

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
Constitutional Petition No. D-2205 of 2024
(Abdul Aleem and another versus Province of Sindh and others)

Date	Order with signature of Judge
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Before:-
Mr. Justice Adnan-ul-Karim Memon
Mr. Justice Muhammad Jaffer Raza

Date of hearing and orders: 28.8.2026

M/s Talha Abbasi and Muhammad Saleem Khaskheli, advocates for the petitioners
Mr. Sarvech Abbasi, advocate for respondent No.3.
Mr. Khalid Javed, advocate for intervener.
Mr. Khurram Gayas, advocate for KMC.
Mr. Ali Safdar Depar, AAG along with SIP Shuja-ur-Rehman, PS Malir City.

ORDER

Adnan-ul-Karim Memon, J. Petitioners have filed this Constitutional Petition under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, with the following prayer: -

- i. *Declare that the Respondent No. 3 has no lawful powers to establish Cattle Piri at Asso Goth in view of the decision of the Provincial Local Government Commission dated 12.07.2019 made in compliance of the Order dated 09.08.2018 passed in C.P. No: D-4300 of 2017;*
- ii. *Declare that the Petitioners are entitled to collect fee on sale of animals at Cattle Piri Asso Goth in accordance with law in view of the award letter dated 31.01.2024 and Contract Agreement dated 02.02.2024;*
- iii. *Set aside the impugned letters dated 03.05.2024 issued by Respondent No. 3 and 5, respectively, being violative of the provisions of Sindh Local Government Act, 2013 and decision of Provincial Local Government Commission;*
- iv. *iv. Restrain the Respondent No. 3 and 6 to 8, their officers, representatives, or and/or anybody acting for and/or on their behalf from causing any disturbance or hindrance or interference to the Petitioners in the collection of fees on sale of animals at Cattle Piri Asso Goth;*
- v. *Grant any other relief(s), which this Honorable Court may deem fit and appropriate under the law and circumstances of this case; and*

2. The facts of the case are that the petitioners have challenged the impugned letters dated 03.05.2024 issued by Respondent Nos.3 and 5 regarding establishment of cattle piris at various locations in Karachi Division, including Asso Goth. The petitioners claim to be the lawful contractor for collection of fees at Cattle Piri Asso Goth, having obtained the contract through public auction conducted by Respondent No.4/TMC Malir for the period from 01.02.2024 to 30.06.2024.

3. Learned counsel for the petitioners submitted that the issue of territorial jurisdiction over Asso Goth had earlier been decided by the Provincial Local Government Commission on 12.07.2019 in favour of the then DMC Malir pursuant to the order passed in C.P. No.D-4300 of 2017. According to him, the

decision was never challenged and, after reorganization, Asso Goth falls within the jurisdiction of Respondent No.4. He further submitted that the petitioners' bid of Rs.18,170,000/- was accepted, a formal agreement was executed on 02.02.2024, and possession of the cattle piri was handed over to them. It was therefore contended that the subsequent attempt by KMC to establish a cattle piri and collect fees at Asso Goth amounts to unlawful interference with the petitioners' contractual rights. He prayed to allow this petition.

4. Conversely, learned counsel for KMC submitted that the petitioners' claim of exclusive jurisdiction of Respondent No.4 is misconceived and ignores the subsequent reorganization of the local-government institutions. He contended that although the 2019 decision of commission was respected, the bifurcation of DMC Malir into different TMCs altered the statutory position and functions of the respective local councils. He further submitted that KMC was neither the auctioning authority nor a party to the petitioners' contract and, therefore, the contractual arrangement with Respondent No.4 could not prevent KMC from exercising its statutory functions. He prayed for dismissal of the petition.

5. Learned counsel for the intervener submitted that the petitioners' contract expired on 30.06.2024 and no subsisting contractual right remained thereafter. He contended that the interim order could neither extend nor revive the expired contract. Relying upon the Sindh Local Councils (Auctioning of Collection Rights) Rules, 2016, particularly Rules 3, 4, 5 and 28, he submitted that any fresh grant of collection rights must be made through a fresh, transparent and lawful public auction, in which all eligible persons, including the intervener, could be allowed to participate. He prayed to dismiss the petition by allowing the intervener application to become a party in the proceedings.

6. We have heard the learned counsel for the parties present in Court and perused the record with their assistance.

7. The dispute concerns the jurisdiction over the establishment and collection of fees from cattle piris at Asso Goth and other locations in District Malir. In C.P. No. D-4300 of 2017, this Court referred the dispute between KMC and DMC Malir to the Provincial Local Government Commission. After considering the parties' submissions and the relevant provisions of the Sindh Local Government Act, 2013, the Commission, in its meeting held on 12.07.2019, concluded that the collection of fees/taxes on animals fell within the functions and jurisdiction of DMC Malir and that DMC Malir was empowered to collect such fees, while KMC's claim was not supported by law.

