

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR.

Subject: **EXECUTION PETITION NO. 136/2024 IN SERVICE APPEAL NO. 1683/2020, TITLED SHER AYAZ KHAN GANDAPUR V/S GOVT: OF KHYBER PAKHTUNKHWA**

Respectfully Sheweth,

1. That today 09.05.2024 is fixed in the above titled Execution Petition for Hearing/Proceedings in the Honorable Service Tribunal.
2. That the Honorable Service Tribunal issued Judgement dated: 08.05.2023 for implementation.
3. That office of Director General Mines & Minerals issued letter dated: 09.5.2024 (copy enclosed) to the appellant to submit requisite documents to proceed further in compliance of the orders of the Honorable Service Tribunal conditionally subject to the decision of the Supreme Court of Pakistan. (copy of Letter dated: 09.05.2024 is enclosed).

It is therefore requested for a suitable date, please.

Yours Obediently,

Superintendent Admin,
H/Q Peshawar Office, Peshawar.

Date - 10.05.2024

10-05-24



DIRECTORATE GENERAL OF MINES AND MINERALS

KHYBER PAKHTUNKHWA

Attached Departments Complex Khyber Road Peshawar

No. 8788 /DGMM/Admin /Court Case/Sher Ayaz Khan

Dated 09 /05/2024

To

The Section Officer (Estt)
Minerals Development Department,
Khyber Pakhtunkhwa Peshawar.

Subject: **EXECUTION PETITION NO. 136/2024 IN SERVICE APPEAL NO. 1683/2004 TITLED**
SHER AYAZ KHANV/S GOVT: OF KHYBER PAKHTUNKHWA.

I am directed to refer to the subject noted above and to enclose herewith the back history/ working paper along with enclosures in the instant case for consideration and necessary action as desired, please.

Encl: As Above.

Endst: No. 8788-91 /DGMM/Admin /Court Case/Sher Ayaz Khan

Copy is forwarded to:

1. PA to Director General Mines and Minerals Khyber Pakhtunkhwa.
2. The Deputy Director Litigation, H/Q Office Peshawar.
3. Master File/DGMM/Admin/2023.

o/c
Assistant Director (Admin)
HQ Office Peshawar.

Dated 09 /05/2024

o/c
Assistant Director (Admin)
HQ Office Peshawar.

Affected

ASSISTANT DIRECTOR
(Administration)
D.G. Mines and Minerals
Khyber Pakhtunkhwa, Peshawar

BRIEF/ HISTORY CASE IN RESPECT OF Mr. Sher Ayaz Khan (Ex-ASSISTANT DIRECTOR MINERAL –BPS-17) DIRECTORATE GENERAL MINES & MINERALS, KHYBER PAKHTUNKHWA

It is submitted that the appellant was serving as Assistant Director (Tech.) Minerals Development Mardan Division, Mardan and was lastly posted as Assistant Director Mineral Development Buner. The Mines & Minerals Development Department, Khyber Pakhtunkhwa advertised a publication in newspaper regarding auction of different minor minerals areas including area measuring 707.61 acres situated at Adnan Talao/Jaganath, District Swabi. The auction proceedings were held on 28.01.2019 by the Auction Committee in the office of Deputy Commissioner, Swabi and out of 10 participants, one Khan Pervez gave a highest bid of Rs. 64,50,000/- and the Auction Committee declared him the successful bidder. After completion of auction proceedings, the appellant, being Assistant Director (Tech) Mineral Development Mardan Division, according to law, vide letter dated 04.02.2019 requested the respondent No.4 for approval of one year mining lease in favour of Khan Pervez under usual terms and conditions as per Khyber Pakhtunkhwa Mineral Governance Act, 2017. Respondent No. 4 approved the grant of one year Mining Lease for Minor Minerals over an area of 707.61 acres near village Adnant Talao/Jagnath, District Swabi vide letter dated 07.02.2019. Accordingly, offer letter dated 15.02.2019 was issued to Mr. Khan Pervez, after which he was granted one year mining lease for minor minerals of that area vide letter dated 28.02.2019. On 21.03.2019, a complaint was received by the Deputy Commissioner Swabi, where in it was alleged that the area was not auctioned during the auction proceedings on 28.01.2019 due to an alleged stay order of the court. The D.C Swabi immediately ordered for enquiry and constituted an Inquiry Committee to unearth the facts. The enquiry committee submitted its report on 26.03.2019 which highlighted fraud and gross misconduct on the part of the appellant and his associated staff. The D.C Swabi vide letter dated:27.03.2019, addressed to D.G Mines & Minerals Khyber Pakhtunkhwa, recommended the following actions on the basis of the said enquiry report: -

