

IN THE HIGH COURT OF SINDH, KARACHI

Present:

Mr. Justice Muhammad Saleem Jessar

Mr. Justice Nisar Ahmed Bhanbhro

Const. Petition No. D-1540 of 2025

(Pentagon Fumigation Services v. Federation of Pakistan & another)

Petitioner : Through M/s. Abdul Sattar Prizada and
Mamoon N. Chaudhry, Advocates

Respondents : Through Ms. Zahrah Sehr Vayani, Assistant
Attorney General a/w
Muhammad Hassan, Focal Person for
Litigation and Tayyab Willayat,
Entomologist, DPP

Date of hearing : **24.02.2026**
and order

ORDER

NISAR AHMED BHANBHRO,J. Through instant petition, the petitioner claims following relief(s):-

“(a) Declare that the failure by the Respondents to process the application of the Petitioner in respect of the registration of the product ie, Methyl Bromide 99% (the "Product") in accordance with the provisions of the Agriculture Pesticides Ordinance, 1971 and the Agriculture Pesticides Rules, 1973 is illegal, unlawful and unconstitutional,

(b) Direct the Respondents to forthwith complete the application process in respect of the registration of the Product in accordance with the applicable law,

(c) Grant any further relief that this Hon'ble Court deems appropriate."

2. Learned counsel for the petitioner contended that the petitioner, a duly registered proprietorship concern engaged in pest control services and pesticide business, applied on 22.01.2022 for registration of Methyl Bromide 99% along with a complete dossier and fulfilled all codal formalities. Upon seeking of certain documents by respondent No. 2, the same were promptly supplied. Samples were imported with prior approval, analyzed by laboratories, and favorable reports were submitted. The sub-committee of APTAC, in its 63rd meeting dated 13.12.2023, recommended registration; however, the matter was deferred in the 61st meeting held on 10.01.2024. A subsequent inquiry committee, constituted on 05.08.2024, thoroughly examined the process and, in its report dated 29.08.2024, expressly recommended grant of registration. Despite this, the 62nd meeting of APTAC dated 10.03.2025 again deferred the case on extraneous grounds. Learned counsel argued that all statutory requirements stand fulfilled and favorable recommendations have been made, yet the respondents have withheld registration without lawful justification, while approving other applications. Such conduct, he contended, is arbitrary, discriminatory and violation of law. He prayed that the petition be allowed.

3. Learned Assistant Attorney General contended that upon scrutiny of the petitioner's application dated 08.09.2021, the Department of Plant Protection issued objection letters dated 07.02.2022 and 24.03.2022 highlighting material deficiencies. The reply to the first was unsatisfactory, while no response was furnished to the second, and mandatory documents under the Form-I checklist remained incomplete. She submitted that although the product was sent for trials, valid data was received from only one agency and was found technically incorrect. In its 61st meeting dated 03.04.2024, APTAC declined registration due to incomplete documents and defective trial data and ordered an independent inquiry. The inquiry findings, placed before the 62nd meeting dated 18.03.2025, revealed serious irregularities, including non-compliance with prescribed trial protocol and again deferred registration.

Learned AAG maintained that under Sections 4, 5 and 12 of the Ordinance of 1971, registration can only be granted upon fulfillment of mandatory statutory requirements, which the petitioner failed to satisfy; hence, the petition is liable to dismissal.

4. Heard the arguments of learned counsel for the parties and perused the material available on record.

5. Crux of controversy involved in the present petition is the registration of the product of the Petitioner viz. Methyl Bromide 99 % under the framework of the Agricultural Pesticides Ordinance, 1971 (**the Ordinance**) and the Agricultural Pesticides Rules, 1973 (**the Rules**), which are governing laws regulating the import, export and manufacture of the Pesticides in the Country. The petitioner applied for registration of its product, Methyl Bromide 99%,. Under the framework of “the Ordinance” and “the Rules”, an application for registration of pesticides shall be made to the Federal Government under Rule 5 in the manner specified in Form - I with proof of manufacturing or valid registration and data of pesticide. On receipt of application the Federal Government may send the application together with a sample of pesticide to the pesticides laboratory for test or analysis within one month from the receipt of the sample to ascertain whether the same is in accordance with the information or not and may accept the application under Rule 4 or reject the same by invoking its powers under Rule 5. For the purpose of deciding the fate of an application, Federal Government has constituted an Agricultural Pesticide Advisory Committee (APTAC) under its powers conferred under section 12 of the Ordinance. Record further reflects that the matter has remained under consideration of the competent fora, including the sub-committee of APTAC and an inquiry committee constituted pursuant to earlier deliberations. Recommendations, reservations and deferments have followed one after another, yet the application itself has not attained finality.

6. It transpires from the record that application of the Petitioner for registration is pending with the Respondents since 2022, under the statutory scheme of law the said application ought to have been processed and decided within a period of 120 days, but Respondents failed to make compliance to law and rules on one or other pretext and reasoning adopted for the same is not found rational or plausible. The Department

of Plant Protection in its objections to the petitions has cited the decisions of 61st, 62nd & 63rd meeting of the APTAC wherein the registration of product was deferred for want of reports from authorized laboratories. It appears that Department of Plant Protection, Ministry of National Food and Security, Government of Pakistan conducted an inquiry in the application of Petitioner and vide its report dated 29.08.2024, the inquiry recommended for registration of product of the Petitioner. The inquiry report (available at page 489 of Court file) was forwarded to APTAC for further consideration. The report was placed in the 62nd meeting of the APTAC meeting, however the case for fresh registration of methyl bromide was deferred, as is evinced from page 691 of the Court file without assigning any reasons.

7. Rule 4 of the Rules lays down the procedure for registration, which requires the Federal Government to accord approval for registration of any pesticide product on fulfillment of requirements. From the scanning of the record, it is crystal clear that application of the petitioner for registration has been delayed for no reasons. Prolonged deferment of the matter, despite repeated consideration in various meetings and constitution of inquiry, defeats the very object of the statutory scheme and amounts to administrative indecision. While the competent authority is fully empowered under the law to scrutinize the application, examine trial data and ensure strict compliance with statutory requirements, such discretion is to be exercised fairly, transparently and within a reasonable time. This Court cannot substitute its own opinion for that of the technical body constituted under the statute, nor to direct grant of registration as a matter of course. The proper course, in the circumstances, is to require the competent authority to conclude the process strictly in accordance with law.

8. To be dealt with in accordance with law is an alienable right of an individual under article 4 of the Constitution. To do a business within the specified parameters of law is also the fundamental right of an individual under article 18 of the constitution. The rights so available to an individual under the supreme law of the country, obligated the state to ensure that those rights are protected. The statutory organs of the state are under an obligation to proceed with the matters relating to the rights of parties in the manner provided under the scheme of law. Administrative inaction and inordinate delay leads to an inference that authority at the helm of the

affairs was not willing to proceed with and decide the fate of the matter in accordance with law, bringing a case for indulgence of this Court to exercise the powers of juridical review by issuing a writ in the nature of mandamus.

9. In the wake of above discussion this petition is granted. The respondents are directed to process and decide the petitioner's application for registration of Methyl Bromide 99%, strictly in accordance with the provisions of the Agricultural Pesticides Ordinance, 1971 and the Agricultural Pesticides Rules, 1973, within a period of 45 days from the date of this order. It is clarified that the decision so taken shall be based on merits, after affording due opportunity of hearing to the petitioner, and shall be communicated through a speaking order.

JUDGE

JUDGE

HEAD OF CONST. BENCHES

Nadir*

Approved for reporting