

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Constitutional Petition No. D-341 of 2021

(Saddam Hussain Sahito v Province of Sindh & others)

Constitutional Petition No. D-817 of 2021

(Sheraz Mumtaz Rajpar v Province of Sindh & others)

Date	Order with signature of Judge(s)
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Mr. Justice Adnan-ul-Karim Memon
Mr. Justice Mohammad Abdur Rahman

Date of hearing:- 22.05.2024

Date of order:- 26.01.2025

Mr. Abdul Mujeeb Shaikh advocate for the petitioner in C.P. No. D-341 of 2021.
Mr. Habib-ur-Rahman Shaikh Advocate for the petitioner in C.P. No. D-817 of 2021.

Mr. Liaquat Ali Shar, Addl. A.G Sindh.

Mr. Fida Hussain Mastoi, DIG Traffic Hyderabad,

Mir Muhammad Dayo, PDSP Khairpur, Shoukat Ali Rind, DSP Kot Lalo,

Inspector Muhammad Aslam SHO Kumb,

Inspector Mansoor Ahmed SHO PS Setharja,

SHO Musawar Hussain Qureshi,

SHO PS Mirwah, SIP Abdul Jabbar Memon,

SHO PS Ranipur, SIP Noor Ahmed Leghari,

SHO PS Pir Wasan.

ORDER

Adnan-ul Karim Memon, J;
and orders:

Petitioners seek the following declarations

- A) To direct respondents No. 2 to 7 not to allow illegal public transport having no route permits to ply their vehicles on the Mehran Highway.
- B) To direct the respondents not to sanction a new route permit to any new person to ply the vehicle from Saeedabad to Khairpur.
- C) To direct respondents No. 9 to 14 to initiate legal proceedings against those transporters who are plying their vehicles on Mehran Highway without route permit and permission.
- D) To direct respondent No.1 to establish the first aid hospital as well as an ambulance on the Mehran Highway every 30 km.

2. These petitions are filed pro bono publico in the public interest. Petitioners' concerns are about Mehran Highway road accidents, highlighting the increased heavy traffic on Mehran Highway due to a shift from the main highway. Petitioners have averred that Mehran Highway, a single-lane road maintained by the Sindh government, is ill-equipped to handle the increased traffic, particularly heavy vehicles, and illegal public transport without a route permit. They added that this has led to frequent road accidents, loss of precious lives of the public at large, and injuries due to over-speeding, overcrowding, and lack of road safety measures. The petitioners allege that respondent traffic authorities, etc., have failed to control illegal public transport operating without route permits, even if they failed to prevent unhealthy competition among transporters; and improve road safety measures (e.g., wider roads, better maintenance, and emergency services). The petitioners fear that granting new route permits by the regional transport authority to the transporters to ply their vehicles on the subject road will worsen the situation including road accidents. The petitioners urge this court to prohibit illegal public

transport on Mehran Highway and halt the issuance of new route permits for the Saeedabad to Khairpur routes, by taking legal action against operators without permits and ordering for establishment of first aid hospitals and ambulances every 30 km on the Mehran highway.

3. The DIG traffic Hyderabad has put his appearance and submitted that the traffic of District Khairpur has been handed over to SP Traffic Sukkur on 13.05.2024 with the traffic police force. He further submitted that the Mehran Highway starts from Saeedabad (District Matiari) to Khairpur near the Therhi bypass, covering a distance of about 103 km. The highway crosses through District Matiari, District Shaheed Benazirabad, and District Khairpur and on the way comes PS Saeedabad, PS Dour, PS Bandi, PS Bhaloo ja Quba, PS Taluka and PS Khadhar, PS Kot Laloo, PS Faiz Ganj, PS Pir Wasan, PS Setharja, PS Kumb, PS Kotdji, PS A-Section, PS B Section, PS Babarlo. He further submitted that he has issued strict directions to the SP Traffic Sukkur in charge of traffic police in Khairpur to take legal action against the violators and stop all kinds of heavy-loaded vehicles on Mehran Highway in compliance with the order of this court.

4. We have heard the learned counsel for the parties and perused the record with their assistance.

5. Essentially, the AAG/DIG Traffic Hyderabad emphasizes the need for better police enforcement through inter-agency cooperation to address the issue of illegal heavy traffic on Mehran Highway. The suggestions of learned AAG/DIG are crucial on the points that heavy traffic on Mehran Highway is illegal due to police inaction. He has proposed that there should be a liaison between SSPs of the concerned districts and Regional Transport Authorities. They also added that in each of the three entry points i.e. District Shaheed Benazirabad, Naushahro Feroze, and Khairpur, the SSPs concerned should collaborate with the Regional Transport Authority to enforce the ban on heavy traffic on the subject road. Besides a committee comprising senior police officers and RTA officials should be formed to supervise the ban's implementation. In the intervening period, the Motorway Police should prevent heavy traffic from entering Mehran Highway from the National Highway i.e. at key junctions Road i.e., Taluka Moro, Saeedabad, Qazi Ahmed, and Ranipur with transport authority representatives. They also suggested for implementation of moveable barriers, proper shoulders, lane markings, traffic signs, and guardrails. They added that all stakeholders to coordinate and implement safety measures to protect the precious lives and property of the public at large. They suggested for prohibition of ~~intercity~~/interprovincial heavy vehicles from using Mehran Highway, with strict enforcement. Meanwhile, NHA is to install cameras at proposed checkpoints. NHA is required to install and maintain informative signboards with local police protection. Additionally, the Provincial Highway Department to install speed

