

IN THE HONOURABLE HIGH COURT OF SINDH AT KARACHI  
(CONSTITUTIONAL JURISDICTION)

Constitution Petition No. 3891 of 2016

30-6-16  
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1. Karamat Ali,  
Son of (Late) Amanat Ali,  
Muslim, Adult,  
Resident/office at 143-A, Sector X-5,  
Gulshan-e-Maymar,  
Karachi-75340
  
2. Nazim Fida Hussain Haji  
Son of Fida Hussain Haji,  
Muslim, Adult, :  
Resident of House No. A-21/2-A,  
KDA Scheme 1A Extension,  
Stadium Road,  
Karachi
  
3. Mr. Jawad Ahmad,  
S/o Tauqeer Ahmad Sheikh,  
Through his duly appointed Attorney,  
Muslim, Adult,  
Resident of House No. 325,  
Block J1, Johar Town,  
Lahore
  
4. Pakistan Institute of Labour  
Education & Research,  
Registered as an Association under Section 42,  
Companies Ordinance, 1984,  
Through its authorized person,  
Having its registered office at PILER Centre,  
ST-001, Sector X, Sub-Sector V,  
Gulshan-e-Maymar,  
Karachi-75340
  
5. National Organization for Working  
Communities (NOW Communities),  
An Agency registered under the  
Voluntary Social Welfare Agencies  
(Registration & Control) Ordinance, 1961,  
Through its authorized person,  
Having its registered office at 1-D,  
First Floor, Westland Trade Centre, K.U.C.H.S.,  
Block 7/8, Near Baloch Colony,  
Shaheed-e-Millat Road, Karachi



6. Urban Resource Centre,  
A Society registered under the  
Societies Registration Act, 1860,  
Through its authorized person  
Having its registered office at  
A-2/2, 2<sup>nd</sup> Floor, Westland Trade Centre,  
Commercial Area, Shaheed-e-Millat,  
Karachi

7. Workers Education and Research Organization  
(WERO),  
An Agency registered under the  
Voluntary Social Welfare Agencies  
(Registration & Control) Ordinance, 1961,  
Through its authorized person  
Having its registered office at  
D-1, First Floor, West Land, Trade Centre,  
K.U.C.H.S., Block 7/8, Near Baloch Colony,  
Shaheed-e-Millat Road,  
Karachi.....Petitioners

Versus

1. Federation of Pakistan,  
Through the Secretary,  
Ministry of Water and Power,  
Room No. 201-204, 2nd Floor,  
A Block Pak Secretariat, Islamabad

2. Province of Sindh  
Through the Chief Secretary,  
Government of Sindh,  
Sindh Secretariat,  
Karachi

3. Province of Sindh  
Through the Secretary,  
Energy Department,  
Government of Sindh,  
Sindh Secretariat,  
Karachi

4. National Electric Power Regularity Authority (NEPRA),  
An Authority established under  
the Act No. XL of 1997,  
Through its Chariman,  
Having Office at NEPRA Tower,  
Attaturk Avenue (East), Sector G-5/1,  
Islamabad

5. K-Electric Supply Company Limited (K-Electric),  
Through its Chief Executive Officer,  
Having office at Sunset Commercial Street #1, Karachi



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6. The Commissioner,  
Commissioner Karachi Division,  
4-Club Road,  
Karachi.....

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.....Respondents

CONSTITUTIONAL PETITION UNDER ARTICLE 199 OF THE  
CONSTITUTION OF THE ISLAMIC REPUBLIC OF PAKISTAN, 1973



**ORDER SHEET  
IN THE HIGH COURT OF SINDH, KARACHI**

**C.P. No. D-3891 of 2016**

Dated: \_\_\_\_\_ Order with signature(s) of Judge(s)

**For Directions:**

1. For order on CMA No. 18098/2018 (U/A)
2. For order on CMA No. 18099/2018 (Contempt)

**22.05.2018**

Mr. Faisal Siddiqui, Advocate for the petitioners.  
Mr. Kashif Hanif, Advocate for Respondent No. 4.  
Mr. Miran Muhammad Shah, A.A.G.

