

**IN THE COURT OF SOHAIL NASIR DISTRICT AND SESSIONS**  
**JUDGE/JUDGE CONSUMER COURT,**  
**RAWALPINDI**

*(Case No. 01 of 02.01.2013)*

*Dr. Abrar Ul Haq (Child Specialist) resident of Main Bazaar near Chora Grave Yard, Post Office Tehsil Kotli-Sattian, District, Rawalpindi.*

***Vs.***

- 1. Tehsil Municipal Officer (TMO) Tehsil Kotli-Sattian, District Rawalpindi.*
- 2. Water Consumer Committee Tehsil Kotli-Sattian, District Rawalpindi.*

**Present:** *Barrister Sajjad Ahmad Satti advocate for claimant.*  
*Defendants ex-parte.*  
*Date of hearing of arguments: 02.02.2013*

**JUDGMENT**

*1. This claim under Section 25 of the Punjab Consumer Protection Act, 2005 (hereinafter to be called the Act) was filed by Dr. Abrar-ul-Haq against DCO (defendant No.1), TMO Kotli Sattian (defendant No. 2), EDO health Rawalpindi (defendant No. 3), Water Consumer Committee Kotli-Sattian (defendant No. 4) and Gul Taj Satti Water Line Operator (defendant No. 5). When case was placed for preliminary hearing, it was found that defendants Nos. 1, 3 and 5 were not necessary or proper parties hence their names were deleted from memo of contestants. Therefore, for the purpose of this judgment defendants shall mean only TMO Kotli-Sattian and Water Consumer Committee Kotli-Sattian.*

*2. On perusal of claim it is found that claimant is respectable citizen of this country; he used to utilize the water which had to be supplied through scheme approved by DCO and TMO against regular consideration that means on payment of monthly bill; there was acute shortage of standard drinking water in the area for which Government built up a huge water storage tank near Main Bazaar, Kotli Sattian called as 'Service Reservoir' for the purpose of provision through pump process clean water to inhabitants of locality; pipelines up to the house of claimant are in such a way those do not supply smooth running of water and cause blocking besides stopping in supply; claimant is struggling hard since many years for safe and clean drinking water; as there is no other source for supply of water so claimant is compelled to get the water through water tank by making additional expenses; it is right of claimant to have safe drinking water; defendants never made efforts to ensure that water in storage tank does not become*

contaminated, therefore, it is not free from micro-organism and chemical substances that constitutes threat to health of human being; family members of claimant because of contaminated water became serious ill and when water was got checked from National Institute of Health, Islamabad it was reported that same was positive by most probably number of 'Thermotolernat Faecal Coliform' as well as other deadly virus and germs; claimant moved number of applications to defendants for resolving his grievance but no action was taken; a legal notice dated 11.12.2012 was sent to defendants.

**3. Prayer made by claimant is as under: -**

(i)	Actual loss in terms of spending money on re-lying the water pipes etc	<b>Rs. 30,073/-</b>
(ii)	Mental torture, vexation, anxiety & loss in business etc.	<b>Rs. 100,000/-</b>
(iii)	The value of time, spent in establishing the right violated & money spent in defending proceedings in different courts/ actual expenses (Cost of Suit)	<b>Rs. 50,000/-</b>

**4. Notices were issued to defendants. On 08.01.2013 Raja Ajmal Satti an advocate appeared on behalf of TMO who submitted memo of appearance with an undertaking to submit Vakalatnama on next date of hearing. No one from Water Consumer Committee despite service had appeared so on the same day it was proceeded ex-parte. On next date that was 09.01.2013 when no one followed the case for TMO it too was proceeded ex-parte. On coming date that was 10.01.2013 when order was signed and announced for summoning experts, Raja Muhammad Ajmal advocate for TMO had again appeared and submitted an application for setting-aside ex-parte proceedings. It was directed that its reply would be instituted on next date which was 16.01.2013 but on given date again no one appeared for TMO hence application for setting aside ex-parte proceedings was dismissed for non-prosecution.**

**5. As case of claimant was on the allegations of supply of contaminated water which needed water analysis reports and expert evidence so on 16.01.2013 following order was passed by this Court: -**

