the bench to hear the matter. The matter has been adjourned to hear the Attorney General on this issue.
- 30<sup>th</sup> November 2017: Following update received from Advocate Salahuddin: “Still waiting on a date to be fixed by SC Office”.
- 24<sup>th</sup> April 2018: The Honourable Chief Justice, Mian Saqib Nisar heard the petition. The Supreme Court issued notices to the respondents for their response.

## Case #6: LLOYD's Bank Heritage Case: (PILAP+SHEHRI)

Constitutional Petition No. D-3823 against Silk Bank in the Sindh High Court on 1<sup>st</sup> June 2017 through Advocate Zubair Ahmed Abro

The abridged prayer: 'Declare that the permission for alteration in Protected Heritage and immoveable antiquity - Emirates Bank International Ltd. (Lloyds Bank) RAI-1/2, I. I. Chundrigarh Road, Karachi- issued by the Department of Culture, Tourism & Antiquities on recommendation of The Advisory Committee, on 29.06.2016 is in violation of Article 4, 9 & 28 of the Constitution of Pakistan as well as under the Antiquity Act, 1975, and the Sindh Cultural Heritage (Preservation) Act, 1994.

- 26<sup>th</sup> July 2017: First Hearing: The court ordered to issue notice to respondents.
- Hearing status: 'Urgent Application' is granted, notice be repeated. Mr. Anwar Ali (AR Writ Branch) appointed as commissioner to conduct a comprehensive inspection and file report.
- 1<sup>st</sup> August 2017: an inspection was carried out and site photos submitted to court with the report.
- 8<sup>th</sup> August 2017: "Discharged" (no hearing due strike/recess) by the Court.
- 22<sup>nd</sup> August 2017: "Discharged" (no hearing due strike/recess) by the Court.
- 1<sup>st</sup> March 2018: Advocate Zubair Ahmed filed application by Mr. Arif Belgaumi, for urgent hearing. His reply today, "Today (28.02.2018) bank counsel Mr. Yasin Azad appeared and requested for time on the ground that he has not received copy of all annexure of the petition. We opposed grant of time as we had already supplied complete set of petition many months ago. We have filed photographs of current position at the site. Court directed bank counsel to file reply to the petition within three weeks and adjourned matter to 19.03.2018".
- 19<sup>th</sup> March 2018: relisted by the Court on 29<sup>th</sup> March 2018.
- 29<sup>th</sup> March 2018: ZAA: "Today Silk Bank filed reply to the petition. They claim work is being carried out in rear building, which is not declared heritage. We need to file rejoinder to their reply within three weeks".
- ZAA: "Silk bank case will fix in first week of May. I have sent reply of silk bank to Arif Sb. for his technical input because on this date we have to file Rejoinder to their reply".
- The case came up twice in May but deferred. No hearing date assigned.

## Case #7: BT Cotton/GMO Seeds: (PILAP)

Writ Petition against Government of Pakistan and Others in the Lahore High Court through Advocate Ahmed Rafay Alam

PILAP had challenged the grant of GMO licenses for the varieties of BT Cotton on the grounds that the Federal Government is no longer legally allowed to regulate GMOs after the 18th Amendment.

- Our petition has been not being progressing.
- Recently, the Court accepted an application from CropLife (a Karachi based NGO) to become party to the matter.
- The latest update on this case is that the Lahore High Court has clubbed our petition with a similar petition on genetically modified seeds.
- No further updates available at the moment.
- 28<sup>th</sup> March 2018: ARA told that the case has come up in the court. ARA is trying to get the copy of proceedings and he will share. (The copy of proceedings obtained attached)
- 25<sup>th</sup> April 2018: The case is heard in the court on 25<sup>th</sup> April 2018. Order issued to Punjab EPA, agricultural board and other respondents to submit their responses/reports earlier than next hearing on 5<sup>th</sup> June 2018.