1. Urgency granted.
2. Learned counsel for the petitioners contends that present petition was disposed off by this court vide order dated 29.05.2017 by giving following directions:-

1) *That the NEPRA Authorities, being regulator of the K-Electric, are directed to make sure that the instructions issued by it vide order on the above-noted show cause notice dated March 25, 2016 are being complied with by the K-Electric Authorities in its letter and spirit.*

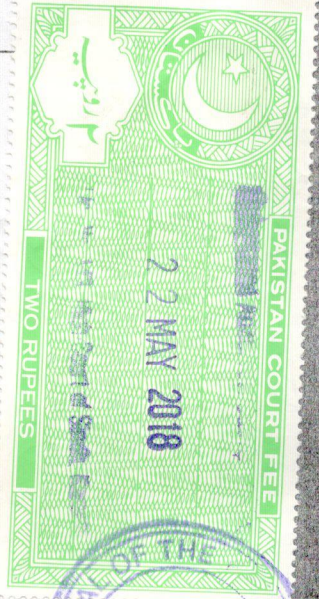
2. *Needless to state that in case of non-compliance by the K-Electric Authorities, the NEPRA Authorities would be at liberty to take appropriate action in accordance with law against the K-Electric Authorities.*

Learned counsel for the petitioner contends that the directions given by this court have not been complied with by the Respondents No. 4 & 5, so also by the alleged contemnors.

In the first instance, let report be called from the alleged contemnors with regard to the compliance of order dated 29.05.2017, to be submitted on or before next date of hearing.

Issue notices to the alleged contemnors.

To come up on 30.05.2018.



**IN THE HONOURABLE HIGH COURT OF SINDH AT KARACHI  
(CONSTITUTIONAL JURISDICTION)**

Constitution Petition No. D-3891 of 2016

Karamat Ali and Others.....Petitioners

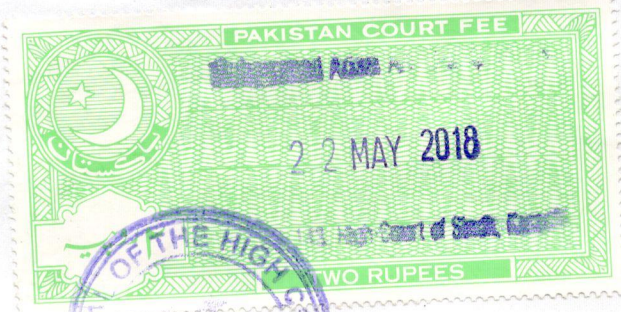
Versus

Federation of Pakistan and Others.....Respondents

**APPLICATION UNDER SECTIONS 3, 6 & 12, OF THE CONTEMPT OF  
COURT ORDINANCE, 2003, READ WITH, ARTICLE 204 OF THE  
CONSTITUTION, 1973**

It is most respectfully and most humbly submitted that for the detailed reasons stated in the accompanying Affidavit, this Honourable Court may graciously be pleased to punish the person named herein below, for consciously, deliberately and willfully subverting, undermining and violating the Order dated: 29.05.2017, of this Honourable Court in the present Petition:

1. Mr. Tayyab Tareen :  
Chief Executive Officer,  
K-Electric Limited,  
KE House, 39-B,  
Sunset Boulevard,  
Phase-II, Defence Housing Authority,  
Karachi
2. Mr. Dale Sinkler,  
Chief Generation and Transmission Officer,  
K-Electric Limited,  
KE House, 39-B,  
Sunset Boulevard,  
Phase-II, Defence Housing Authority,  
Karachi
3. Mr. Asif Saad,  
Chief Operating Officer Distribution,  
K-Electric Limited,  
KE House, 39-B,  
Sunset Boulevard,  
Phase-II, Defence Housing Authority,  
Karachi

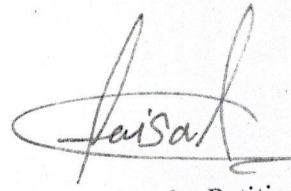


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4. Mr. Amir Zia,  
Head of Distribution,  
K-Electric Limited,  
KE House, 39-B,  
Sunset Boulevard,  
Phase-II, Defence Housing Authority,  
Karachi
5. Mr. Muhammad Adil,  
Head of Transmission,  
K-Electric Limited,  
KE House, 39-B,  
Sunset Boulevard,  
Phase-II, Defence Housing Authority,  
Karachi
6. Brig, (R) Tariq Saddozai,  
Chairman,  
National Electric Power Regulatory  
Authority (NEPRA),  
NEPRA Tower Attaturk Avenue (East),  
Sector G-5/1, Islamabad
7. Mr. Syed Masood ul Hassan Naqvi,  
Vice Chairman/Member Sindh,  
National Electric Power Regulatory  
Authority (NEPRA),  
NEPRA Tower Attaturk Avenue (East),  
Sector G-5/1, Islamabad

The abovementioned prayer is made in the interest of justice and may  
graciously be granted.

