Form No:HCJD/C-121 ORDER SHEET

IN THE LAHORE HIGH COURT LAHORE JUDICIAL DEPARTMENT

Case No: W.P. No. 25501/2015

Ashgar Leghari

Federation of Pakistan, etc.

03. 14.09.2015

Mr. Mansoor Usman Awan, Advocate for the petitioner.

Mr. Nasar Ahmad, Deputy Attorney General for Pakistan.

Ms. Hina Hafeezullah Ishaq, Standing Counsel for Pakistan.

Mr. Imiaz Ahmad Kaifi, Additional Advocate General, Punjab.

Sajjad Ahmad, Joint Secretary (IC), Ministry of Climate Change, Islamabad.

Irfan Tariq, D.G. (Environment), Ministry of Climate Change, Islamabad.

Dr. Masood Arshad Makhdoom, Director Climate, Energy & Water, WWF, Lahore.

Muhammad Qasim Manzoor, Planning Officer (Environment), Planning & Development Department, Government of the Punjab, Lahore.

Waseem Ahsan Cheema, Director (Monitoring, Labs, Implementation), Environmental Protection Agency, Punjab.

Anjam Sardar, Deputy Secretary, Food Department.

Shahid Rasheed Awan, Additional Secretary (T), Dr. Khawaja Muhammad Umar, Deputy Secretary (P), Dr. Basir, Consevator, Mumtaz Babar, DFO (Forest), Agha Ejaz, Director (Wildlife), Dr. Imtiaz, Director (Fisheries), Forest, Wildlife & Fisheries Department.

Nisar Ahmad Sani, Assistant Director, PDMA, Punjab.

Dr. Muhammad Javed, Director Social and Environment Management Unit (Focal Person), Irrigation Department, Muhammad Naeem Ghaus, Additional Secretary (Admn.), Haroon Ahmad Khan, Project Director/SE, Small Dams Organization, Irrigation Department, Punjab.

Hussain Sardar, Additional Secretary Agriculture, Punjab.

Muhammad Riaz, Chief Metrologist, Pakistan MET Department.

Dr. Muhammad Afzaal, Deputy Director, Pakistan MET Department.

Ch. Muhammad Ashraf, Director General, Water Development, Agriculture Department, Punjab.

Waqar-ud-Din Siddiqui, Director (Policy & nternation Cooperation), National Disater Management Authority, (NDMA).

Hafiz Shahzad Masood, Section Officer, Cabinet Division.

Saad Ahmad Warraich, Director (UN-II), Ministry of Foreign Affairs.

Rizwan Bashir Khan, Additional Secretary, Planning & Development Division.

Arshad Ahmad, Senior Joint Secretary, Finance Department.

Hasan Nasir Jami, Additional Secretary, WAPDA.

Shoaib, Additional Secretary, Ministry of Inter Provincial Coordination.

Raza Bashir Adu, Standing Counsel WAPDA.

Muhammad Nawaz Manik, Director (Law), Environment Protection Department, Punjab,

Dr. Aqeel M. Khaleel, Section Officer, Health Department, Govt. of the Punjab.

Amir Muhammad Khan Niazi, Deputy Secretary, Ministry of IPC, Islamabad.

Rashid Ahmad, Section Officer, Ministry of IPC, Islamabad.

Syed Naseer Ahmad Gillani, Chief Environment, Ministry of Planning Development & Reform.

Arshad Ahmad, Senior Joint Secretary/Financial Advisor, Ministry of Climate Change.

Danial Hashmi, Project Director Glacier, Monitoring Research Centre, GMRC, WAPDA, Lahore.

Javed Iqbal Bukhari, Engineering Advisor (Civil), CEA/CFFC Office, Islamabad.

Muhammad Khalid Rana, Director (O), RSA.

Alamgir Khan, Chief Engineer (Floods) on behalf of Federal Flood Commission & Ministry of Water and Power Islamabad.

Riaz Ahmad, Deputy Commissioner for Indus Waters (PCIW), Lahore.

Yousaf Naseem, Additional Secretary, Finance

Division.

Muhammad Saleem, Legal Advisor, Ministry of Foreign Affairs.

