



4th June 2012

Lieutenant General Muhammad Mustafa Khan (Retd.),
Vice Chairman and Managing Director,
Fauji Foundation,
68, Tipu Road, Chaklala,
Rawalpindi.

Subject: Role of Armed Services' Retired Officers in Private Sector Industry.

Dear Sir,

Transparency International Pakistan has been informing Port Qasim Authority that the Concession Agreement of M/s FOTCO on BOO Basis, executed on 08th December 1992, contains conditions which were not available to other bidders at the time of public tendering in 1991 and therefore is liable to be declared an illegal Agreement. One of such conditions, 3.13.1, is quoted below:

Clause 3.13.3 – In the event that if PQA decides to expand the petroleum products and Crude Oil handling facilities at Port Qasim through Private Sector participation then the Company shall have the first right to enter into negotiation with PQA for said expansion. If the Company and PQA are unable to reach agreement on said expansion then PQA shall have the right to offer said expansion to third parties, provided, however, that the terms offered to third parties are no more favorable than those offered to the Company. If PQA has to offer more favorable terms in order to attract said third parties to Port Qasim then the Company shall have first right to conclude with PQA on the basis of such more favorable terms.

While PQA has started the tendering process of setting up of 2nd Oil Terminal, M/S FOTCO filed a Suit 326 of 2012 against Port Qasim and the Government of Pakistan.

In the petition, TI-Pakistan has noted the following paragraph, reported by M/S FOTCO in the Sindh High Court in the said petition, which is reported below:

Quote

“That this Honorable Court may kindly appreciate that it is a global world and in neighbouring countries specially India, Dubai and Singapore, the port authorities of the aforesaid countries comprises of highly dedicated professionals, competent, who possesses special qualification in the field of handling port activities. Unfortunately in our country the retired Army Generals, Air-Marshals and Admirals after retirement have been assigned the task of heading civilian authorities, which requires special qualification, experience and expertise, admittedly the retired Admirals, Air-Marshals possess none of the qualification, that’s why people of Pakistan are facing total deterioration in the field of PIA, Pakistan Railways, KPT, Port Qasim, Pakistan Steel and all other government, semi-government organizations, the Vice-Admiral Mohammad Shafi, who is currently the Chairman of Defendant No.1 since 18 months is bent upon to cause tremendous and colossal losses not only to the Plaintiff, but also to its sister concern Fauji Akbar Portia. In this regard, the sister concern of the Plaintiff has already files a suit against the Defendants bearing No. 233/2012 and this Honorable Court was pleased to grant stay.”

Unquote



This Suit has been filed by the General Manager, FOTCO, who served Pakistan Navy for a long time period.

TI-Pakistan has a great regard for the Pakistan Armed Forces and its officers who have performed valuable services in civilian departments also, and does not agree on the allegations made by M/s FOTCO against all the retired Air-Marshals, Army Generals and PN Admirals, that the postings of such highly experienced armed forces personnel have caused deterioration of PIA (present Chairman & MD is a retired Air Force Chief), Pakistan Railways, KPT, Port Qasim (present Chairman is a retired Vice Admiral) and Pakistan Steel (present Chairman is a retired Major General) and all other government and semi-government organizations.

TI-Pakistan requests you to kindly look into these abusive allegations and take administrative action against all the officers responsible for such an unwanted act.

You are also requested to examine the complaint of TI-P against M/s FOTCO Concession Agreement which may be declared as illegal agreement in view of the inclusion of above clause 3.13.3.

Transparency International Pakistan is striving for across the board application of Rule of Law, which is the only way to stop corruption.

Regards,

Syed Adil Gilani
Adviser

Copies forwarder for the information of and for necessary action under the Law:

1. Chief of Army Staff, GHQ, Rawalpindi.
2. Chief of Air Staff, Islamabad.
3. Chief of Naval Staff, Islamabad.
4. Chairman, Port Qasim Authority, Karachi.