

IN THE HIGH COURT OF SINDH KARACHI

Before:

Justice Muhammad Saleem Jessar

Justice Nisar Ahmed Bhanbhro

CP No.D-5634 of 2025

(Sindh Growers Alliance and another v. Province of Sindh and 3 others)

Petitioner: Through Syed Mureed Ali Shah, Advocate

Respondent No 4: Through Mr. Mamoon N. Chaudhry, Advocate

M/s. Hakim Ali Shaikh Additional Advocate General
and Sagheer Ahmed Abbasi Assistant Advocate General
a/w Asif Aziz Cane Inspector, Zulfiqar Ali Vistro, Focal
Person Agriculture Department, Government of Sindh

Date of hearing: 10.02.2026

Date of announcement: 05.03.2026

ORDER

NISAR AHMED BHANBHRO, J. Through this petition, the petitioners claim following reliefs:-

“a) Declare that Notification No.8(142)SO(EXT.)/2025 dated 15.11.2025, issued by Respondent No.2 fixing the commencement of the crushing season without first determining the minimum support price and quality premium, is contrary to law and of no legal effect;

b) Declare that the failure and delay on the part of Respondents No.1 & 2 in fixing the minimum support price of sugarcane for the crushing season 2025-26 are illegal, malafide, arbitrary, discriminatory, and in violation of Section 16 of the Sugar Factories Control Act, 1950,

c) Direct Respondents No.1 & 2 to forthwith determine and notify the minimum support price of sugarcane and the quality premium for the crushing season 2025-26 strictly in terms of Section 16 of the Act,

d) Direct Respondent No.3 (Cane Commissioner) to ensure strict enforcement of Sections 2(h), 8, and 16 of the Act, as well as Notification No 8(142)SO(EXT)/2025 dated 15.11.2025, and to take immediate coercive action against any Sugar Mill failing or refusing to commence crushing within the statutory period';

e) Direct Respondent No.4 (Pakistan Sugar Mills Association) and all its member mills to commence the crushing season without delay and strictly in accordance with law, irrespective of existing sugar stock positions on commercial considerations,

f) Direct initiation of appropriate legal proceedings, penalties, and disciplinary action against all officers, officials, and mill owners responsible for violating the Sugar Factories Control Act, 1950, and for causing exploitation and financial loss to growers,

g) Direct Respondent No.3 (Cane Commissioner) to take enforcement measures under Sections 21 and 22 of the Sugar Factories Control Act, 1950 against all mills failing to fulfill their statutory obligations,

h) Restrain Respondent No.4 and all Sugar Mills from linking the commencement of crushing with disposal of sugar stocks or any commercial factor not recognized under law.

i) Direct Respondents to ensure that all sugarcane procurement is made directly from growers, without the involvement of middlemen, and that all payments to growers are made through Payee's Account Cheques in compliance with Section 16(4) of the Act.

j) Declare that all citizens are entitled to equal treatment, dignity, social justice, equitable distribution of wealth, liberty, honour, and freedom from discrimination, as guaranteed under Articles 2-4, 4, 5(2), 9, 14, and 25 of the Constitution of the Islamic Republic of Pakistan"

2. Learned counsel for the petitioners submits that Petitioner No.1 is an association of sugarcane growers of Sindh, while Petitioner No.2 is a grower

and senior advocate of this Court. It is contended that the Government of Sindh, in collusion with sugar mills, has deliberately delayed fixation of sugarcane price and commencement of the crushing season, causing serious financial prejudice to growers. It is argued that the public declaration made by the Pakistan Sugar Mills Association on 06.11.2025, refusing to commence crushing until clearance of sugar stocks, is in blatant violation of Section 8 of the Sugar Factories Control Act, 1950 (SFCA) and Rule 5 of the Rules, as inventory considerations are legally irrelevant. The crushing season, as defined under Section 2(h) of the Act, commences on 1st October, and any deviation therefrom is unlawful. Learned counsel contends that instead of fixing the minimum sugarcane price under Section 16 of the Act, Respondent No.2 unlawfully issued a notification declaring 15th November, 2025 as the commencement date, followed by consequential directions, which are without lawful authority. It is further submitted that sugarcane is a twelve-month crop involving substantial investment, and delay in crushing results in loss of weight, benefiting the mills while forcing growers into distress sales through brokers, thereby defeating the very object of SFCA. Despite complaints submitted on 17.11.2025, the respondents failed to act, amounting to abdication of statutory duty. Such inaction has disrupted the agricultural cycle, endangered the livelihood of millions of growers, and violated Articles 2-A, 4, 5, 9, 14 and 25 of the Constitution. Reliance is placed on **unreported order dated 12.01.2024 passed by this Court in CP No.D-4039 of 2023**. It is, therefore, prayed that the petition be allowed.