CLIMATE CHANGE ORDER.

The petitioner has approached this Court as a citizen of Pakistan for the enforcement of his fundamental rights. He submits that overwhelming majority of scientists, experts, and professional scientific organizations related to earth sciences agree that evidences are sufficient that climate change is real. He submits that no one can deny the devastating impact of increase in frequency and intensity of climate extremes. Further, most of the experts agree that the major cause is human activities, which include a complex interaction with the natural environment coupled with social and economic changes that are increasing the heat trapping CO₂ and other greenhouse gases (GHG) in the atmosphere, which are increasing global temperature and in turn causing climate change.

- 2. The climate system is a highly complex system consisting of the atmosphere, the hydrosphere, the Cryosphere, the land surface and the biosphere, and the interactions between them.
- 3. For Pakistan, climate change is no longer a distant threat-we are already feeling and experiencing its impacts across the country and the region. The country experienced devastating floods during the last three years. These changes come with far reaching consequences and real economic costs.

- 4. The petitioner submits that in order to address the threat of climate change the National Climate Change Policy, 2012 ("NCCP") and the Framework for Implementation of Climate Change Policy (2014-2030) ["Framework"] has been announced by the Ministry of Climate Change, Government of Pakistan, however, no implementation on the ground has taken place. He submits that inaction on the part of Ministry of Climate Change and other Ministries and Departments in not implementing the Framework, offends his fundamental rights in particular Articles 9 and 14 of the Constitution besides the constitutional principles of social and economic justice. He submits that international environmental principles like the doctrine of public trust, sustainable development, precautionary principle and intergenerational equity form part of the fundamental Reliance is placed on Imrana Tiwana's Case rights. (PLD 2015 Lahore 522) and Shehla Zia's Case (PLD 1994 SC 693).
- 5. In pursuance to last order dated 04.09.2015 the following Ministries/Divisions/Departments alongwith their representatives are present before this Court today.

Federal Government.

- i. Cabinet Division, Government of Pakistan.
- ii. Ministry of Finance, Revenue and Planning and Development.
- iii. Ministry of Foreign Affairs
- iv. Ministry of Inter-Provincial Coordination.
- v. Ministry of Climate Change.
- vi. Ministry of Water and Power

vii. National Disaster Management Authority (NDMA).

Provincial Government.

- i. Agricultural Department.
- ii. Environment Protection Department/EPA.
- iii. Food Department.
- iv. Forestry, Wildlife and Fisheries Department.
- v. Health Department.
- vi. Housing, Urban Development and Public Health Engineering Department.
- vii. Planning and Development Department.
- viii. Irrigation Department.
- ix. Law and Parliamentary Affairs Department.
- x. Disaster Management Department (DMD).
- xi. PDMA.
- 6. In pursuance to last order dated 04.09.2015 the above Ministries/Divisions/Departments have nominated the following "Focal Persons":-

Sr. No.	Name of Focal Person	Ministry/Division, Department.		
	Federal Focal Persons			
1.	Arshad Ahmad, Senior Joint Secretary/Financial Advisor	Ministry of Climate Change		
2.	Syed Naseer Ahmad Gillani, Chief Environment	,		
3.	Danial Hashmi, Project Director Glacier, Monitoring Research Centre, GMRC	WAPDA, Lahore		
4	Hasan Nasir Jami, Additional Secretary, WAPDA.	WAPDA/Ministry of Water and Power.		

