

ORDER SHEET

IN THE HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD

C.P.NOs.D-1945, 1947, 1948, 1955, 1956, 1959, 1960, 1961, 1966,
1969, 1971, 1972, 1973, 1974, 1982, 1983, 1984, 1985, 1986, 1988,
1990, 1991, 1993, 1994, 1995, 1996, 1998, 1999, 2001, 2002,
2003, 2005, 2006, 2007, 2008, 2009, 2011, 2012, 2013, 2014,
2015, 2020, 2021, 2022 OF 2017

DATE

ORDER WITH SIGNATURE OF JUDGE(S)

PRESENT:

Mr. Justice Aqeel Ahmed Abbasi

Mr. Justice Yousuf Ali Sayeed

05.06.2017

Mr. Bharat Kumar Suthar, Advocate for petitioner in C.P.No. D-1945 of 2017.

Mr. Muhammad Hassan Chandio, Advocate for petitioner in C.P.No.D-1947 and 1982 of 2017

Mr. Chetan S. Kella, Advocate for petitioner in C.P.No.D-1948 of 2017

Mr. Waqar Ahmed Abbasi, Advocate for petitioner in C.P.No. D-1955 of 2017.

Mr. Zahid Mallah, Advocate for petitioner in C.P.No.D-1956 of 2017

Mr. Adnan Ahmed Siddiqui, Advocate for petitioner in C.P.No.D-1959 and 1960 of 2017

Mr. Hemandas S. Sanghani, Advocate for petitioner in C.P.No.D-1961 of 2017

Mr. Imdad Hussain A. Shahani, Advocate for petitioner in C.P.No.D-1966 of 2017

Mr. Waqar Ali G. Zaur, Advocate for petitioner in C.P.No. D-1969 of 2017.

Mr. Ghulam Mustafa Hingorjo, Advocate for petitioner in C.P.No.D-1971, 1972 and 1993 of 2017

Mr. Vasanth Thari, Advocate for petitioner in C.P.No.D-1973 & 1974 of 2017

Mr. Azizullah Ghambhir, Advocate for petitioner in C.P.No.D-1983 of 2017

Mr. Kanji Mal Meghwar, Advocate for petitioner in C.P.No.D-1984 of 2017

Mr. Khait Kumar Khatri, Advocate for petitioner in C.P.No.D-1985 of 2017

Mr. Karim Bux Rind, Advocate for petitioners in C.P.No.D-1986 and 1991 of 2017

Mr. Nouman Sahito, Advocate for petitioner in C.P.No.D-1988 of 2017

Mr. Muhammad Hassan Chang, Advocate for petitioner in C.P.No.D-1990 of 2017.

Mr. Mashooque Ali Mahar, Advocate for petitioner in C.P.No.D-1994 of 2017

Mr. Muhammad Ahmed Khan Pathan, Advocate for petitioner in C.P.No.D-1995 of 2017.

Mr. Syed Muhammad Waseem Shah, Advocate for petitioner in C.P.No.D-1996 of 2017

Mr. Nazeer Ahmed Laghri, Advocate for petitioner in C.P.No.D-1998 of 2017

Mr. Saeed Shams Memon, Advocate for petitioner in C.P.No. D-1999 of 2017.

Mr. Muhammad Ali Rind, Advocate for petitioner in C.P.No.D-2001 of 2017

Mr. Fakhruddin Dahraj, Advocate for petitioner in C.P.No.D-2002 of 2017

Mr. Ali Raza, petitioner present in person in C.P.No.D-2003 of 2017

Mr. Pir Bux Bhurgari, Advocate for petitioner in C.P.No.D-2005 of 2017

Mr. Jamshed Mari, Advocate for petitioner in C.P.No.D-2006 of 2017

Mr. Sikandar A. Kolachi, Advocate for petitioner in C.P.No. D-2007 and 2008 of 2017.

Mr. Imtiaz Ali Channa, Advocate for petitioner in C.P.No.D-2009 of 2017

Mr. Aziz Ahmed Chandio, Advocate for petitioner in C.P.No. D-2011 and 2012 of 2017.

Mr. Aijaz Ahmed Chandio, Advocate for petitioner in C.P.No.D-2013 of 2017

Mr. Muhammad Nadeem Kamal Tagar, Advocate for petitioner in C.P.No.D-2014 and 2015 of 2017.

Mr. G.M Leghari, Advocate for petitioner in C.P.No. D-2020, 2021 and 2022 of 2017.

Mr. Allah Bachayo Soomro, Additional A.G, Sindh.

ORDER

AQEEL AHMED ABBASI, J:- Since a common question of law and fact has been agitated through instant petitions, whereas, all the petitioners have sought declaration to the effect that respondents shall not create any harassment to the petitioners to carry out their hotel business during Ramzan provided as authority to learned Counsel for the petitioners, petitioners are entitled to the exemption in terms of Section 5 of Ordinance XXIII of Ehtram-e-Ramzan Ordinance, 1981, therefore, instant petitions are being disposed of by consent of the petitioners and the learned Additional Advocate General present in Court, who waives the notice of all the petitions.

2. Learned Counsel for the petitioners and the learned Additional Advocate General have candidly stated that similar petitions were disposed of by a Division Bench of this Court vide combined order dated 24.05.2016 passed in *C.P.NO.D-1553 of 2017 (Ali Ahmed V/s. Deputy Commissioner, Shaheed Benazirabad and others)* and submit that instant petitions may also be disposed of in similar terms. Copy of passed order in the above petition has been placed on record.

3. We have examined the relief sought in instant petitions by the petitioners, as well as the relevant provisions of Ehtram-e-Ramzan Ordinance, 1981, with particular reference to provisions of Sections 4 & 5 of the Ordinance, and have also perused the order already passed by a Division Bench of this Court in the aforesaid petition, under the similar circumstances and

would, therefore, by consent of the parties dispose of instant petitions in the following terms.

- (1) Subject to verification of the facts regarding claim of exemption of the petitioners in terms of Section 5 of the Ehtram-e-Ramzan Ordinance, 1981 and its observance in letter and spirit, the respondents shall not create any hindrance in the hotel business activity of the petitioners during the Holy Month of Ramzan, the petitioners are entitled to the exemption in terms of Section 5 of the Ehtram-e-Ramzan Ordinance, 1981, which reads as under:-

“5. Exemption.—Nothing contained in section 4 shall apply in respect of—

(a) a canteen or kitchen maintained in hospital for serving food to patients;

(b) a restaurant or canteen within the premises of a railway station, airport, or seaport or bus stand or in a train or aircraft;

(c) a kitchen or dining-car of a train; or

(d) a kitchen or canteen meant for children within the premises of a primary school.”

- (2) In case of any violation or contravention of the provisions of the Ehtram-e-Ramzan Ordinance, 1981 or the non-fulfillment of the requirements of Section 5 of the Ordinance, the competent authority may be at liberty to take action against such violators in accordance with the provisions of Ehtram-e-Ramzan Ordinance, 1981.

4. Let a copy of this order be transmitted to all the concerned Commissioners for onward transmission to all the concerned Deputy Commissioners of Hyderabad Division, Shaheed Benazirabad Division and Mirpurkhas Division for information and compliance and also to transmit the same to all concerned Deputy Commissioners. Copy of this order may also be provided cover-in-hand to the learned Additional Advocate General for onward transmission to all the concerned officers.

Petitions stand disposed of in above terms.

JUDGE

JUDGE