

THE HIGH COURT OF SINDH BENCH AT SUKKUR

Before:

Justice Arbab Ali Hakro
Justice Muhammad Osman Ali Hadi

C. P. No. D – 1794 of 2025

[Saqib Mughal v. Province of Sindh and others]

Petitioner by : Mr. Abdullah Brohi, Advocate

Respondents by : Mr. Ali Raza Baloch, Additional Advocate General Sindh along with Shafaque Shafi, Provincial Inspector of Drugs, District Korangi and Bilal Ahmed, Drug Inspector, Sukkur

Date of Hearing : 25.08.2026

Date of Decision : 25.08.2026

ORDER

ARBAB ALI HAKRO, J. – Through this Constitutional Petition under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, the petitioner has sought a declaration that the show cause notices dated 15.07.2025 and 02.09.2025, issued by the Provincial Quality Control Board, Sindh, are without lawful authority and have no legal effect; directions against respondent No.4, the Provincial Inspector of Drugs, District Sukkur; compensation/payment for drug products taken into custody; restraining orders against interference with the petitioner’s business activity and ancillary relief.

2. Briefly, the petitioner claims to be the proprietor of M/s Saqib Traders, Sukkur, and the holder of Drug Wholesale License No. 1992 (Form-7A) and License No. 1993 (Form-9), valid until 10.02.2028, for the premises at Bungalow No. 03, CMT, Near NICVD Hospital, Sukkur. The grievance arises from inspections conducted by respondent No.4 on 26.01.2025, 12.02.2025 and 27.03.2025, during which samples of various drug products were drawn, stocks were sealed or detained, and laboratory analysis was carried out by the Drug Testing Laboratory, Sindh, Karachi. Subsequently, respondent No.4 referred the matter to the Provincial Quality Control Board, Sindh, under Section 19(6) of the Drugs Act, 1976, after which show cause notices dated 15.07.2025 and 02.09.2025 were issued to the petitioner. The petitioner

assails the legality of the entire exercise, alleging mala fide, violation of statutory procedure, unlawful detention of stock and misuse of authority.

3. Respondent No.3, the Secretary Provincial Quality Control Board, Sindh, filed comments stating that the Provincial Quality Control Board acts on references submitted by Drug Inspectors under Section 19(6) of the Drugs Act, 1976. It is stated that, after receiving the reference from Respondent No.4 and laboratory reports declaring certain products as substandard, unregistered and spurious, show cause notices were issued strictly in discharge of statutory obligations under Section 11(5)(b) of the Act. It has been maintained that the matter has not yet attained finality and remains pending before the Board for consideration and decision in accordance with law.

4. Respondent No. 4, Provincial Inspector of Drugs, denied allegations of mala fide and asserted that inspections, seizures, sampling and detention proceedings were undertaken under the powers conferred by Sections 18 and 19 of the Drugs Act, 1976. It was pleaded that samples were drawn on the prescribed Form-2, and one sealed portion, together with the requisite documents, was supplied to the petitioner. The laboratory reports declared various products to be unregistered, spurious and substandard. It was further stated that bills and invoices subsequently produced by the petitioner were scrutinized and found to be doubtful and forged. The matter was thereafter referred to the Provincial Quality Control Board strictly under Section 19(6) of the Act for further action according to law.

5. The petitioner filed a rejoinder, disputing the comments of respondent No.4, and maintained that several products were ultimately found to be of standard quality. It is averred that the respondents acted arbitrarily by issuing repeated notices despite allegedly favourable reports on certain products. The petitioner further denied allegations of forged invoices and asserted that manufacturers and suppliers had initially been treated by respondent No.4 as warrantors. According to the petitioner, the detention of stocks beyond the statutory period and the continuation of proceedings despite favourable reports reflected mala fide exercise of authority.

6. The District Health Officer, Sukkur, submitted that the petitioner's licenses were lawfully issued. It was clarified that inspection, monitoring,

seizure, sealing and enforcement actions fall within the statutory purview of the Provincial Inspector of Drugs and other competent authorities under the Drugs Act, 1976 and the Sindh Drugs Rules, 1979, whereas the DHO primarily functions as a licensing authority. The DHO expressed willingness to comply with any order passed by this Court.

7. During the pendency of the petition, investigation reports were placed on record. The reports disclose that, at its 134th meeting on 18.06.2026, the Provincial Quality Control Board directed a re-investigation of the matter. The subsequent inquiry revealed that M/s Life Care Medicine Company Lahore, relied upon by the petitioner as a supplier of certain products, could not be verified at the stated address. It was further reported that M/s Mirza Tahir Pharmacy operated only as a retail outlet, not as a wholesaler or distributor. The re-investigation also involved correspondence with DRAP, the Punjab Drug Control Authorities, and various manufacturers regarding the authenticity of invoices, warranties, and supply chain documents. The matter remains pending before the Provincial Quality Control Board for final determination.

8. Learned counsel for the petitioner contended that the impugned actions were tainted with mala fide, arbitrariness, and a colourable exercise of authority. According to him, the sampling procedure prescribed by law was not followed, statutory forms were not properly used, the detention of stock exceeded permissible limits, and contradictory positions were taken regarding warrantors and suppliers. He argued that once certain products were declared of standard quality, the continuation of the proceedings became unlawful. It was further submitted that respondent No.4 exceeded jurisdiction and that the show cause notices are liable to be declared void ab initio.