5.	Javed Iqbal Bukhari,	
	Engineering Advisor	
	(Civil), CEA/CFFC	
	Office, Islamabad.	
6.	M. Khalid Idrees Rana,	IRSA
	Director (Operation),	
	IRSA, Islamabad.	
7.	Riaz Ahmad, Deputy	PCIW
	Commissioner for	
	Indus Waters (PCIW),	
	Lahore.	
8.		National Disaster
0.	Waqar-ud-Din	
	Siddiqui, Director	Management
	(Policy & International	Authority, (NDMA).
	Cooperation),	5 11 5 5 5 5
9.	Dr. Muhammad Hanif,	Pakistan Metrologist
	Director, National	Department.
	Weather Forecasting	
	Centre (NWFC),	
	Islamabad.	
10.	Waqar-ud-Din	National Disaster
	Siddiqui, Director	Management
	(Policy & nternation	Authority.
	Cooperation), National	
	Disater Management	
	Authority, (NDMA).	
	•)
	<u>Provincial Focal F</u>	<u>rersons</u>
11.	Ch. Muhammad	Agriculture
	Ashraf, Director	Department
	General, Water	
	Development,	
	Agriculture	
	Department, Punjab .	
12.	Dr. Muhammad Javed,	Irrigation
12.	Director Social and	Department
	Environment	- cpui illiolit
	Management Unit,	
	Irrigation Department	
13.		Forest, Wildlife &
13.	,	Fisheries
	,	
	Deputy Secretary	Department.
	(Planning), Forest,	
	Wildlife & Fisheries	
	Department.	
14.	Arshad Ahmad, Senior	Finance Department

	Joint Secretary,	
	Finance Department.	
15.	Waseem Ahsan	Environmental
	Cheema, Director	Protection Agency.
	(Monitoring, Labs,	
	Implementation),	
	Environmental	
	Protection Agency,	
	Punjab.	
16.	Nisar Ahmad Sani,	PDMA
	Assistant Director,	
	PDMA, Punjab	

- 7. Learned DAG alongwith learned Law Officer will place on record the notifications whereby the said Focal Persons have been nominated.
- 8. The National Climate Policy, as well as, the Framework shows that in view of Pakistan's high vulnerability to the adverse impacts of climate change, in particular extreme events, like NCCP adaptation effort is the focus of the Framework. The vulnerabilities of various sectors to climate change have been highlighted and appropriate adaptation actions spelled out. cover actions to address issues in various sectors such as water, agriculture, forestry, coastal areas, biodiversity, health and other vulnerable ecosystems. Notwithstanding the fact that Pakistan's contribution to global greenhouse gas emissions is very small, its role as a responsible member of the global community in combating climate change has been highlighted by giving due importance to mitigation efforts in sectors such as energy, forestry, transport, industries, urban planning, agriculture and livestock.
- 9. The Framework for Implementation of NCCP has been developed not as an end in itself, but rather a

catalyst for mainstreaming climate change concerns into decision making that will create enabling conditions for integrated climate compatible development processes. It is, therefore, not a stand-alone document, but rather an integral and synergistic complement to future planning in the country. The Framework is a "living document". This is because we are still uncertain about the timing and exact magnitude of many of the likely impacts of climate change. We will continue to deepen our understanding of the phenomenon, as we continue to implement our adaptation and mitigation programmes. The goal of NCCP is to ensure that climate change is mainstreamed in economically and socially vulnerable sectors of the economy and to steer Pakistan towards climate resilient development.

10. The Framework provides adaptation actions for various sector in the following manner:-

Water Sector: Adaptation Actions:

Pakistan is an agricultural country. Therefore water is an essential resource for sustained economic growth as well as human survival. Water, which is one of the most important national resource is increasingly becoming a scarce natural resource. Presently agriculture sector is using 93% domestic sector 5% and industrial sector 2% of water resources. Our Indus Basin Irrigation System (IBIS) is the world's largest contiguous irrigation system.

Water resources are inextricably linked with climate; hence, the projected climate change has serious implications for monsoon rains, both being highly sensitive to climate change. Pakistan has moved from a water affluent country to water stressed country. In 1947, per capita water availability was 5000 cubic meter, which has currently decreased to around 1000 cubic meter, and projected to decrease to 800 cubic meter per capita by the year 2025.

The country-specific climate projections strongly suggest the following future trends in Pakistan:

decrease in the glacier volume and snow cover leading to alterations in the seasonal flow pattern of IRS; increase in the formation and burst of glacial lakes; higher frequency and intensity of extreme climate events coupled with irregular monsoon rains causing frequent floods and droughts; greater demand of water due to increased evapotranspiration rates at elevated temperatures.