8. It was observed that the present matter concerning establishment of a cattle piri at Asoo Goth, Respondent No.3 initially relied upon the Commission decision made in the year 2019, but submits that, following the devolution/bifurcation of District Malir into Town Municipal Committees, the relevant function now falls within the jurisdiction of the concerned Council/KMC. Reliance has been placed upon Part-I of Schedule-II and Sections 96 and 103 of the Sindh Local Government Act, 2013, relating to maintenance of cattle colonies and levy and regulation of taxes, rates, tolls and fees. Respondent No.3 further states that it did not conduct any auction or directly issue any letter for establishment or allocation of the Asoo Goth cattle piri during the preceding four years, and that the petitioner's allegations regarding awarding or auctioning the collection rights are therefore disputed.

9. It appears that the decision of the Provincial Local Government Commission dated 12.07.2019, rendered pursuant to the order in C.P. No. D-4300 of 2017, was made in the context of the then-existing local-government structure, under which DMC Malir was held competent to collect fees/taxes relating to animals within its territorial jurisdiction. However, the subsequent reorganization and bifurcation of the local-government institutions in District Malir materially altered the territorial and functional arrangement. Consequently, the petitioners cannot claim an immutable or perpetual jurisdictional right on the basis of the Commission decision without establishing that the same statutory arrangement continues to govern the reconstituted local councils.

10. It appears that under the Sindh Local Government Act, 2013, particularly Sections 96 and 103 read with the relevant entries of Schedule-II, the establishment, maintenance and regulation of cattle colonies/cattle markets and the levy and collection of taxes, rates, tolls and fees are matters to be exercised by the competent local government in accordance with the statute and the allocation of functions applicable from time to time. The Provincial Commission decision cannot be construed as conferring a permanent monopoly upon the petitioners or the predecessor DMC Malir, nor can it override a subsequent statutory reorganization.

11. The proper question, therefore, is not merely which authority was declared competent, but which local government is vested with the relevant statutory function under the law presently in force.

12. Equally important, the petitioners' contractual claim is confined to the period for which their auctioned collection rights were granted. Their bid of Rs.18,170,000/-, award letter dated 31.01.2024 and agreement dated 02.02.2024 could, at the highest, create a contractual right to collect the specified fees during

the contractual period from 01.02.2024 to 30.06.2024. Such an agreement could not enlarge the statutory jurisdiction of Respondent No.4, bind KMC, or confer upon the petitioners a right extending beyond 30.06.2024. The expiry of the contract extinguished the petitioners' contractual entitlement to continue collection, and an interim order could not revive or extend an expired contractual term.

13. Furthermore, under the Sindh Local Councils (Auctioning of Collection Rights) Rules, 2016, collection rights pertaining to taxes, fees, tolls or other revenues are required to be dealt with through the prescribed statutory mechanism, including lawful and transparent auction proceedings. Rules 3, 4, 5 and 28, read together, do not contemplate continuation of an expired collection contract merely on the strength of an earlier award or interim protection. If the competent local council decides to grant collection rights afresh, the same must be done in accordance with the Rules through a fresh, transparent and competitive process, affording all eligible persons including interveners an equal opportunity to participate in such auction .

14. The prayer seeking a declaration that Respondent No.3 has no lawful authority whatsoever to establish a cattle piri at Asoo Goth is also too wide. Such a declaration cannot be granted as the petitioners failed to establish a clear statutory prohibition against the authority concerned.

15. On the material placed before the Court, the Provincial Commission decision does not constitute such a perpetual prohibition, particularly after the subsequent restructuring of the local-government institutions. Nor can the petitioners' private contractual arrangement with Respondent No.4, to which KMC was not a party, operate as an estoppel against KMC in the exercise of statutory powers vested in it by law.

16. Accordingly, the petitioners may have had a limited contractual right to collect the prescribed fees during the subsistence of their agreement, but they have failed to establish any continuing proprietary, exclusive or statutory right over the cattle piri after expiry of the contract.

17. At the same time, any exercise of power by KMC or the concerned local council must remain strictly within the Sindh Local Government Act, 2013 and the Sindh Local Councils (Auctioning of Collection Rights) Rules, 2016. If collection rights are to be granted for a subsequent period, the competent authority must proceed through the prescribed lawful and transparent auction process rather than through an arbitrary or private allocation by allowing all deserving candidates deserving to participate.

18. Therefore, the petition, having substantially become infructuous upon expiry of the petitioners' contract on 30.06.2024 and the petitioners having failed to demonstrate any continuing statutory or contractual right to exclusive collection of fees at Asoo Goth, is disposed of accordingly with all pending application(s). However, this arrangement is without prejudice to the petitioners' right, along with all other eligible persons including intervener, to participate in any fresh auction to be conducted by the competent local-government authority in accordance with the law and applicable Rules. Any collection or establishment of a cattle piri by the respondents must likewise be undertaken strictly in accordance with the statutory scheme and without relying upon an authority not conferred by law.

JUDGE

JUDGE

Shahzad Soomro