Karachi:  
Dated: \_\_\_\_\_, 2018



Advocate for the Petitioners



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**IN THE HONOURABLE HIGH COURT OF SINDH AT KARACHI  
(CONSTITUTIONAL JURISDICTION)**

Constitution Petition No. D-3891 of 2016

Karamat Ali and Others.....Petitioners

Versus

Federation of Pakistan and Others.....Respondents

**AFFIDAVIT IN SUPPORT OF THE APPLICATION UNDER SECTIONS  
3, 6 & 12, OF THE CONTEMPT OF COURT ORDINANCE, 2003, READ  
WITH, ARTICLE 204 OF THE CONSTITUTION, 1973**

I, Nazim Fida Hussain Haji, son of Fida Hussain Haji, Muslim, Adult,  
resident of House No. A-21/2-A, KDA Scheme 1 A, Extension, Stadium Road,  
Karachi, holding CNIC No. 42201-06232695, do hereby state on oath as under:

1. That I am the Petitioner No.2, in the present Petition and I am well conversant with the facts of this case.
2. That the accompanying Application has been filed and drafted under my instructions and for the sake of brevity, the contents of the accompanying Application under Sections 3, 6 & 12, of the Contempt of Court Ordinance, 2003, Read With, Article 204 of the Constitution, 1973, may be read as a part of this Affidavit.
3. That the present Petition was filed to seek, inter alia, the implementation of NEPRA's Decision dated: 25<sup>th</sup> March, 2016, [annexed to the Memo of Petition as Annex 'A', Page 67] against K-Electric in the matter of Show

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HON'BLE COURT OF SINDH



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Cause Notice dated: 24<sup>th</sup> July, 2015, regarding excessive and discriminatory load shedding by K-Electric during the onslaught of heat wave in the year, 2015. The present Petition was disposed of by this Honourable Court through Order dated: 29.05.2017 and the following two distinct and independent directions were given to NEPRA [Respondent No.4] and K-Electric Limited [Respondent No.5], respectively:

*"We, therefore, dispose of this petition by giving directions as under:*

*1) That the NEPRA Authorities, being regulator of the K-Electric, are directed to make sure that the instructions issued by it vide order on the above-noted show cause notice dated March 25, 2016 are being complied with by the K-Electric Authorities in its letter and spirit.*

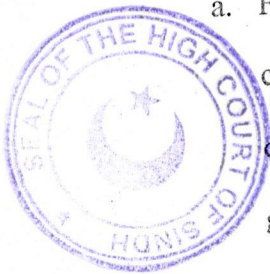
*2) Needless to state that in case of non-compliance by the K-Electric Authorities, the NEPRA Authorities would be at liberty to take appropriate action in accordance with law against the K-Electric Authorities.*

*Petition stands disposed of in the above terms along with the listed applications".*

4. That as stated in the first direction of the aforementioned Order, NEPRA was directed to make sure that the instructions issued by it through NEPRA's Decision dated: 25<sup>th</sup> March, 2016, are complied with in its letter and spirit. It is submitted that the Alleged Contemnors, representing NEPRA and K-Electric have miserably, deliberately, willfully and malafidely failed to ensure that the instructions issued by NEPRA in its Decision dated: 25<sup>th</sup> March, 2016, are complied with by K-Electric, which can be observed from the following:

a. Firstly, in Para 37(ii) of the NEPRA'S Decision, it has been categorically and unequivocally directed that if K-Electric (KE) continues with the practice of reducing or underutilizing its generation capacity, strict punitive action will be taken against it in