breakers on link roads to discourage high-speed entry onto Mehran Highway. Overall, this plan aims to reduce the number of illegal heavy vehicles on the Mehran Highway, enhance road safety for all road users by minimizing the risks associated with heavy traffic, improve the overall traffic flow, and reduce congestion on the highway. By implementing these measures, the competent authority to address the critical issue of illegal heavy traffic on Mehran Highway and create a safer and more efficient transportation system in the region. The suggestions are crucial and need to be looked into by the Chief Secretary Sindh, Secretary Transport, and IGP Sindh to chalk out the strategy to introduce the policy on the subject issue and its implementation in time.

6. In view of the above facts and circumstances of the case, and suggestions so put forward by the respondents, these petitions are disposed of with direction to IGP Sindh to increase police enforcement to implement the suggestions. This includes collaboration between SSPs (Senior Superintendents of Police) and RTAs (Regional Transport Authorities) for coordinated enforcement efforts. Joint enforcement at entry points to the highway to prevent illegal entry of heavy vehicles. Formation of a supervisory committee to monitor and enforce the ban on heavy vehicles and inclusion of Motorway Police at key junctions to assist in traffic control and enforcement. Installation of cameras and signboards to monitor traffic flow and identify violators. Execution of moveable barriers to control traffic flow and prevent accidents. Construction of proper road shoulders and clear lane markings to enhance safety and traffic flow. Installation of appropriate traffic signs and guardrails to guide drivers and improve safety. A strict ban on intercity/interprovincial heavy vehicles on Mehran Highway, except for those with necessary route permits subject to law. Installation of speed breakers on link roads to discourage high-speed entry onto the Mehran highway. SSPs of Khairpur, Shaheed Benazirabad, and Naushehro Feroze are directly responsible for enforcing the ban and will face consequences for violations if reported to this court. Possibility of facing contempt proceedings for SSPs, who fail to enforce the ban. The IG Motorway Police is also directed to instruct Motorway Police personnel of the concerned area to prevent heavy vehicles from entering Mehran Highway from the specified entry points, subject to law. Let a copy of this order be transmitted to the Chief Secretary Sindh, Secretary Transport, IGP Sindh and SSP District Matiari, Shaheed Benazirabad, Naushero Feroz and Khairpur for compliance.

Judge

MOHAMMAD ABDUR RAHMAN, J: I have had the honour of reading the order passed by my learned brother Adnan ul Karim Memon, J. and while I am in agreement with him regarding the directions to be given to Province of Sindh,

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considering the importance of the issue that has been raised in this Petition, I thought it expedient to add my own opinion in this order.

2. This Petition has been maintained, under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973 seeking the following relief:

- “ ... (a). That this Honourable Court may kindly direct the respondents No.2 to 7 not to allow the illegal public transport having no route permits to ply their vehicles on the Mehran Highway.
- (b). That this Honourable court may kindly be pleased to direct the Respondents not to sanction a new route permit to any new person to ply the vehicle from Saeedabad to Khairpur.
- (c). That this Honourable court may kindly be pleased to direct the Respondents No.9 to 14 to initiate a legal proceedings against those transporters who are plying their vehicles on Mehran Highway without route permit and permission.
- (d). That this Honourable court may kindly be pleased to direct the Respondent No.1 to establish the first aid hospital as well as ambulances on the Mehran Highway after every 30 KMS.
- (e) That this Honorable Court may be pleased to grant any other equitable relief which has not been specifically prayed for which this Honourable Court deems fit and proper in the circumstances of the above case.”

2. The Petitioner entered appearance and stated that he is a resident of Ahmedabad Colony Moro, District Naushero Feroz and through which the Mehran Highway passed. While contending that the Mehran Highway is a single road and which is badly maintained on account of heavy traffic including water tankers, petrol tankers and tractors using the highway, various issues were identified as under:

- “ ... i) Tractors and heavy water and petrol tankers etc. also uses Mehran Highway each of these are not properly regulated by the concerned Police and which lead the injury and accidents of many person.
- ii) That the Government of Sindh is under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973 mandated to ensure that proper regulation of such services is made and in the eventuality of an incident occur to provide infrastructural support in terms of emergency services in hospital so that lives are not lost.”

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3. The Senior Superintendent of Police Khairpur has filed his response and which reads as under:

" ... 1. Senior Superintendent of Police District, Khairpur, being cited as respondent No. 11. do hereby respectfully and humbly pray before this Hon'ble Court and submit a detailed comprehensive progress report in respect of subject instant applications as follows for favour of kind perusal and sympathetic consideration, please.

2. That, the undersigned took over the charge as SSP Khairpur on 16-03-2024, as per Notification of IGP Sindh/Secretary to Government of Sindh Police Department, Karachi vide No. 2739-48/E-I/Karachi dated 15-03-2024.

3. That in compliance of the order dated 15-05-2024 passed by this Hon'able Court received through the Addl: Advocate General Sindh of this Hon'able Court vide letter No. Addl.AG/- 685 dated 16-05-2024, the detailed progress report showing efforts taken by the undersigned as well as local police is submitted as follows.