Agriculture and Livestock: Adaptation Actions:

Agriculture sector is the life line and the single largest sector of Pakistan's economy. It contributes 21% to the GDP, employs 45% of the labour force and contributes about 70% to the export earnings. Agriculture in Pakistan is greatly affected by short term climate variability and could be harmed significantly by long-term change.

The country is broadly divided into the following 10 agro-ecological zones based on physiographic, climate, soil type and agricultural land use.

I. Indus delta; II. Southern Irrigated plain; III. Sandy desert; IV. Northern irrigated plain V. Barani (Rain feed areas); VI. Wet Mountains; VII. Northern dry mountains; VIII. Western dry mountains; IX. Dry western Plateau; X. Sulaiman Piedmont.

Shortening length of growing period:

The duration of crop growth cycle is related to temperature; an increase in temperature will speed up crop growth and shorten the duration between sowing and harvesting. The shortening could have an adverse effect on productivity of crops and fodder for livestock.

Changes in river flows:

The Indus River System gets about 80% water from the Hindu-Kush-Himalaya glaciers. Increasing atmospheric temperatures are expected to increase glacier melt. IPCC (2007) projected that glacier melt in Himalayas would cause increased rivers flows during the next few decades and then followed by decreased river flows, as the glaciers recede.

Increased crop evapotranspiration:

Increased atmospheric temperature would cause higher water evaporation from soil and from plant leaves. These higher evapotranspiration losses would mean that plants would need more water to maintain optimum growth.

Land Degradation:

The deterioration of productive agricultural land areas due to water logging and salinity is causing major threat to food security in the country. Soil erosion due to water and wind is universally recognized as a serious threat to productive agriculture land areas. Water and wind erosion is the direct consequence of climatic parameters of high intensity rainfall, wind-velocity and higher temperatures. The northern mountainous region suffers from unfavourable soil and moisture regime, thereby causing soil erosion. Similarly arid regions of Punjab (Cholistan), Sindh (Tharparker) and Balochistan (Chaghi Desert and sandy coastal areas) are affected by wind-erosion.

Extreme Weather Events:

According to IPCC (2007), the frequency and intensity of extreme weather events, such as floods, heavy precipitation events, droughts, cyclones etc are expected to increase in future. Such extreme events can also affect food security.

Livestock Sector:

Since the agriculture & livestock sector are heavily dependent on the vagaries of nature, it is highly vulnerable to climate change phenomena. Climate change will impact food security of the country mainly through reduced crop productivity, adverse impact on livestock health and increased agricultural production losses because of extreme weather events. This will necessitate the agriculture and livestock sectors, particularly in rain-fed areas, to adapt to these climatic changes.

Forestry Sector:

Generally most of the forests in Pakistan are prone to the threats of changing climate in the form of changes in species composition, disease and insect attacks, more frequent forest fires, and shifting habitats due to unfavourable climatic conditions. Further research is required to investigate the real and specific climate change threats to each forest type so as to undertake realistic adaptation measures.

11. I have heard the representatives of the Ministries and the respective Provincial Departments. It is quite clear to me that no material exercise has been done on the ground to implement the Framework. In order to

expedite the matter and to effectively implement the fundamental rights of the people of Punjab, <u>Climate</u>

<u>Change Commission</u> ("CCC") is constituted by this

Court in the following manner:-

I. <u>CONSTITUTION OF CLIMATE CHANGE</u> <u>COMMISSION</u>

"Climate Change Commission" is hereby constituted under Order 26 CPC, comprising the following members:-

1.	Dr. Pervaiz Hasan, Advocate, Hasan & Hasan Advocate, PAAF Building, second floor, 7-D, Kashmir Egerton Road, Lahore	Chairman
2.	(042-36360800). Secretary, Ministry of Climate Change.	Member
3.	Secretary, Ministry of Water and Power,	Member
4.	Secretary, Ministry of Finance, Revenue and Planning and Development.	Member
5.	Director General, National Disaster Management Authority.	Member
6.	Director General, International Organization/ Climate Change at the Ministry of Foreign Affairs (nominated by the Foreign Secretary)	Member
7.	Secretary, Irrigation Department, Government of Punjab.	
8.	Secretary, Agricultural Department, Government of Punjab.	Member