3. Learned Additional Advocate General, assisted by learned counsel for Respondent No.4, submits that the petitioners are put to strict proof of their assertions. It is contended that a constitutional petition filed by an association is not maintainable, and that Petitioner No.2 has failed to establish any nexus with the respondents so as to qualify as an “aggrieved person” under Article 199 of the Constitution, thereby lacking locus standi. It is argued that the petition discloses no violation of any enforceable legal right, nor does it furnish any lawful justification for invoking constitutional jurisdiction. The matter, it is submitted, pertains to policy and economic regulation, in respect whereof this Court cannot sit in appeal or substitute executive discretion, nor can it fix prices or devise a pricing mechanism. Learned AAG contends that reliance placed on provisions of the SFCA and certain earlier orders of this Court is misconceived, as the same are neither mandatory in nature nor relevant for adjudication of the present controversy. It is emphasized that Section 16 of the SFCA employs the word “may” and

not “shall”, thus imposing no obligatory duty upon the Provincial Government to fix the minimum price of sugarcane for every crushing season. It is further submitted that any interpretation curtailing freedom of trade would offend Article 18 of the Constitution, which guarantees unrestricted lawful business activity, and that fairness of trade is not a justiciable consideration within constitutional jurisdiction. In a free market economy, businesses must operate in accordance with market forces. It is contended that the statement filed by Respondent No.3 confirms due compliance by the members of Respondent No.4 with Section 8 of the SFCA, and that the allegations leveled by the petitioners are speculative, unsubstantiated, and raise disputed questions of fact, which cannot be resolved in constitutional proceedings. It is further argued that the petitioners have approached this Court without exhausting the statutory remedy available under Section 22 of the SFCA, and that the complaints relied upon are vague and devoid of any cogent basis. Learned counsel for the respondent No.4 placed reliance on the cases of **Shumaila Salman Shah and 4 others v. Federation of Pakistan through Minister, Ministry of Federal Education (PLD 2021 Sindh 476)**, **Shehzad Riaz v. Federation of Pakistan (2006 YLR 229)**, **Ministry of Inter Provincial Coordination v. Major ® Ahmad Nadeem Sadal and others (2014 CLC 600)**, **Syed Ali Hamza and others v. Province of the Punjab and others (2022 PLC (C.S) 525)**, **Commissioner of Income-Tax v. Smt. P.K. Noorjahan (1999 PTD 3828)**, **Muhammad Ishaq v. Ghulam Muhammad Khan etc (1979 CLC 738)** and **Abu Bakar Siddique and others v. Collector of Customs, Lahore and another (2004 PTD 2187)**. He prays that the petition may be dismissed.

4. Heard arguments of the parties and perused the material made available before us on record.

5. The crux of the controversy involved in instant petition is that the Government of Sindh has notified the commencement of sugarcane crushing for crop season 2025 - 26 through notification dated 15.11.2025 without fixing the minimum price of the commodity and the payment of quality premium of the sucrose as envisaged under Section 16 of the SFCA, which per petitioners offended their fundamental rights as to fair crop price. As such, the notification dated 15.11.2025, notifying the start of crushing season of sugarcane from 15th November 2025 was illegal ab initio, null and void and ultra vires the provisions of SFCA.

6. In its pith and substance, the Petitioner seeks fixation of the minimum sugarcane price for the crushing season 2025-26. Section 16 of the SFCA grants discretion to the Government to fix minimum price of the sugarcane for a crop season and payment of quality premium at the end of the season. For the sake of convenience, Section 16 is reproduced below:

“16. Fixation of minimum price.— (i) The Government, may on the recommendations of the Board or otherwise by notification determine minimum price of the cane having regard to -

(a) The cost of production of sugarcane; and

(b) The return to the grower from alternative crops and the general trend of prices of agricultural commodities,

(2) The price determined under sub section (1) may from time to time be reviewed.

(3) The Occupier of a factory shall pay quality premium at the end of crushing season at such rates as may be determined by Government in proportion of sucrose recovery of such Factory in excess of base level sucrose contents viz. 8,7 per 100 kilograms.

(4) The price of the cane shall be paid to the cane grower by issuing payee's account cheque.

(5) If the payment under sub-section (4) is not made within fifteen days of the supply of the cane, mark-up at the rate as may be fixed by the Government by notification shall also be paid to the cane grower in addition to the principal amount.

(6) No occupier of a Factory shall make any deduction except the deduction as may be prescribed from the amount payable to the cane grower under sub-section (4)

(7) No occupier of a Factory shall, except with the approval of the ,Commissioner deduct any weight from the total weight of the cane on account of its unsuitable variety or immaturity or for any other reasons.