4. That, in order to implementation of ban on plying of heavy vehicles on Mehran Highway the undersigned issued strict directions to DSP/SDPO Mirwah being head of Special Team as well as members SHOs PS Ranipur, Mirwah, Setharja, Pirwassan & Kumb being members to implement ban on heavy vehicles which are plying on road with the assistance of relevant District Authorities R.T.A as well as National Highway and Motorway Police and take necessary legal action in accordance with law as well as comply the further orders of this Hon'ble Court consisted upon the below seven suggested points.

i. Establish Police pickets at Rohri Canal bridge, West side of PS Ranipur, Nangreja Chowk within the jurisdiction of PS Kumb and Munghi Nako with the jurisdiction of PS Kot Laloo of District Khairpur.

ii. The local police have arranged moveable barriers on Mehran National Highway road in order to block and stop the heavy vehicles plying on the road.

iii. SHOs of Police Stations Faiz Ganj, Kot Laloo, Kumb and Ranipur are personally checking and restraining the heavy vehicles plying on M.N. H.Way road with the assistance of R.T.A Khairpur and other stake holders including Traffic Sergeants.

iv. Heavy commercial vehicles are not being allowed to operate Mehran H.Way road. If anyone violates the rules, necessary action is initiated against the delinquents in a shape of challan according to traffic rules.

v. So far as matter of installation of CCTV Camera is concerned, it pertains to N.H.A.

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vi. The concerned SHOs have been directed to protect the informatory sign boards installed by N.H.A.

vii. So far as matter of fixation of speed breakers on the surface of all link roads, it pertains to N.H.Way. However, the undersigned has directed to the concerned SHOs to arrange movable barriers/breakers in order to stop such kind of vehicles and its compliance.

5. Moreover, following temporary police pickets have been established at entry points of District, Khairpur in order to stop heavy vehicles to lead from National Highway to Make National Highway in order to avoid accidents on the roads.

1. Therhi Police Picket within the jurisdiction of PS Baberloi

2. Shah Hussain within the jurisdiction of PS B-Section

3. Rohri Canal Bridge within the jurisdiction of PS Ranipur

4. Nangreja Chowk within the jurisdiction of PS Kumb

5. Mungia Nako within the jurisdiction of PS Kot Laloo

6. Furthermore, temporary camera has been installed at the entry & exit point of Therhi picket and the rest installation of cameras are underway in order to control the heavy traffic which leads from National Highway to Mehran National Highway.

7. That, the undersigned has called a detailed progress report from DSP/SDPO Mirwah being head of Joint Special Team, who has reported that he alongwith other team members during exercise of checking with the co-ordination of Secretary Transport Authority District Khairpur (RTA), the local police initiated meaningful crackdown against the heavy traffic on Mehran Highway Road, impounded vehicles u/s 115-Motor Vehicle Ordinance-1965 & Rules 1969 & challaned the vehicles by imposing fine. Such progress report is submitted as follows. Besides, such pictures of diverted heavy vehicles till to date are also annexed herewith for favour of kind perusal and ready reference. (Pictures of diverted heavy vehicles are annexed herewith for kind perusal).

S.No	No. of heavy vehicles were diverted	No. of vehicles Impounded under section 115-Motor Vehicle Ordinance-	No of heavy vehicles challaned	Fine imposed

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		1965		
01.	2244	110	615	Rs. 2,80,800

It is further prayed before this Hon'able Court that, the undersigned is personally supervising this task and issued strict directions to DSP/SDO Mirwah being head of the Team as well as members SHOs PS Ranipur, Kumb, Kotdiji, Pir wassan and Setharja to take all possible efforts in order to completely stop the heavy vehicles playing on Mehran National Highway road in the best interest of safety of the general public.

It is pertinent to mention here that the undersigned proceeded to Karachi in order to attend the Hon' ble Commission of Enquiry in missing person cases of Hafiz Khan Mohammad Chang and Mohammad Ayoub Kandhro. Hence, DSP/SDPO Kotdiji and DSP Legal, Khairpur as well as all concerned SHOs are hereby directed to attend this Hon'ble Court. (Copy of notice is annexed herewith for favour of kind perusal and ready reference).

Humbly submitted before this Hon'ble Court for favour of kind perusal."

4. The Transport & Mass Transit Department, Government of Sindh has also filed its comments stating as under:

" ... 1. Para needs no comments as it is an introducing para of the petitioner.

2. The answering respondents has not granted permits for operation of Heavy Vehicular Traffic of intercity or interprovincial routes to operate on Mehran Highway except the classified routes relating to Mehran Highway i.e Larkana Benazirabad Sukkur Karachi. Benazirabad and Thari Mirwah

The answering respondents through public notices dated: 22.10.2020 and 22.10.2022 warned the transporters / operators of all vehicles not to use bypasses/link roads such as Indus Highway (N55), Mehran Highway etc. except in accordance with route permits and strictly complying with Motor Vehicle Laws and following lawful instructions for the safety of human lives as follows:-

i. Ensure availability of Emergency Exit Gate.

ii. Fire Fighting equipment and First Aid Box shall be carried on the vehicle at all time.

Drivers employed on the vehicle shall be qualified drivers holding HTV License.

iv. If the journey is more than or 322 Kilometers two qualified drivers (HTV) License holders will be carried on board to drive the vehicle turn by turn.