9. Conversely, learned Assistant Advocate General Sindh supported the respondents' actions and argued that the matter remains pending before the competent statutory forum, i.e., the Provincial Quality Control Board. He submitted that the impugned notices are merely show cause notices and that no final adverse order has yet been passed. He further argued that disputed questions regarding the authenticity of invoices, the validity of supply chain documents, laboratory findings, the sampling procedure, and alleged violations of the Drugs Act, 1976 cannot be appropriately adjudicated in

constitutional jurisdiction and are required to be examined by the statutory forum established under the law.

10. We have heard learned counsel for the parties at considerable length and have carefully examined the material on the record.

11. At the outset, it is noted that the regulatory regime governing the manufacture, storage, distribution and sale of drugs is primarily set out in the Drugs Act, 1976; the Sindh Drugs Rules, 1979 (as amended); and relevant provisions of the DRAP Act, 2012. Public health and patient safety occupy a paramount position within this framework. Therefore, the powers of inspection, sampling, analysis, seizure and regulatory supervision entrusted to Drug Inspectors are not merely administrative functions but statutory duties intended to protect the public interest.

12. Sections 18 and 19 of the Drugs Act, 1976 confer authority on Drug Inspectors to inspect premises, obtain samples, seize and seal, and initiate proceedings where contraventions are suspected. Section 19(6) specifically obliges the Inspector to place the matter before the Provincial Quality Control Board whenever a contravention appears to exist. Likewise, Section 11(5)(b) confers on the Provincial Quality Control Board the statutory obligation to scrutinize the reports and determine the course of action.

13. The record shows that the respondents received laboratory reports on various products. Some products were reported as unregistered, spurious or substandard, whereas others were found to be of standard quality. The existence of favourable reports on some products cannot automatically nullify proceedings relating to other products separately reported as unregistered, spurious or substandard. Each product, lot and batch requires independent legal evaluation on its own factual and evidentiary footing.

14. The principal challenge before this Court concerns show cause notices dated 15.07.2025 and 02.09.2025. It is a settled principle that, ordinarily, constitutional jurisdiction is not invoked against a mere show cause notice unless the notice is shown, *ex facie*, to be wholly without jurisdiction, *coram non iudice*, *mala fide* on admitted facts, or issued in patent disregard of mandatory statutory provisions.

15. The constitutional jurisdiction is not intended to short-circuit statutory proceedings at an interlocutory stage where an adequate opportunity remains before the competent forum. Reference may be made to **Dr. Akhtar Hassan Khan**¹, where it was held that statutory remedies should ordinarily be allowed to run their course unless exceptional grounds are demonstrated. Likewise, in **Habibullah Energy Ltd.**², it was observed that judicial review concerns the legality of process rather than the substitution of administrative decision-making.

16. The present case is replete with disputed questions of fact. The parties are contesting the authenticity of invoices, the validity of warranties, the legality of supply chain documents, the correctness of laboratory findings, compliance with Form-2 requirements, alleged discrepancies in forwarding memos, and the legality of detention orders. These disputed factual issues require examination of documentary evidence and determination by the statutory forum competent under the Drugs Act, 1976.

17. Significantly, the Provincial Quality Control Board itself ordered a re-investigation at its 134th meeting on 18.06.2026. The subsequent inquiry brought further material on record regarding the alleged suppliers relied upon by the petitioner. These aspects remain to be examined and finally adjudicated by the Provincial Quality Control Board. Consequently, any definitive verdict by this Court on the merits of the allegations or defences would amount to pre-empting the statutory jurisdiction vested in the specialized forum.

18. At the same time, this Court cannot overlook that the proceedings have remained pending for a substantial period. Administrative and statutory proceedings affecting valuable business rights must be concluded within a reasonable timeframe and by fair procedure. A fair hearing, disclosure of material relied upon, consideration of replies, and the passing of a reasoned speaking order are indispensable components of due process safeguarded by Articles 4, 10A and 18 of the Constitution.

19. Therefore, although no sufficient grounds have been established to invalidate the impugned show cause notices at this stage, the petitioner

¹ Dr. Akhtar Hassan Khan v. Federation of Pakistan (2012 SCMR 455)

² Habibullah Energy Ltd. v. WAPDA (PLD 2014 SC 47)

remains entitled to a fair, transparent and expeditious determination by the Provincial Quality Control Board.

20. For the foregoing reasons, this petition is disposed of in the following terms:

- i. The challenge to show cause notices dated 15.07.2025 and 02.09.2025 is declined at this stage, as they are part of ongoing statutory proceedings and do not constitute a final adverse determination.
- ii. Respondent No.3, Provincial Quality Control Board, Sindh, shall ensure that the entire matter, including the petitioner's replies, investigation reports, re-investigation material, and all relevant documents, is placed before the Board for consideration.
- iii. The petitioner shall be afforded a full opportunity of hearing, including a personal hearing if sought and access to all material proposed to be relied upon against him.
- iv. The Provincial Quality Control Board shall pass a comprehensive, speaking and reasoned order addressing all objections raised by the petitioner, including the legality of detention, the authenticity of invoices and warranties, the applicability of Sections 18, 19 and 22 of the Drugs Act, 1976, the laboratory findings, and all findings emerging from the re-investigation.
- v. Such exercise shall be completed as expeditiously as possible, preferably within sixty (60) days of receipt of this order.

21. All observations made herein are tentative and confined to the disposal of this constitutional petition, and shall not prejudice either party before the Provincial Quality Control Board or any other competent forum.

The petition stands **disposed of** in the above terms, along with any pending applications. No order as to costs.

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Abdul Basit