

JUDGMENT SHEET
IN THE GILGIT BALTISTAN CHIEF COURT, GILGIT
Judicial Department

Before: Justice Raja Shakeel Ahmed.....Judge.
Justice Mushtaq Muhammad.....Judge.

W.P No. 11 /2026.

Adeel Ahmed son of Faqeer Muhammad r/o Pasban Colony
 Jutial Gilgit.

Petitioner

VERSUS

1. Government of Gilgit-Baltistan through Chief Secretary, Gilgit-Baltistan, Gilgit.
2. Secretary Planning and Development Department Gilgit-Baltistan, Gilgit.
3. Secretary Water and Power Department Gilgit-Baltistan, Gilgit.
4. Chief Engineer Water & Power Department, Gilgit.
5. Project Director 20 Mega Watt Hanzal, KIU Gilgit.
6. Project Director 16 Maga Watt, Naltar Gilgit.
7. CNEEC FWC JV.
8. Heavy Mechanical Complex (HMC).

Respondents

WRIT PETITION UNDER ARTICLE 86(2) OF THE GOVERNMENT OF GILGIT BALTISTAN ORDER 2018 (2) OF GILGIT-BALTISTAN ORDER 2018 READ WITH ENABLING ARTICLES OF THE CONSTITUTION OF THE ISLAMIC REPUBLIC OF PAKISTAN.

Present: Petitioner in person alongwith his counsel Mr. Shabbir Hussain advocate.
 Raja Shahid Zaman Addl. Advocate General assisted by L.A Mr. Shoaib-ur-Rehman (Water and Power) Department for the respondents No. 1 to 4.
 Respondent No. 7 through Project Director and General Manager alongwith counsel Mr. Shams-ud-Din advocate.
 Respondent No. 8 through Project Director Mr. Muhammad Kazim.
 Mr. Ghulam Muhammad Deputy Secretary Water and Power Department Gilgit-Baltistan.

Date of Hearing: 14.04.2026.

Date of Judgment: 21.04.2026.

JUDGMENT

(Mushtaq Muhammad..... J.) Reference Show cause-notice dated 09-02-2026, for the cancellation / termination of agreement No. HPP-HANZEL/ICB-01 dated 6th September 2021, pertaining to the 20MW Hanzel power project, for the reason that, FWO-CNEEC Contractor JV, has failed to complete the said project despite completion of the original contractual period 34 months, following the Employer's Order to Commence the Work on 07-09-2021. Reference Annx.1 attached with reply to the show cause of respondent No.7.

2. Arguments heard and record perused. Learned counsel Mr. Shams-ud-Din advocate representing the Contractor JV, assisted by the DG and the Project Director, placed their reliance on the document **“minutes of meeting”** dated 27-12-2021. Document is annexed with their reply as **Annx.2**. The entire thrust of their arguments remained focused on the contention that, in the very beginning of the project, attention was drawn to the fact “underestimation of the power potential of the project” and the Contractor JV while discharging its contractual obligations, brought the matter to attention and the Provincial government by accepting the proposed project of the Contractor JV, forwarded the same to the Planning Commission. They submitted that waiting the approval of the proposed project from the Planning Commission and Executive Committee of the National Economic Council (ECNEC), and owing to this, the primary project could not be completed. Learned DG proffered before the Court that he remains willing, even today, to complete the project at the approved rates. On the other hand, petitioner and his counsel contested that it is a lame excuse because the said proposal had been rejected at the preliminary scrutiny in

the year 2017. He referred point No.8 of the document minutes of meeting Annx.2. Petitioner and his counsel submitted that, Federal Government being the sole sponsor of the project, had not furnished any positive response in this regard and the project cost was approved only to the extent of 20MW, keeping in view the available resources. Petitioner and his counsel prayed that keeping in view the acute power shortage in this province which badly damaged the commercial activities and the social and domestic life at a standstill, the contract may be terminated and project may be awarded to a new contractor company after adopting the coda formalities.

3. We have given our considerations. Following portion of the order dated 09-02-2026 issued in this petition, shall be read as integral part of this judgment passed with reference to the show cause-notice issued against the FWO/CNEEC JV. Same is reproduced here:

“Lastly that, who is the aggrieved person as a result of alleged delay or non-completion of the said projects. The first two points require a formal reply from the concerns and the scrutiny of the record; however, on the last point this court is of the considered opinion that both the hydel projects have been approved by the Federal Government, with an aim to fill the wide gap between electricity demand and supply in this Province. Therefore, the actual beneficiaries of these projects are the people of Gilgit Baltistan and being the beneficiaries of the same, timely completion of the projects is their fundamental right. This right is fundamental because importance of energy especially the electricity in modern society is self-evident, where every sector of life from domestic usage to commerce, industry, health care, education and communication etc; relies on a consistent and uninterrupted energy supply. The absence of electricity would not only affect the quality of life rather it brings the societal and economic activity to a standstill. In daily life, it can be observed that

during brief interruptions of electricity supply, commercial and domestic users resort to alternative energy solutions to maintain daily routines and business operations. In this contemporary society, where technology permeates every aspect of daily life, the significance of energy is inconceivable.