Present: Barrister Sajjad Ahmad Satti advocate for claimant

Mr. Saadat Ali for WASA

Mr. Abdul Aziz for EDO (Health)

It is 02:00 pm. Despite repeated calls no one has appeared on behalf of TMO hence application for

*setting aside ex-parte proceedings is dismissed for non-prosecution.*

*As dispute is about supply of contaminated water to claimant and others of that locality so it needs expert evidence.*

*A committee comprised of Mr. Saadat Ali who is Junior Research Officer Water Quality and Mr. Abdul Aziz who is District Food Inspector Rawalpindi is constituted and it is directed that: -*

- i. On 19.01.2013 committee shall visit the area in question for the purposes of collection of samples of water. Claimant shall provide proper transport facility to pick and drop to member of committee.*
- ii. Samples shall be collected from house of claimant and from other houses in locality as per choice of committee. They shall also collect samples of water from main supply source/main tank.*
- iii. Mr. Saadat Ali shall be responsible for safe dispatch of all parcels/samples in Water Filtration Plant Laboratory Rawalpindi for their analysis and shall submit expert reports on the next date of hearing.*

*Case is adjourned to 22.01.2013 for further proceedings. Certified copies of this order shall be supplied to both Officers and shall also be dispatched to TMO Kotli Sattian for information and facilitation to committee.*

*6. Thereafter, seven analysis reports issued by 'Rawal Lake Filtration Plant Laboratory WASA' were submitted before this Court (Ex. Cw-1/A to Cw-1/G). Mr. Saadat Ali Research Officer also submitted his report (Cw-1/H) where he had too provided pictures of main source water tank etc. I had summoned Mr. Saadat Ali Research Officer and recorded his statement as Cw-1.*

*7. As decision of this case was depending on expert opinion so there was no need for recording of evidence of claimant side particularly when defendants were proceeded ex-parte and Rule 14 (5) of the Punjab Consumer Protection Rules, 2009 permits this Court to decide a claim ex-parte on the basis of documents available on record if defendant fails to appear on the day of hearing.*

*8. Arguments of learned counsel for claimant heard.*

*9. Before I discuss analysis reports some of which are abnormal, I will like to refer guidelines settled by World Health Organization (WHO) and applied by large number of countries including Pakistan.*

*(See: [http://en.wikipedia.org/wiki/Drinking\\_water\\_quality\\_standards](http://en.wikipedia.org/wiki/Drinking_water_quality_standards))*

10. Said guidelines include following recommended limits on naturally occurring constituents that may have direct adverse health impact: -

1	Arsenic	0.010mg/l
2	Barium	10µg/l
3	Boron	2400µg/l
4	Chromium	50µg/l
5	Fluoride	1500µg/l
6	Selenium	40µg/l
7	Uranium	30µg/l

11. For man-made pollutants potentially occurring in drinking water, following standards have been proposed: -

1	Cadmium	3µg/l
2	Mercury	6µg/l For inorganic mercury
<b>Organic species</b>		
1	Benzene	10µg/l
2	Carbon tetrachloride	4µg/l
3	1,2-Dichlorobenzene	1000µg/l
4	1,4-Dichlorobenzene	300µg/l
5	1,2-Dichloroethane	30µg/l
6	1,2-Dichloroethene	50µg/l
7	Dichloromethane	20µg/l
8	Di(2-ethylhexyl)phthalate	8 µg/l
9	1,4-Dioxane	50µg/l
10	Edetic acid	600µg/l
11	Ethylbenzene	300 µg/l
12	Hexachlorobutadiene	0.6 µg/l
13	Nitrilotriacetic acid	200µg/l
14	Pentachlorophenol	9µg/l
15	Styrene	20µg/l
16	Tetrachloroethene	40µg/l
17	Toluene	700µg/l
18	Trichloroethene	20µg/l
19	Xylenes	500µg/l

12. Keeping in view limits prescribed above and time to time 'Water Analysis Report Rawal Lake Filtration Plant Laboratory' in this case had made analysis of seven samples of drinking water and submitted reports (Ex. Cw1/A to Cw-1/G). Out of seven some reports are showing water as contaminated. Following table will clarify this position: -