7. The above provisions of law, mandated that the Government may determine minimum price of sugarcane after recommendation of the Board for each season and payment of quality premium at the end of the crushing season as provided under sub-section (3). It appears from the record that last notification in that regard was issued by the Government of Sindh on 23.11.2022 fixing the minimum sugarcane price @ Rs.302/- (Rupees Three

Hundred and two only) per 40 Kg and premium to the cane growers at the end of the crushing season 2022-23 at the rate of fifty paise per 40 Kg for each 0.1 percent (Including fraction thereof to be calculated prorata) For the sake convenience, notification dated 23.11.2022 is as under:

“NOTIFICATION

No.8(142)/50(Ex1)/2022-23: In exercise of the powers conferred under Section 16(1) of The Sugar Factories Control Act, 1950 (Sindh Amendment), Act-2009, with the approval of the Provincial Cabinet Government of Sindh, Agriculture, Supply & Prices Department, is pleased to fix the minimum price of Sugarcane @ Rs.302/-(Rupees Tivee Hundred and two only) per 40 Kg. for the crushing season 2022-23.

No.8(142)S0(Ex1)/2022-23: In exercise of the powers conferred under Section-16(3) of the Sugar Factories Control Act, 1950 (Sindh Amendment), Act-2009, The Government of Sindh, Agriculture, Supply & Prices Department, with the approval of Provincial Cabinet, is pleased to direct the Sugar Factories in the Province to pay quality premium to the cane growers at the end of the crushing season 2022-23 at the rate of fifty paise per 40 Kg for each 0.1 percent (Including fraction thereof to be calculated prorata) of excess sucrose recovery above 8.7 percent determined on overall sucrose recovery basis of each mills.

SECRETARY AGRICULTURE
SUPPLY & PRICES DEPARTMENT

No.5(142)50(x1)/2022-23

Karachi dated the 23-11-2022”

8. It further transpired from the record that the issue of fixing sugarcane price for the crop Season 2025-26 was placed by the Government before the Cabinet, in its meeting held on 20.01.2025. The cabinet deferred the price fixation issue due to certain commitments with International Monetary Fund (IMF) entered into by the Government of Pakistan. The Cane Commissioner Sindh in its statement filed in reply to the petition has stated in Paras No.8,9 and 10 in the following manner:

“8. That the fixation of minimum sugarcane price for crushing year 2025-26 involves significant national economic considerations. Owing to prevailing macro-economic circumstances and obligations undertaken by the Federal Government under IMF commitments, neither the Federal Government nor the Government of Punjab has so far notified the minimum support price of sugarcane. The matter, therefore, carries national economic implications and remains under careful governmental considerations.

9. That in terms of Section 16(3) of the Act, every occupier of a sugar factory is required to pay Quality Premium commensurate with recovery exceeding the base sucrose level of 8.7% per 100 kg. Accordingly the statutory requirement will be ensured at the conclusion of the current crushing season.

10. That in view of the above, it is submitted that the answering respondent has fully complied with the law, acted in good faith and continues to coordinate with all stakeholders to ensure (i) lawful commencement of the crushing season, (ii) safeguarding of growers interests and (iii) stability of the sugarcane sector in Sindh and any order passed by this Honourable Court shall be implemented in letter and spirit.”

9. It is gathered from the reply referred above, that the Government of Pakistan has entered into certain financial commitments with IMF and in pursuance to those commitments, the Government has not notified minimum price of sugarcane for the crop season 2025-26. As far the payment of quality premium is concerned it is stated that in terms of Section 16(3) of the Act, every occupier of a sugar factory is required to pay Quality Premium commensurate with recovery exceeding the base sucrose level of 8.7% per 100 kg, accordingly the statutory requirement will be ensured at the conclusion of the current crushing season. This statement on behalf of the Cane Commissioner ensures that quality premium shall be paid to the sugarcane supplier/ grower at the end of the season.

10. Moreover, from perusal of the sub-section (1) to Section 16 of the SFCA, it is vivid and crystal clear that the fixation of minimum price is at the discretion of the Government and the Government is required to issue another notification when the minimum price is proposed to be altered. Since the Government has not decided to alter the minimum sugarcane price as fixed under earlier notification dated 23.11.2022, therefore, issuance of fresh

notification was not required, and the old price shall continue to remain in the field.

11. The petitioners have failed to demonstrate that non-issuance of notification under Section 16 of SFCA has in any manner hinged upon their fundamental rights or the factories were paying the less price of sugarcane in comparison to its cost of production burdening the growers. This Court, in the exercise of its writ jurisdiction, is empowered to undertake judicial review of the inaction on the part of authority, where it is established that authority while discharging its functions in connection with the affairs of the Federation or a Province, has failed to exercise its powers vested in it or exercised powers not vested in it, thereby curtailed the liberty of an individual or infringed his fundamental rights. However, such is not the case in the present lis.

12. The case laws relied upon by the parties with due reverence were not attracting to the issue in lis, thus are distinguishable.

13. For the foregoing reasons and observations made herein above, this petition fails and is accordingly dismissed.

JUDGE

JUDGE

HEAD OF CONST. BENCHES

Nadir*

Approved for reporting