3. “The people of Gilgit Baltistan are concurrently grappling with harsh winter conditions whilst enduring an 18 to 20 hours load-shedding ordeal. Concomitantly, a disturbing and painful trend is observed wherein contractor companies are engaging in egregious misconduct with public importance projects, whilst the authorities entrusted with enforcing timely completion of projects are shirking their statutory obligations and the people of Gilgit Baltistan are the ultimate victims of this deplorable state of affairs.”
(Unquote)

4. Facts admitted on record are that the Contractor JV, secured the aforementioned project against a minimum bid of Rs.12921.662 million rupees and it was agreed that Contractor JV shall complete the project within 34 months. Reference para No.2 of their reply.

Post agreement, the Contractor JV, did not initiate the work, insisting that project has been wrongly evaluated by the concern experts at a minimum level of 20 MW production by gross misunderstanding the actual capacity of the project. The Contractor JV submitted its proposal for enhancement of the production capacity at 40MW and also demanded increase in the cost of the project. Ironically, the Provincial government has lent credence to the said machination, by seeking approval of said proposal from the Federal government, thereby stalling the project. This singular circumstance has resulted in the project remaining unfinished, even after stipulated contractual period. The project site is demonstrating an irrefutable testament to its non-completion and it stands as a grim

portent, intimating to the populace that, they must prepare themselves for enduring the scourge of load-shedding for many more years.

5. It is nowhere on record that, either the Contractor JV or the Provincial Government Gilgit Baltistan has been given any authority in writing to revisit the initial feasibility report of the project and to demand additional financial assistance from the Federal government under the guise of such a unilateral proposal pertaining the cost of the project. The priority of the Water & Power department ought to have been the timely completion of the project, rather than impede the timely execution of the project.

6. It was submitted before the court on behalf of the Contractor JV that, proposal was submitted within the scope of the agreement. It was submitted that provincial government has acceded to the said proposal and same is at an advance stage of approval therefore, it would be inappropriate to terminate the said agreement. It is asserted that soon after the approval of revision, the Contractor JV will commence its work and complete the same within shortest possible time.

After a plain reading of the document Annx.2, dated 27-12-2021, we are unanimously of the view that, these submissions of the Contractor JV are incorrect and same are negated by the document Annx.2 itself. For a ready reference the relevant portion of para No.8 of Annx.2, is reproduced hereunder:

“8. Power Potential.

Response. The consultant is well aware of the fact that the power potential of the project can be increased as highlighted in Consultant Feasibility Review Report,2017. However, the same was discussed with the client at the time for increase in power potential and possible future extension. However, this was deferred because PC-1 was approved on the EPC basis for the power potential

of 20MW. Therefore, the Bidding Documents were prepared considering the power potential of 20MW. Accordingly, the EPC Contractor has to work out the project to produce 20MW at the agreed turbine and generator efficiencies, contract price and time frame. At the time of the Bidding, the Contractor had the option to produce better alternate proposal but they had not considered the same. Now, they must proceed with the requirements of the Bidding Document / Contract Agreement". (unquote)

Despite the above referred clear answer, the Contractor JV, failed to commence the work and insisted on its so-called proposal for enhancement. It is in the document Annx.2 under the heading No.8 that:

"Pursuant to Sub-clause 1.3.1 of Project Construction Requirements (PCR), the Contractor has the freedom to change the layout, design, construction methodology and/or other details of the project, but only with the prior consent of the Engineer, to better exploit the local physical conditions and adopt value engineering practices provided, however, that the requirements of the Contracts are achieved or exceeded, the **fundamental purposes are maintained and the Contact Price and Time for completion remains the same as mentioned in the conditions of Contract.**" (unquote)

7. In the document Annx.2 under the heading 'Observations', the Project Manager, NESPAK, has raised concerns about Contractors' Civil Work Team Mobilization and absence of equipment for construction of temporary far and home back bridge abutments at alterative weir and powerhouse sites, bridge equipment's and labour camping at Project site, to which the Contractor responded that, they already have mobilized and seven rigs are working on the site. Since the design work is in progress so mobilizing construction crew will be wastage of resources." (unquote)

8. A perusal of the aforementioned contents of the document Annx.2 dated 27-12-2021, reveals that the

Project Manager, NESPAK, while repudiating the proposed enhancement in the production, had issued unequivocal directions to the Contractor JV that, it remained, under all circumstances, bound to ensure completion of the primary agreement. In paragraph No.8 of the document Annx.2, it is mentioned that the proposal for enhancement of the production capacity of the project had already been deferred at the stage of the original feasibility report in the year 2017. Moreover, the bidding for the project was also invited with reference to 20MW; therefore, any deviation from the primary contract is not permissible.