S. No	Report	Turbidity (WHO limit 5NTU)	Coliform Count (WHO limit NIL/ 100 ml)	Faecal Coliform Count (WHO limit Nil/ 100 ml)
1	Ex. Cw-1/A (Sample from main water storage tank)	15.94 (abnormal)	Normal	Normal
2	Ex. Cw-1/B (Sample from main water tank of village)	Normal	25/ 100 ml (abnormal)	Normal

3	<i>Ex. Cw-1/C (Sample from water tank)</i>	<i>Normal</i>	<i>20/100 ml (abnormal)</i>	<i>10/100 ml (abnormal)</i>
4	<i>Ex. Cw-1/D (Sample from the house of claimant)</i>	<i>Normal</i>	<i>20/100 ml (abnormal)</i>	<i>Normal</i>

**13.** *This is the stage now to see that what are the effects on human health if Turbidity, Coliform, and Faecal Coliform are more than the standard ingredients. Mr. Saadat Ali Research Officer (Cw-1) in cross-examination had stated that in case of excess of ‘Faecal Coliform’ it can be causes for diseases those are: -*

- Diarrhoea*
- Viral hepatitis-A*
- Enteritis*
- Acute Gastroenteritis’s*

**14.** *About abnormality of ‘Turbidity’ he had responded that minor diseases can be there due to this reason. He also answered that source of ‘Faecal Coliform’ is waste of animals and human being; this is dangerous for infants, pregnant ladies and advanced aged persons; ‘E. Coli’ is found in ‘Faecal Coliform’ which is dangerous for human health; in case of excess in ‘Turbidity’ it becomes corrosive and gives birth to stomach diseases.*

**15.** *In his report (Ex. Cw-1/H) although Mr. Saadat mentioned that standard water was supplied but this finding of him is fully negated from analysis reports and replies given by him. It appears that he did this under extraneous considerations which are not binding on this Court. Further discussion will show that sub-standard water is being supplied to public at large and that observation of Mr. Saadat is completely against facts in existence.*

**16.** *No doubt that learned counsel for claimant has provided valuable assistance to this Court but I made further research on the subject.*

**17.** *In June, 2008 Pakistan Environmental Protection Agency (Ministry of Environment) Government of Pakistan in Collaboration with Ministry of Health, World Health Organization and UNICEF had issued a report on National Standards for Drinking Water Quality which was finalized by Dr. Athar Saeed Dil (Chief Health, Ministry of Health), Prof. Dr. Ishtiaq A. Qazi (Principal, Institute of Environmental Science and Engineering, NUST), Dr. Muhammad Anwar Baig (Associate Professor, Institute of Environmental Science and Engineering), Dr. Ejaz Ahmad Khan*

*(Instructor/Research Officer, National Programme Manager, Health Services Academy) and Dr. Aslam Tahir (Director, Pakistan Council for Research in Water Resources).*

*(See: <http://www.environment.gov.pk/act-rules/dwqstd-may2007.pdf>)*

**18.** *This report shows different kinds of diseases which are found due to abnormalities shown in reports before this Court. Relevant paragraphs are as under: -*