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HIGH COURT OF SINDH





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future. However, a Press Release issued by NEPRA on 17<sup>th</sup> April, 2018, clearly reflects, through its Para 3, 4 and 5, that K-Electric had been underutilizing Bin Qasim Power Station (BQPS I), whereas it could have been operated at full capacity to minimize load shedding. Furthermore, due to poor maintenance plan and unplanned outage, generation capacity is reduced. It is obvious from the aforementioned observations of NEPRA in its Press Release that firstly, K-Electric has completely violated the directions given in Para 37(ii) of NEPRA's Decision by reducing and underutilizing its generation capacity and secondly, in the span of over one year since the passing of the Order dated: 29.05.2017 by this Honourable Court, the Alleged Contemnors No.6 and No.7, representing NEPRA have utterly failed to take any action against K-Electric and against Alleged Contemnors No. 1 to No. 5 for violation of the said NEPRA's Decision.

b. Secondly, through Para 37(v) of the NEPRA'S Decision, K-Electric has been categorically and unequivocally directed to increase its generation capacity and improve its transmission and distribution system strictly in accordance with the investment plans submitted by and attached as Annexure-A to the decision (Page 103 to 105). However, a Press Release issued by NEPRA on 17<sup>th</sup> April, 2018, clearly reflects, through Para 4 and 5, evidence of K-Electric's poor maintenance plan, load management, faults adding to the unplanned load shedding and fragile distribution system. It is important to submit that such poor maintenance plan is clearly violative of the aforementioned investment plan submitted by K-Electric, which categorically specifies that investment had to be made by K-Electric for the purposes of rehabilitation and



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HIGH COURT OF SINDH



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enhancement of distribution and transmission network, cable replacements, maintenance of hotspot on feeders, expansion and rehabilitation of grid stations, replacement of fatigued switches, preventive maintenance of 151 feeders, replacement of 22 cable links, and preventive maintenance of 1540 transformers. It is obvious from the aforementioned observation of NEPRA in its Press Release that firstly, K-Electric has completely violated the directions given in Para 37(v) of NEPRA's Decision by failing to take steps in relation to the maintenance and secondly, in the span of over one year since the passing of the Order dated: 29.05.2017 by this Honourable Court, the Alleged Contemnors No.6 and No.7, representing NEPRA have utterly failed to take any action against K-Electric and against Alleged Contemnors No. 1 to No. 5 for violation of the said NEPRA's Decision.

c. Thirdly, the violation of Para 37(ii) and 37(v) are also obvious from the fact that there is public outrage, which is widely reported in news clippings, over excessive load shedding in Karachi, in the hottest weather of the year and in the month of Ramadan, and because of such excessive load shedding, the citizens of Karachi are literally living in hell.

The aforementioned facts clearly prove that not only K-Electric and the Alleged Contemnors No.1 to No.5 have violated Para 1 of the operative part of the Order dated: 29.05.2017 of this Honourable Court by failing to abide by the instructions given in the NEPRA's Decision dated: 25<sup>th</sup> March, 2016, but Alleged Contemnors No. 6 and No.7 representing NEPRA have also violated the said Order by failing to take any action against K-Electric over the last one year.

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HIGH COURT OF SINDH



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*A copy of the NEPRA's Press Release dated: 17.04.2018 and newspaper clippings is annexed and marked as Annex 'AX' to 'AX-3'.*

5. That as stated above, the directions given in Para 2 of the Order dated: 29.05.2017 are independent and distinct from the directions given in Para 1 of the operative part of the said Order. Para 2 of the operative part of the Order dated: 29.05.2017 begins with the word "needless", which clearly imposes an independent responsibility upon the Alleged Contemnors No.6 and No.7 representing NEPRA to take appropriate action against K-Electric in case of non-compliance. It is obvious from the aforementioned facts that the Alleged Contemnors No.6 to No.7, representing NEPRA are responsible for willful and deliberate failure to take any action against the non-compliance of its own Decision dated: 25<sup>th</sup> March, 2016.
6. That it is important to submit that the Alleged Contemnor No.1 being the Chief Executive Officer of K-Electric was responsible for ensuring compliance of the Order dated: 29.05.2017, by following the instructions given in the NEPRA'S Decision dated: 25<sup>th</sup> March, 2016. The responsibility to ensure compliance of Para 37(ii) of NEPRA'S Decision, by ensuring that there is no reduction and/or underutilization of generation capacity lies with the Alleged Contemnors No.1, 2 and No.5 who are responsible, for inter alia, generation of electricity. The responsibility to ensure compliance of Para 37(v) of NEPRA'S Decision by ensuring that electricity is distributed through well-maintained channels, plants, feeders and cables in accordance with the maintenance plan specified in the investment plan attached as Annexure -A to NEPRA'S Decision, lies with the Alleged Contemnors No.1, 3 and 4, who are responsible for distribution of electric power and supply. It is important to submit that