Notwithstanding, the above referred categorical response coupled with directions to the Contractor JV, to proceed with the primary agreement, the Contractor JV, unilaterally ceased execution of the project. Since, the Contractor JV, has suspended the execution of the project on its own accord by ignoring the directions of the Project Manager therefore, the sole responsibility rests with the Contractor JV.

9. *The Contractor JV's reliance on a proposed project variation, for which no formal approval exists on record, serves as a pretext to avoid performance/execution of its primary obligations. A comparison of bid price offered by the contractor company and the other competitor "Power China" suggests that the underlying reason for this avoidance is the Contractor JV's submission of a low and non-responsive bid. While "Power China" submitted a bid of 17 billion for 20MW project, the Contractor JV secured the contract with a bid of 12.9 billion. This margin of 4 billion, indicates that the Contractor JV's unreasonably low price has driven it to obstruct project execution, rather than fulfilling its contractual obligation, by using the capacity enhancement proposal as a tool. The report of*

resident engineer dated 09-02-2026 indicates that less than 5% work has been done, yet the contractor company now seeks to inflate costs from 12 billion to 21 billion under the pretext of extension approval. The primary question is that, on what basis can the Contractor JV impose a twofold cost increase and how can this be accepted without applying the PPRA Rules? If a contractor company seeks enhancement beyond the scope of original agreement, it is typically considered a variation or amendment to the contract. This kind of variation /amendment of a substantial nature requires mutual agreement and requires formal approval of the competent authority. Unilateral enhancement of project capacity and rate, after execution of contract cannot be accepted without a fresh procurement process. Under the PPRA Rules, a procuring agency may allow limited quantity variations commonly up to 15% without changing cost prices, but any material change in scope or rates requires a new competition to preserve transparency and equal treatment. So, unless the original bidding documents expressly allowed such enhancement with defined price adjustment mechanisms, accepting a unilateral rate hike would not only be illegal rather, it would represent an undue favour to a party and loss to national exchequer. In recent past, the contract for Astore valley road was rescinded citing a six months' delay and Thak 2 MW agreement was terminated due to minor delays. Paradoxically, the 20MW Hanzel and 16 MW Nalter projects, beset by years of delays, have not prompted any administrative or legal action against the involved companies. Notably, it is on record that, 20 MW Hanzel project, Contractor JV, deviating from original agreement, now seeks to double

the project's capacity and renegotiate terms, effectively dictating new conditions.

10. *It is on record that Project Director of 20MW Hanzel failed to discharge his responsibility qua, execution of the project within the specified time. He served a reminder to the Contractor JV on 22-05-2025, after the lapse of contractual period, that unjustified delay in resumption of work will trigger enforcement of liquidated damages under clause 21.7 and will also lead to termination of the Contract under clause 45.1 & 2 of the Contract document. At the expiration of the contractual period, such a reminder bears no greater significance than a mere formality and the reminder dated 22-05-2025 clearly manifests that the Project Director has badly failed to accomplish his primary responsibility qua, proper execution of the project. During the span of 34 months' period he acted merely as an agent of the Contractor JV. Consequently, this Court shows its dissatisfaction over the performance of the Project Director.*

11. *Keeping the above in view, we are of the considered view that, contractual period of 34 months has already been elapsed with no significant work on the site. The proposal for enhancement of project to 40 MW was unilaterally submitted by the Contractor JV, for which the Contractor JV had no authority. The Contractor JV was merely responsible for adhering to its primary contract, in performance of which it has completely failed. Despite the unequivocal directions contained in the document Annx.2 referred above, the Contractor JV did not proceed with the execution of the project, for which the entire liability rests with the Contractor JV. Furthermore, even if the proposed 40MW is accorded approval as of today, the same cannot be awarded to the CNEEC-FWO JV, on the basis of the*

previous procurement/tender proceeding, as the earlier bids were invited for a 20MW Hydel Project.

12. *Consequently, the contract No. HPP-HANZEL/ICB-01 dated 6th September 2021, Hanzel 20MW, is hereby terminated. Performance guarantee of the Contractor JV, (FWO-CNEEC) pertaining to the project 20MW Hanzel is hereby forfeited. The Project Director is relieved of his duties with immediate effect and salary and perquisites received by him beyond the period of 34 months shall be recovered. It is ordered that proceedings for a new procurement contract for completion of the Hydel Project Hanzel 20MW shall be initiated at an earliest. Moreover, the Court shall be kept apprised at every stage of the fresh procurement. Copy of this judgment be sent to the Secretary Water and Power Gilgit-Baltistan for intimidation and compliance. Copy of the same be also sent to the office of the Worthy Chief Minister Gilgit-Baltistan and Chief Secretary Gilgit-Baltistan for intimation.*

Announced.
21.04.2026

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Approved for Reporting: Yes or No.

For a third party evaluation and work progress on 16MW Nalter hydel project, Mr. Ghulam Muhammad DS is directed to submit names of three impartial persons having relevant experience and expertise in the relevant field. Mr. Kamal Hussain advocate and Mr. shall represent as nominee of the Court. Put up next for further proceedings.