- a) Total coliform bacteria are a collection of relatively harmless micro-organisms that live in large numbers in the digestive systems and intestines of human beings and warm and cold-blooded animals.*
- b) These micro organisms aid in the digestion of food and can be found in humans and animals wastes.*
- c) Soil and decaying vegetable can also be a source of the coliform bacteria.*
- d) Some coliform bacteria known as faecal coliforms are only present in faecal material. The most common member of this group being *Escherichia coli* (abbreviated as *E. coli*) in the Family *Enterobacteriaceae* named *Escherichia* (Genus) *coli* (Species).*
- e) These organisms may be separated from the total coliform group by their ability to grow at elevated temperatures and are associated only with the faecal material of warm blooded animals.*
- f) Approximately 0.1% of the total bacteria within an adult's intestines are represented by *E. coli*. Although in a newborn infant's intestines *E. coli* along with lactobacilli and enterococci represent the most abundant bacterial flora. There are other disease causing bacteria, or viruses present in human waste.*
- g) If such a waste finds its way to a water source it would contaminate it and such water would definitely become a vector for that particular disease.*
- h) Turbidity (muddy aspect) in water is caused by suspended matter, such as clay, silt, finely divided organic and inorganic matter, soluble coloured organic compounds, plankton and other microscopic organisms. The particles that cause turbidity in water range in size from colloidal dimensions (approximately 10 nm) to diameters of the order of 0.1 mm.*
- i) Excessive turbidity makes the treated water not pleasing to look at. It can also interfere with disinfection processes and the maintenance of chlorine residual. In fact chlorination of water containing turbidity, due to organic matter, can produce carcinogenic trihalomethanes.*
- j) A positive correlation between serious epidemics of infectious diseases and increased turbidity has been recorded.*
- k) Particulate materials in water are usually not in themselves potential hazards, but they may have indirect effects. The concentrations of heavy metal ions and biocides are usually much higher in*

suspended solids than in water. The adsorption capacity of suspended particulates can lead to the entrapment of undesirable compounds and pesticides like DDT, and Herbicides such as 2; 4-D, parquat and diquat have shown twenty fold increase in solubility in waters with raised turbidity values. When such contaminated particles enter the stomach, through drinking water, the release of the pollutants could occur, with possible deleterious effects.

19. Above report also describes about some of the most common, microbes linked to drinking water contaminated by human waste and associated diseases which are as under: -

**Campylobacter** species are believed to cause 5-14% of cases of diarrhoea worldwide. The most commonly isolated species of *Campylobacter* is *C. jejuni*, an organism that causes gastroenteritis. In developing countries the illness occurs primarily in the children under 2 years of age. There is a high association between use of un-chlorinated water and campylobacter infection. In a safe drinking water, there should be no such organisms.

**Vibrio cholerae** is the causative organism of cholera. However, *Vibrio cholerae* O1 spreads through food/water borne route and through the street vendors. The disease causes massive diarrhoea, dehydration and electrolyte imbalance.

**Shigella sonnei** and other related *Shigella* strains are often responsible for the diarrhoeal diseases (shigellosis) that occur under adverse conditions. Once infected with *Shigella*, the patient develops diarrhoea, fever, and stomach cramps starting a day or two after the exposure to the bacterium. The diarrhoea is often bloody. Untreated surface or even well water may result in shigellosis in the areas where unhygienic conditions prevail.

**Escherichia coli** can cause a variety of syndromes and is notoriously responsible for diarrhoeal episodes, most common being the "Traveller's diarrhoea". Water and food are the common vehicles of the transmission of the *E. coli*.

**Giardiasis** a diarrhoeal illness is caused by *Giardia lamblia*. *Giardia* is a microscopic parasite that inhabits in the intestine of humans and animals. The parasite is passed in the stool of an infected person or animal.

**Hepatitis A&E** is the waterborne viral illnesses that are the most common ones to occur as an outbreak in a defined population. The water borne hepatitis epidemics are common. Coliforms are also present in the soil and plant material. If a water supply is found to contain coliform bacteria it may be contaminated by sewage or manure, and there is a risk of exposure to water borne disease. In

*particular, the presence of faecal coliform bacteria in aquatic environments indicates that the water has been contaminated with the faecal material of human beings animals. Water supplies must be tested for faecal coliform bacteria. According to WHO guidelines, the E. coli and faecal coliform bacteria must not be detectable in any 100 ml sample of all water intended for drinking.*

*20. In view of above it is finally concluded that the Authorities who are State functionaries are responsible for providing sub standard drinking water to inhabitants of locality which in given analysis is injurious and dangerous to human lives in particular to infants and pregnant ladies. This is unfortunate that it is the duty of State to ensure supply of standard drinking water free of costs but it is not being done despite the fact that people are charged for this facility on monthly basis. It means that consideration which local Authority is receiving is not utilized for proper treatment of water before it could be supplied to the citizens.*