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V. All transporters / operators must strictly prevail upon capacity building of their drivers as to remain mentally alert and to strictly follow the traffic rules and regulations including the conditions of the route permits. They are to drive the vehicles as per prescribed limit and comply the Rule 99 of the MVR 1969 and avoid committing offences such as Over loading, sharp cutting, wrong overtaking reckless driving and breaching "One Way" imposition.

vi. Operate the vehicles with valid documents and only on the classified / permitted routes in accordance with the route permits. Inter-city vehicles / School & College vehicles shall not install CNG/LPG Cylinders. Copies of public notices are annexed as Annexures-"A", "B" and "C".

3. The Law enforcement agencies i.e. Traffic Police, National Highways & Motorway Police are to take strict action against the violators operating vehicles without or in violation of route permits and other documents of the vehicles. Further, the transport authorities (answering respondents) same also requested Law enforcement agencies time to time to initiate strict action against the violators. Copies of letters to LG. Sindh, I.G. National Highway & Motorway Police, Works & Services Departments and SSP Shaheed Benazir Abad are annexed as Annexure-"D".

4. The Mehran Highway locally known as Nawabshah - Dour Kot Lalu etc. is maintained by the provincial Government and passing through rural areas which is 131 Kilometers single track road.

5. Para relates to enforcement agencies to control the speed limits. It is incorrect to suggest that there is no mechanism to control the violation of route. However, further efforts are needed to restrict the illegal diversion of Heavy Commercial Vehicles to Mehran Highway.

6. The answering respondents through public notices directed / cautioned the operators to drive the vehicles as per prescribed limit and comply the Rule 99 of the MVR 1969 and avoid committing offences such as Over loading, sharp cutting, wrong overtaking reckless driving and breaching "One Way" imposition. The law enforcement agencies are to take strict action against the operators/drivers who are operating vehicles in excess of permissible speeds limits.

The Law Enforcement agencies will have to take stern action against the violators who are operating their vehicles without route permits or in violation of the Motor Vehicle Laws.

Further, the answering respondents suggests the following remedial measures to control the operation of heavy vehicular traffic on Mehran Highway to reduce number of accidents:

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(1) Joint check posts of Local Police & Motorway Police shall be established at Junction of Road i.e. Teen More District Jamshoro Saeedabad Qaziahmed Ranipur. The representative of transport authorities will accompany the Police Officials twice in a week.

(2) Moveable barriers, construction, shoulders where needed, lane marking, installation of traffic signs and guard rails by the NHA can significantly improve the existing condition.

(3) Collective and coordinated strategy by all the stake holders/relevant departments in taking all possible safety measures in public interest to safeguard the lives and properties of the people.

(4) Heavy Commercial vehicles pertaining to Intercity - Inter Provincial routes shall not be allowed to operate on Mehran Highway, in case of violating rules, strict legal action shall be taken.

(5) CCTV Cameras shall be installed by NHA at proposed check posts leading Mehran Highway.

(6) Informatory sign boards shall be installed by NHA at highlighted points and shall be protected by Local Police at the above points.

(7) Provincial Highway Department may be directed to fix/make speed breakers on the surface of all link roads facing towards Mehran Highway in order to restrain their direct excess.

7. As replied in paras-2 and 6 above, it is submitted that Transport & Mass Transit Department / Transport Authorities has taken efforts within their resources to restrict the operations of vehicles without route permits or in violation of route permit.

8. As submitted in paras 2 and 6 above.

9. Denied, as submitted paras-2 & 6 above.

10. The Provincial & District Regional Transport Authorities have not issued route permits to the buses and coaches of intercity & inter-provincial routes on the instant route (Mehran Highway) except the already classified routes: viz Karachi to Bozdar, Larkana to Nawabshah, Thari Mirwah to Hub Chowki etc Copies of route permits are attached (Copies of Certificate Annexure-"E") The Provincial Transport Authority is not entertaining for further proposals of route permits on Mehran Highway.

11. The FIRs and Pictures of the accidents annexed by the petitioner with the petition are angry, poignant. The Safety of passengers/peoples is the prime duty of state. The Traffic, Operational Police, National Highway & Motorway Police shall take measures to ensure that no vehicle shall operate without route permit and no operator shall operate vehicle in excess of permissible limits on all highways for the safety of human lives.

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12. As replied in para-10 above.

13. As replied above apras, besides Establishment of Trauma Center pertains to HealthDepartment for which this department has sent proposal. (Annexure-F).

14. Para relates to Respondent Nos.9 to 14 who are in a better position to reply.

15. No comment.

16. No comments.

PRAYER

It is prayed that this Honourable Court may be pleased to direct all the concerned department's / Stockholders for forming a collective and coordinated strategy in taking all possible safety measures to avoid irreparable loss of human lives. Establishment of joint check posts by the Motorways and District Police with deployment of force and snap road checking's will play an important role in compelling drivers to follow the Law on Highways in true spirit."

5. The Transport & Mass Transit Department has suggested following measures to better ensure safety of the public.

" ... (1) Joint check posts of Local Police & Motorway Police shall be established at Junction of Road i.e. Teen More District Jamshoro Saeedabad Qaziahmed Ranipur. The representative of transport authorities will accompany the Police Officials twice in a week.