- i. *“The offer letter for grant of lease of lot of Adnan Talao/Jaganath of 707.61 acres be immediately cancelled.*
- ii. *The bid security and lease money submitted by the concerned contractor named Khan Pervez for the above-mentioned block may be forfeited and the contractor should be immediately black listed besides taking other legal actions under the law.*
- iii. *The then Assistant Director Minerals Marden Mr. Sher Ayaz Khan must be immediately suspended and a departmental inquiry be launched against him and his office staff of destroying evidence, forging fake auction documents and possible corruption.*
- iv. *The department should move to online auction mechanism if possible to avoid such incidents in future.”*

The Assistant Director Mineral Development Marden was directed by the Head Quarters office Peshawar vide letter dated 05.04.2019 to cancel the mining lease and also forfeit security of party. Accordingly mining lease was cancelled vide letter 05.04.2019. The competent authority vide notification dated 21.05.2019 constituted an enquiry committee to conduct enquiry against the appellant. Charge sheet was served upon him which was duly replied by him. The enquiry committee, during the course of enquiry, found him guilty of the charges leveled against him and recommended that the competent authority might proceed against him under Rule 4 of Khyber Pakhtunkhwa Government Servants (E&D) Rule, 2011. The competent authority vide letter dated 02.08.2019 served a show cause notice upon the appellant which was duly replied by him. Respondent NO.2 being competent authority vide notification dated 11.10.2019, imposed major penalty of removal from service upon the appellant under Rule 4(b)(iii) of Khyber Pakhtunkhwa Government Servants (E&D) Rules, 2011 with immediate

effect. Feeling aggrieved, he filed departmental appeal before respondent No. 1 which was rejected on 24.02.2020,

Hence he filed **Service Appeal No.1683/2020** before the honorable Service Tribunal, Peshawar (copy may see at Page No. 02-36/c). Thereunder, reply comments is submitted before the said Hon'ble Court (copy may see at Page No.61-70/c). The case has been proceeded almost three year in the said Hon'ble Court. But lastly, the appeal was accepted by the learned Service Tribunal vide judgement dated: 08.05.2023 as (**Annex-A**).

Keeping in view para-8 of the judgement of Hon'ble Service Tribunal Judgement, this department filed CPLA No.495-P/2023 in the Supreme Court of Pakistan against the Judgment dated: 08.05.2023 of Khyber Pakhtunkhwa Service Tribunal in the public interest.

In the continuation of the above proceeding, the appellat filed **Execution Petition No.136/2024** for implementation of the said judgement. Further on the part of this Directorate also approached to the Supreme Court of Pakistan for early hearing of the instant case. In the meanwhile, the Service Tribunal, Peshawar issued order sheet as (**Annex-B**) for implementation of the instant case.

In view of the above stated position, the judgement of the Service Tribunal dated: 8.5.2023 is submitted for implementation subject to condition that judgement/decision of the Supreme Court of Pakistan be binding on the party, please.

Attested
ASSTANT DIRECTOR
(Administration)
D.G. House, Peshawar
Khyber Pakhtunkhwa, Peshawar

Assistant Director (Admin)
HQ Office Peshawar.