*21. Under Article 38 of the Constitution of Islamic Republic of Pakistan, 1973 it is the duty of State to provide all citizens, within the available resources of the country adequate livelihood with reasonable rest and leisure and also to provide basic necessities of life, such as food etc. This, too, cannot be denied that under the Local Government Laws Tehsil Municipal Administration (in Tehsil) is responsible for the facilities of water, sewerage, drainage, sanitation and roads etc. Unfortunately in this country priority for those who are in power or in Authority hardly remains to ensure enforcement of constitutionally guaranteed fundamental rights of citizens. They have their own targets which they want to achieve even at the cost of deprivation of basic necessities to poor people of the land. I cannot believe that Tehsil Municipal Administrator or others who can afford drinking water even from abroad had ever opted to drink the water which is being supplied to innocent citizens residing in Kotli Sattian or other rural areas. Had this been there at some occasion the position might be different. The men in command are under legal and moral obligations to know what the needs of a common man are. The moment concept of public service (Khidmat-e-Khalq) is realized by the Rulers, there will be hardly any reason for public to knock the door of a Court for implementation of their approved rights.*



**22.** *This is not the end. Another horrible picture of this story is evident from report (Ex. Cw-1/H) submitted by expert. There are certain photographs of main water tank from where water is being supplied to inhabitants of locality. There is no restriction around this place for restraining human or animal waste like faecal matter etc. It is filled with fungus and dirt on the walls. Mr. Saadat in his report had also noted that: -*

*“The worst condition of infrastructure specially the main source tank and overhead storage tanks have possibilities of contamination occurrence. Main source of water is not covered and rain water runoff can easily enter the storage tank and mix with clean water which can hinder the water quality”*

**23.** *He also observed in his report about present climate and expected damage in future as under: -*

*“Samples water were taken in winter season and the temperature was about 0 degree Celsius and at this temperature biological activity is rarely occurred, but during summer when temperature raises and favours biological activity can spoil the water and make it dangerous to drink due to presence of coliform in main source tank”*

**24.** *Claimant has produced copies of receipts showing payment of monthly charges to TMA for supply of water. It means that he is getting services against consideration therefore relations between claimant and TMA as of ‘Consumer and Services Provider’ is established.*

**25.** *Whatever has been discussed above in the light of that it is held that claimant has succeeded to establish his claim but only against Tehsil Municipal Administration Tehsil Kotli Sattian as it is under obligation to supply safe drinking water whereas Water Consumer Committee is only a facilitator for this exercise.*

**26.** *Coming to question of relief I find that TMA must be dealt like an ordinary litigant and it deserves for no leniency because of nature of dispute and the fact that it is playing with the health of public hence it is liable to be awarded exemplary damages which may also open eyes of other Authorities to concentrate on public issues instead of their near and dear. Therefore, in terms of Section 31 of the Act I issue an order to Tehsil Municipal Administration through its Administrator and direct it to take following actions: -*

- a. To pay an amount of Rs.200,000/- (two hundred thousands) to claimant within thirty days from today.*
- b. In view of report of expert to avoid further loss of health in future to take following actions within three months from today: -*
  - To contain watershed area of main source or water supply by using bar rack sieves to protect source of water from entrance of debris, human excrement and floating material.*
  - To clean storage tank.*
  - To stop lines leakage.*
  - To repair and maintain the source tank and supply lines after every three months period.*
  - To install horizontal roughing filters at the inlet of main source.*

*27. Under section 36 of the Act all agencies of the Government shall act in aid of the Consumer Court in the performance of its functions under this Act. Therefore, copy of this judgment shall be send to District Co-ordination Officer (DCO) Rawalpindi, who shall be personally responsible to monitor and to ensure that directions of this Court are complied with in its letter and spirit.*

*28. File shall be consigned to record room after its due completion.*

**Announced**

04.02.2013

**(Sohail Nasir)**

*District and Sessions Judge/*

*Judge Consumer Court,*

*Rawalpindi*

*It is certified that this judgment consists of ten pages. Each page has been dictated, read, corrected and signed by me.*

**(Judge Consumer Court)**

*Rawalpindi*