(2) Moveable barriers, construction, shoulders where needed, lane marking, installation of traffic signs and guard rails by the NHA can significantly improve the existing condition.

(3) Collective and coordinated strategy by all the stake holders/relevant departments in taking all possible safety measures in public interest to safeguard the lives and properties of the people.

(4) Heavy Commercial vehicles pertaining to Intercity - Inter Provincial routes shall not be allowed to operate on Mehran Highway, in case of violating rules, strict legal action shall be taken.

(5) CCTV Cameras shall be installed by NHA at proposed check posts leading Mehran Highway.

(6) Informatory sign boards shall be installed by NHA at highlighted points and shall be protected by Local Police at the above points.

(7) Provincial Highway Department may be directed to fix/make speed breakers on the surface of all link roads

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facing towards Mehran Highway in order to restrain their direct excess."

6. The Government of Sindh had on 29 February 2024 filed a compliance report which reads as under:

" ... *It is respectfully submitted, that in view of order passed by this Honourable Court on 11.10.2023, the office of Addl. Advocate General Sindh at Sukkur convened a joint meeting with regard to a collective and comprehensive plan, which was needed to ensure full implementation of ban on plying of heavy vehicles on Mehran Highway. The meeting was held on 02.11.2023 and the following 16 participants attended the same;*

S.NO.	Name of participant	Designation
1.	Shafi Muhammad Chandio	Addl. Advocate General Sindh
2.	Dr. Muhammad Amir Ansari	Addl. Commissioner-I, Sukkur Division
3.	Zahid Nazir Waryal	SP National Highway 7 Motorways Polcie N-5, S-1 Sukkur
4.	Abid Ali Baloch	S.S.P Naushero Feroz
5.	Muhammad Hajan Ujjan	Addl. Commissioner-II, Sukkur Division
6.	Nasir Ahmed	ADC-I, Sukkur
7.	Dr. Samiullah Soomro	S.S.P Khairpur
8.	Mir Muhammad Dayo	DSP Legal Khairpur
9.	Khadim Hussain Jarejo	DSP Legal N/Feroz
10.	Fayyaz Ahmed Mangi	Secretary DRTA Sukkur & Ghotki
11.	Zair Hussain Baloch	Secretary DRTA N/Feroz
12.	Aadil Hamad Mangi	XEN Provincial Highway Khairpur
13.	Waheed Ali Panhwar	Secretary RTA Khairpur
14.	Jawaid Ali Shaikh	DSP Driving Licenses Branch Sukkur
15.	Haider Raza	SSP Nawabshah

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16.	Ali Raza Baloch	Asstt. Advocate General Sindh
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(Attendance sheet is attached and marked as Annexure-A)

2. That, on the same day, i.e. 02.11.2023 reports in writing were also submitted by SSP Khairpur subsequent to holding a meeting on 01.11.2023 with concerned DSP Motorway and RTA Khairpur, in which SSP Khairpur, in his report (Annexure-B) has suggested that they unanimously have reached at a conclusion, that best way to curb plying of Heavy Vehicles on Mehran Highway is to place heavy cemented crash barriers in shape of Zig Zag at Nangreja Chowk of District Khairpur

3. Moreover, a report in this connection was also submitted on 03.11.2023, in writing by Transport and Mass Transit Department Government of Sindh through their Consultant (Legal)/Focal Person in which the following Short Term, Mid Term and Long Term Solutions were suggested.

SHORT TERMS SOLUTION

Establishment Of (04) Permanent Check posts at the following points leading to Mehran Highway for restraining entry of heavy vehicles in violation of route alignment or operating illegally without route permit.

1. Ranipur ----- Leading to Mehran Highway.
2. Saeedabad ----- Leading to Mehran Highway.
3. Sakrand ----- Leading to Mehran Highway.
4. Qazi Ahmed ----- Leading to Amri Bridge.

Following 04 points may be declared for regular checking for restraining the heavy vehicular diverted from National Highway on Mehran Highway consisting the terms of Traffic & Operational Police.

1. Sui Gas
2. Kot Laalu
3. Bandhi
4. Shaheed Benazirabad leading to Sakrand bypass.

Joint checking teams of District Administration, Police and Transport Authorities shall also ensure that;

- i. Vehicles operating on Mehran Highway shall be operated

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- ii. in accordance with the prescribed speed limit. Over loading, sharp cutting, shall be prohibited.
- iii. Drivers of the vehicles shall be qualified drivers, holding LTV/HTC Licenses.
- iv. All vehicles operators shall obey the Motor Vehicle Laws/National Highway Road Safety Ordinance and instructions of the Government
- v. Vehicles shall stop at the designated stops/posts only
- vi. Lane Marking/Zebra Crossing Boards may installed at appropriate points
- vii. Informatory sign boards shall be installed by the District Management/Local authority, at highlighted points
- viii. Movable barriers shall be installed at the pointe Mehran Highway at the 100 meters at the surface of road or breakers to slow down the vehicles/bikes/trolleys .coming from cities/villages
- ix. CCTV Cameras shall be installed by NHA at proposed check posts leading to Mehran Highway at Ranipur. Saeedabad, Sakrand & Qazi Ahmed for monitory purpose.
- x. Development of force at Check posts above and random checking with Secretary DRTAs, Shaheed Benazirabad, Noshehro Feroza & khairpur for restraining unauthorized diversion, operation on Mehran highway (Single track road causing casualties.