9.	Secretary, Food Department, Government of Punjab.	Member
10.	Secretary, Forest Department, Government of Punjab.	Member
11.	Secretary, Health Department, Government of Punjab.	Member
12.	Director, Provincial Disaster Management Authority.	Member
13.	Secretary, Environment Protection Department, Govt. of Punjab.	Member
14.	Mr. Ali Tauqeer Sheikh, CEO & National Program Director, LEAD, Pakistan, LEAD House, F-7, Markaz, Islamabad (051-2651511), 0300-8554559.	Member
15.	Mr. Hamad Naqi, Director General, WWF, Lahore (042-111993725, 0300- 8466690).	Member
16.	Cheema, Manager, Islamabad Program Office, IUCN (051-2271027-34	Member
17.	0345-2004242). Mr. Abid Solehri, CEO, SDPI.	Member
18.	Ms. Saima Amin Khawaja, Advocate, 78-B, Mazang Road, Lahore (0300- 8414843) (042-36315469- 70)	Member
19.	Mr. Anwaar Hussain, Assistant Advocate General, Punjab (0333- 4199511)	Member
20.	Mr. Mansoor Usman Awan, Advocate, counsel for the	Member

	petitioner (0333-3139999).			
21.	Irfan	Tariq,	D.G.	Secretary
	(Environment), Ministry of			20010001
	Climate Change, Islamabad.			

II. TERMS OF REFERENCE OF CLIMATE CHANGE COMMISSION:-

Objective/Terms of Reference:

a) Effective implementation of National Climate Change Policy, 2012 ("NCCP") and the Framework for Implementation of Climate Change Policy (2014-2030) ["Framework"]

III. POWER OF THE COMMISSION

- a) The above Commission shall enjoy the powers under Order 26 of the CPC in order to achieve the objective of the Commission..
- b) The Commission shall have the power to co-opt any person/expert, at any stage.
- The Commission can seek assistance of any Federal or Provincial Government Ministries/
 Department by approaching the concerned Ministries/Departments in writing and the concerned Ministries/Departments are hereby directed to render full assistance to the Commission in respect of the above Terms of Reference.

IV. QUORUM OF THE COMMISSION

The quorum of the Commission shall be **five** which shall include the Chairman.

V. <u>SECRETARIAT OF THE COMMISSION:</u>

The secretariat of the Commission shall be housed at the Ministry of Climate Change, Islamabad, however, venue of the meeting will be decided by the Chairman.

VI. EXPENSES OF THE COMMISSION:

- (a) Secretarial expenses of the Commission shall be borne by the Ministry of Climate Change.
- (b) The Commission may approach this court at any stage to seek *appropriate* orders for facilitation of their work.

VII. INTERIM REPORT

The Commission shall file interim reports as and when directed by this Court.

- 12. No one has tendered appearance on behalf of Ministry of National Food Security and Research and Ministry of Law and Justice. Let the Additional Secretaries of the said Ministries appear before this Court on the next date of hearing and furnish explanations for their absence. Learned DAG will ensure that Additional Secretaries of the said Ministries alongwith Focal Person are present before this Court on the next date of hearing.
- 13. The representative of the Cabinet Division submits that Focal Person has not been appointed by the Division. The Additional Secretary of the Division has not tendered appearance and the Division is represented by the Section Officer. Learned DAG will ensure that Additional Secretary of the Cabinet Division, Government of Pakistan is present before this Court on

the next date of hearing alongwith nominated Focal Person to make submissions.

- 14. The Additional Secretary, Forest, Wildlife & Fisheries Department submitted that training of Forest Officers is most important aspect and in this regard no support is being rendered to the Forest Department. Joint Secretary, Ministry of Climate Change submitted that there is IG Forest, Ministry of Climate Change, who can provide the said training on its own cost. Joint Secretary is, therefore, directed to ensure that by the next date of hearing the training arrangement is worked out between the Ministry of Climate Change and Forest Department in Punjab.
- 15. To come up for hearing on 05.10.2015, while the Commission shall hold its meeting on 01.10.2015.

(Syed Mansoor Ali Shah)
Judge

M. Tahir*

To be uploaded on the Lahore High Court Website.