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HIGH COURT OF SINDH



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Order dated: 29.05.2017 records the statement made by the Alleged Contemnors No. 4 and No.5 ['Mr. Amir Zia' and 'Mr. Muhammad Adil'] that NEPRA's Decision will be complied with in accordance with law, which clearly shows that the said Alleged Contemnors had knowledge of the Order dated: 29.05.2017 as well as the fact that an undertaking was given by them on the basis of which the Order dated: 29.05.2017 was passed, which undertaking has been willfully and deliberately violated. Furthermore, the responsibility to ensure that the aforementioned NEPRA's Decision is complied with in letter and spirit lies with the Alleged Contemnors No. 6 and No.7. It is amply clear from the aforementioned facts that all the Alleged Contemnors have willfully, deliberately and malafidely violated the Order dated: 29.05.2017 by failing to ensure compliance of NEPRA's Decision dated: 25<sup>th</sup> March, 2016..

7. That it is respectfully submitted that the statement made by NEPRA in its Press Release dated: 17<sup>th</sup> April, 2018, to the effect that legal action will be taken by it against K-Electric is only a pretence and farce when in fact both K-Electric and NEPRA i.e. the Alleged Contemnors are acting in collusion with each other, which is obvious from the fact that in the span of over one year and in the present electricity crisis, NEPRA has not taken any action against K-Electric. It is further most respectfully submitted, for the sake of disclosure, that the Petitioners intend to file Intervener Application in HRC No. 20883 of 2018 (in the matter regarding excessive load shedding in Sindh) before the Honourable Supreme Court, to bring on record the facts stated in the present Petition. However, the issues and controversies raised in the said HRC No. 20883 of 2018 are distinct and separate from the issues involved in the present Contempt Application.

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AFFIDAVIT & IDENTITY BRANCH  
HIGH COURT OF SINDH



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8. That in view of the abovementioned acts of the Alleged Contemnors No.1 to No.7, it is most respectfully and most humbly prayed that this Honourable Court may graciously be pleased to punish the Alleged Contemnors named in the accompanying Application, for consciously, deliberately and willfully subverting, undermining and violating the Order dated: 29-05-2017, of this Honourable Court.

9. That whatever has been stated above is true and correct to the best of my personal knowledge and law stated, I believe to be correct in view of the advice from my legal counsel.

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Nazim J. Haf  
DEPONENT  
CNIC No. 42201-0623269-5



IN THE HIGH COURT OF SINDH, KARACHI

Const. P. No: 3891 of 2016

Karamat Ali and Ors

PETITIONER

VERSUS

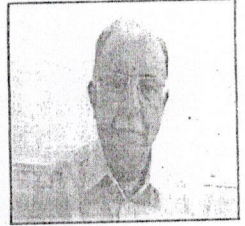
Fed. of Pakistan and Ors

RESPONDENT

AFFIDAVIT IN SUPPORT OF CONTEMPT APPLICATION

Mr. Nazim Fida Hussain Haji Son of Fida Hussain Haji, resident of House No.A-21/2-A KDA Scheme 1A Extension Stadium Road Karachi, affirmed on oath before me at Karachi on this 21-MAY-2018 in the 'Identity Section' of this court.

Photograph of Deponent



Signature of Deponent

*Nazim Fida Hussain Haji*

CNIC: 42201-0623269-5

Cell No. 0300-8220999

Email: NIL

- Original CNIC verified by Bar Code Reader
- Photo taken at I.S.
- Biometric Attendance done at I.S.
- Video recording done at I.S.
- CNIC verified through NADRA
- Finger Prints verified through NADRA

*[Signature]*  
**ASSISTANT REGISTRAR-I  
AFFIDAVIT & IDENTITY BRANCH  
HIGH COURT OF SINDH**



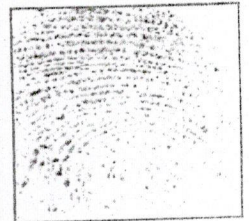
COMMISSIONER FOR TAKING AFFIDAVIT

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No. of Affidavit : 2/2

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