MID TERMS SOLUTION

Construction of pedestrian bridges within the towns along Mehran Highway.

Provision of Ambulance services with trained staff and equipment's

LONG TERMS SOLUTION

Construction of dual track road on the pattern of Indus Highway with the support of NHA.

Establishment of Trauma Center with all necessary equipment's at suitable location of Mehran Highway".
(Copy is attached herewith and marked as Annexure-C)

3. That, however, after detailed discussion and deliberations, on 02.11.2023 in the meeting, held at the office of Addl. Advocate General Sindh at Sukkur, e comprehensive and collective plan/report, was prepared by SSP Shaheed Benazirabad, the report contains the following main points, deliberated and collectively agreed

On

upon by all the participants, during the joint meeting, (Annexure-D)

- i. Classification of Heavy Vehicles plying on Mehran Highway
- ii. Reasons, why people opting to ply via Mehran Highway.
- iii. Preventive Actions and Precautions, taken subsequent to orders passed by this Honourable Court.
- iv. issue surfaced, while implementing the directions issued by this Honourable Court
- v. Deliberations and overview of strategies, discussed during the joint meeting convened, pursuant to directions of this Honourable Court
- vi. The Way Forward,
- vii. Short Term Measures.
- viii. Long Term Measures.

Conclusion. "

7. The Senior Superintendent of Police, Shaheed Benazirabad district had placed practical connotations on placing bans and suggested following preventive actions to be taken by the Motorway Police:

" ... PRACTICAL CONNOTATIONS

Reasons for preference of Mehran Highway over National Highway

Mehran Highway is 163 Km long starting from Saeedabad (District Matiari) and culminating at Khairpur City (Ranipur Milestone 412). Despite being a double road, it is a road of choice for heavier traffic. The HTVs use this road between two point-230 Hala (District Matiari) and point-412 Ranipur (District Khairpur). Such choice is because of following reasons:-

1. Between milestone 289 Aliabad to 213 Hala (South Bound) Km, there is 76Km long patch of concrete from the first lane (dedicated for heavier traffic) on the main National Highway to save the road from excessive wear and tear because of overloaded vehicles. The concrete patch thought durable, is rigid and adversely affects the suspension of heavier vehicles especially when they are overloaded. An asphalt road saves cost of maintenance to heavier vehicles and thus heavier vehicles preferred to get off the National Highway at 213 Hala point (District Matiari) to ply on Mehran Highway.

2. Mehran Highway because of its balance, gradient and linear alignment in addition to lesser traffic load allowed the heavier vehicles to avoid excessive use of brakes which also saves significant maintenance cost for HTVs.

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3. The distance between the dislodging point (Sacedabad) and (Ranipur) is 180 Km which is significantly less than 17 kilometer on National Highway.

4. There are a number of toll plazas between Matiari and Khairpur while Mehran has none which saves Toll for HTVs.

5. There is strict enforcement of weight regime on Motorways and National Highway through weighing stations which are not viable on Mehran Highway.

6. Mehran Highway is excessively clogged during the sugar season by Tractor trolleys delivering the produce to Bandhi Sugar Mill as it's the main local artery in the area and there is no alternate.

Preventive actions and precautions taken by District and Motorway Police

In the pursuance of the orders of this Honorable Court, the Motorway Police with the assistance of the local police of Matiari dug an obstacle after the dislodging point on National Highway leading to the Mehran Highway which made it extremely difficult for heavier traffic to enter Mehran Highway at that point. In the light of the establishment of this obstacle, the ability of HTVs to take mitigates the disadvantage highlighted in point No:01 of reasons for preference above became impossible.

A few vehicles still use the two offloading points on Sakrand bypass to take to Nawabshah city and onwards to Mehran Highway. This affords them the opportunity of taking advantage linear gradient and less wear and tear of brakes but offsets the advantage of distance reduction, thus the number of such vehicles is extremely limited entering through the Sakrand bypass route.

However, of the two entry points at Khairpur bypass and Ranipur, the second point is being extensively used by heavy traffic moving down country and exiting through Sakrand Bypass. It is pertinent to mention that in addition to these four main entry/exit points discussed, there are a number of small link roads which joins Mehran Highway and give opportunity to heavy traffic for entry/exit. These include:-

1. One link road joining Meran Highway at Saeed Abad (District Matiari)

2. Six link roads crossing Mehran Highway from Sakrand to Sarhari, from Sakrand to Khadhar, from Sakrand to Nawabshah, from Kazi Ahmed to Nawabshah, from Pubjo to Bucheri and Nawabshah and from Pubjo towards 60 Mile Naka.

3. One link Road (Paddidian via Mughia Mori) joining Mehran Highway in District Naushahro Feroze.

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4. Mehran Highway linked with National Highway via Ranipur and 03 points within District Khairpur (Khairpur bypass especially)

In order to crack down on the entry of HTVs, local police forces installed pickets at following points to check the inflow of HTVs to Mehran Highway:-

District	Point	Police Deployment per shift	Total police deployment at the point in 24 hrs	Remarks
SBA	Kumb, Leema, Khadhar	06	18	Total deployment 103 personnel
	Khanan Shah Banhi	06	18	
	Zero point, Sakrand	06	18	
	Sakrand bypass	06	18	
	Juna Mori, Kazi Ahmed	05	15	
N-Feroz	Paddidan via Moghia Mori	05	15	Total deployment 20 personnel
	Their to Kumb via Khairpur to Kot Bungalow	07	07	
Khairpur	Thehri to Kumb via Khairpur to Kot Bungalow	05	05	Total deployment 17 personnel
	Ranipur to Nangreja	05	05	
	Mughia Nako	05	05	

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In addition to prevent the heavy vehicles from entering the Mehran Highway, fines were also imposed on vehicles entering Mehran Highway. The details of such fine imposed since 1st January 2023 to date is as follows:-

<i>District</i>	<i>No. of challans issued to heavy traffic</i>	<i>Total Fine levied</i>	<i>Vehicles seized</i>	<i>Other actions</i>
<i>SBA</i>	<i>1570</i>	<i>0.615 Million</i>		
<i>N-Feroz</i>	<i>25</i>	<i>27,000/-</i>		
<i>Khairpur</i>	<i>1574</i>	<i>0.733 million</i>		

LIMITATIONS AND PITFALL OF THE COURSE OF ACTION ADOPTED

The course of action adopted by the local police and NH&MP on the requisition of RTA in pursuance of the directives of this Honorable Court has number of issues and pitfalls enumerated below:-

- 1. Since there is no dedicated police force for patrolling the provincial Highways in Sindh unlike Punjab, the responsibility for enforcement falls on the shoulder of district traffic and local police which have limited trained traffic personnel and vehicles for enforcement. NH&MP enforces the law on National Highways only.*
- 2. There is a complete absence of traffic engineering infrastructure on Mehran Highway which further compounds the job of District Traffic and local police.*
- 3. The employment of pickets of 4-6 personnel per shift on prospective entry points are inadequate as the drivers stopped often misbehave with police and since their number significantly increases with the passage of time, the ability of police to manage the crowd of drivers progressively diminishes with increasing duty hours. Often the driver resort to aggressive behavior.*
- 4. The employment of police continuously for long hours without rotation of duties have caused an increase in complaints of bribery against police deployed at these points especially in odd hours. Low level corruption for allowing HTVs to pass through remains a significant issue. Recently on 11.10.2023 Nadeem s/o Liaquat, a distressed driver electrocuted himself accidentally when he tried to bluff police through attempted suicide by climbing an electric poll when he was stopped by police from entering Mehran Highway near Balu-Ja-Quba checkpoint in District Shaheed Benazirabad.*

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5. The restraining of Heavy vehicle dislodging from the National Highway near the Mehran Highway becomes difficult as there is a lack of turning radius for HTVs on the link roads. This practice further causes traffic jams on smaller link roads near checkpoints.

6. The pickets installed at the dislodging points of National Highway often faced resistance from drivers and local populace claiming that restraining heavy traffic from heading towards Nawabshah from the National Highway is against their right as such action is arbitrary and places them at disadvantage in comparison to other cities where the HTV access is allowed to the city. This action did make transportation of oil, agricultural produce and fertilizer expensive for District SBA. In order to mitigate this issue, traffic police started allowing those HTVs to dislodge towards Nawabshah which carried the Bilti for District SBA but since Bilti is prepared by transporter, some of these vehicles were later found to be playing on Mehran Highway.

Though, the effect of the temporary measures taken by police and NH&MP is quite profound and the HTV traffic is significantly reduced on Mehran Highway but sustaining such a model of enforcement in long term is neither practical nor efficient. There is a necessity to shift the enforcement approach from labor intensive to infrastructure & tech centric strategy.

OVERVIEW OF THE STRATEGIES AND APPROACHES DISCUSSED AND DELIBERATED UPON (PROS AND CONS)

In the discussions during the meetings, following approaches to tackle the problem were discussed:-

1. Installation of Height Barriers on the Mehran Highway

a. PRO. The possibility of height barrier on Mehran Highway (up to 14 feet) was the simplest choice available as it could prevent vehicles having height greater than 14 feet (Trucks and buses as well as trolleys with heavy load exception was Mazda) from using the Mehran Highway.

b. CONS. The height barrier would prevent even 6-wheelers (classified as LTVs) because of height limitation from using the Mehran Highway. Moreover the transport of local produce through Mazda is a costly proposition. The tractor trolleys using Mehran Highway for local transportation would also find it difficult to transport their produce of this road. The most important factor is however the consideration that RTA wants to allow a smaller number of 6 wheelers having route permit to use this road which in this case will not be possible.

SHORT TERM MEASURES

1. Speed Breakers on link roads. Formation of a set of speed breakers (60 feet apart) on all link roads joining the Mehran Highway may serve as an irritant for heavy traffic

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from entering the Mehran Highway. Moreover such speed breakers may also be placed at the entry/exits of Mehran Highway near Saeedabad and Khairpur Bypass and at least some entry/exits from National highway such as those near Ranipur and Sakrand. One point near Sakrand as well as Ranipur may be spared to allow the heavy traffic bound for Nawabshah city and other areas of District SBA and Khairpur to get off from National Height highway.

2. Height Barriers for LTVs on link roads. These may be installed at some of the link roads from where it is undesirable for 6 wheelers and loaded tractor trolleys to enter Mehran Highway. One Such barrier may be installed on Sakrand Bypass to allow only one point of entry for Heavy traffic.

LONG TERM MEASURES

1. Installation of Toll Plazas, Automated barriers, widening of road near toll plazas and construction of service road to divert outward HTV traffic on to the link road. All such structures already explained in the previous paras and depicted in the graphical representation as attached as an annexure-A should be built to resolve the long standing problem of regulating the heavy traffic on Mehran Highway.

2. It is recommended that one such Toll plaza with allied structure in Dist. Matiari, two such toll plazas in Dist. SBA and two in Dist. Khairpur should be constructed (total 5). Theses toll plazas be placed next to existing link roads to allow for easier exist.

CONCLUSION

The Mehran Highway at the moment lacks any kind of traffic infrastructure as well as any kind of sign boards. In cities like Karachi, the responsibility for traffic engineering lies on departments like Traffic Engineering Bureau. On National Highway, the responsibility rests with N.H.A, whereas on Provincial Highways it rests with Chief Engineer, Provincial Highways functioning under District administration. The measures being implemented has a number of loopholes and needs to be upgraded primarily through improvement of traffic regulating infrastructure of Mehran Highway. Police will assist the RTA and other authorities in any possible way. Foregoing in view, it is requested that instead of relying on the enforcement of ban on HTVs plying on the Mehran Highway through local police which is inefficient, taxing and arbitrary, a strategy based on construction of appropriate traffic infrastructure using innovative practices already used in Pakistan, through the Chief Engineer Provincial Highways and District administration is the preferred course of action as it achieves the maximum objectives with minimum nuisance and chance of arbitrary treatment."

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8. The Supreme Court of Pakistan in the decision reported as *Shehla Zia and others vs. WADPA* while interpreting Article 9 of the Constitution of the Islamic Republic of Pakistan, 1973 has held that:

“ ... Article 9 of the Constitution provides that no person shall be deprived of life or liberty save in accordance with law. The word 'life' is very significant as it covers all facts of human existence. The word 'life' has not been defined in the Constitution but it does not mean nor can it be restricted only to the vegetative or animal life or mere existence from conception to death. Life includes all such amenities and facilities which a person born in a free country, is entitled to enjoy with dignity, legally and constitutionally. For the purposes of present controversy suffice to say that a person is entitled to protection of law from being exposed to hazards of electromagnetic fields or any other such hazards which may be due to installation and construction of any grid station, any factory, power station or such like installations. Under the common law a person whose right of easement, property or health is adversely affected by any act of omission or commission of a third person in the neighbourhood or at a far off place, he is entitled to seek an injunction and also claim damages, but the Constitutional rights are higher than the legal rights conferred by law be it municipal law or the common law. Such a danger as depicted, the possibility of which cannot be excluded, is bound to affect a large number of people who may suffer from it unknowingly because of lack of awareness, information and education and also because such sufferance is silent and fatal and most of the people who would be residing near, under or at a dangerous distance of the grid station or such installation do not know that they are facing any risk or are likely to suffer by such risk.”

I would find a similar right guaranteed under Article 9 of the Constitution of the Islamic Republic of Pakistan, 1973 to ply roads and highways with a person entitled to the protection of law from being exposed to hazards of life threatening incidents from occurring on such roads and highways. This would in terms of the Mehran Highway include, but not be limited, to the Federal Government and the Provincial Government ensuring that:

- (i) persons who are driving such vehicles are issued licenses against proper tests to ensure that they are aware of the requisite rules for driving on such roads and highways and also subjected to harsher penalties not in the form of monetary fines but in the form of a

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suspension of licenses and in more extreme cases the cancellation or the refusal to renew licenses;

- (ii) the National Highway Authority coordinates with the Chief Engineer, Provincial Highways functioning under District administration to ensure consistency in rules as between both federally administered and provincially administered highways and to develop a strategy based on construction of appropriate traffic infrastructure to mitigate as against such life threatening incidents occurring;
- (iii) as suggested by the Senior Superintendent of Police, Shaheed Benazirabad District to implement short terms and long term measures in the following terms:

(a) Speed Breakers on link roads.

Formation of a set of speed breakers (60 feet apart) on all link roads joining the Mehran Highway to serve as a deterrent for heavy traffic from entering the Mehran Highway. Such speed breakers should be placed at the entry/exits:

- (i) of Mehran Highway near Saeedabad and Khairpur Bypass;
- (ii) from National Highway onto the Mehran Highway near Ranipur and Sakrand.

(b) Height Barriers for LTVs on link roads.

These must be installed at link roads from where it is thought it is undesirable for 6 wheelers and loaded tractor trolleys to enter the Mehran Highway. One Such barrier may be installed on Sakrand Bypass to allow only one point of entry for Heavy traffic.

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- (c) Installation of Toll Plazas, Automated barriers, widening of road near toll plazas and construction of service road to divert outward HTV traffic on to the link road.

All structures identified in the report of the SSP, Benzairabad District should be built within a reasonable time frame.

A report in this regard may be filed by the Chief Secretary Sindh, Secretary Transport, IGP Sindh, Chairman National Highway Authority and SSP District Matiari, Shaheed Benazirabad, Naushero Feroz and Khairpur personally within one month with the Sub-Registrar of this Court for further orders.


JUDGE

ANNOUNCED BY


29/11/25
Hakim Hussain Soomro
JUDGE


JUDGE
29/01/2025
Mahomed Saleem Jaffer