

IN THE HIGH COURT OF SINDH, KARACHI

Present

Mr. Justice Aqeel Ahmed Abbasi

Justice Mrs. Ashraf Jahan

1. Const. Petition No.D-2651 of 2017

Haji Muhammad Shakir UmerPetitioner

2. Const. Petition No.D-2652 of 2017

Omar Bashir ManiarPetitioner

3. Const. Petition No.D-5943 of 2015

Muhammad Imran ShahzadPetitioner

Versus

Province of Sindh and othersRespondents

Date of hearing : 28.03.2018

Date of judgment : 28.03.2018

Mr. Altamash Arab, advocate for the petitioner in C.P.No.D-2651/2017.

Mr. Naeem-ur-Rehman, advocate for the intervenor in C.P.No.D-5943/2015.

Petitioner in person in C.P.No.D-2652/2017.

Imran Shahzad petitioner in C.P.No.D-5943/2015 and Chairman Consumer Committee Amenity International.

Ms. Maheen Ansari, holding brief for Ms. Azra Muqem, advocate for the respondent/KMC.

Mr. Asim Mansoor Khan, D.A.G.

Mr. Ghulam Shabbir Shah, Addl: Advocate General Sindh along with Aijaz Ahmed Khan, Commissioner Karachi.

Muhammad Saleem Jehangir & Ali Haider Arain, Assistant Directors, Bureau of Supply and Prices.

Dr. Rafique Ahmed Memon,
Additional Director Livestock, Sindh.

Syed Zahid Hussain, Officer Incharge, Control Room, Commissioner Office, Karachi.

Ejazul Hassan,
Mukhtiarkar, Ibrahim Haidri.

Muhammad Aziz, Member and Rahat Khan, President, All Karachi Fresh Milk Wholesalers Association.

Muhammad Hanif, President, Retailer Association & Shaikh Eijaz Ahmed Qureshi, Retailer.

Muhammad Sikandar Nagori, President, Shakir Umar Gujjar, DC FA, All Dairy Farm Association, Sadaruddin Qureshi, General Secretary, All Dairy Farm Association.

JUDGMENT

Aqeel Ahmed Abbasi, J: During the course of hearing above petitions and in order to get the matter resolved by settlement between all the parties and the stakeholders, following orders were passed on 27.02.2018 and 20.03.2018, which read as follows:-

“27.02.2018

Mr. Altamash Arab, advocate for the petitioner in C.P.No.D-2651/2017.

Petitioner in person in C.P.No.D-2652/2017.

Mrs. Azra Moqem, Advocate for KMC.

Ms. Naheed Parveen, D.A.G.

Mr. Ghulam Shabbir Shah, Addl: Advocate General Sindh.

Mr. Muhammad Yousuf, A.A.G.

Mr. Ejaz Ahmed, Commissioner Karachi

Mr. Ajaz ul Hassan Khan, Mukhtiarkar Ibrahim Hyderi.

Syed Zahid Hussain, OIC Control Room, Commissioner Office, Karachi.

Dr. Rafique Ahmed Memon, Additional Director Livestock & Animal Husbandry.

Ali Haider Arain, Assistant Director, Bureau of Supply and Prices.

Muhammad Saleem Jehangir, Assistant Director, Bureau of Supply and Prices.

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Pursuant to court's directions, Commissioner Karachi has shown appearance alongwith Addl. AG and has submitted the minutes of meeting held on 31.03.2017 before issuing the impugned Notification, alongwith other related documents which are taken on record, copy of the same has been supplied to learned counsel for the petitioner, as well as to the petitioner in person in CP No.D-2652/2017.

After arguing the matter at some length, learned counsel for the petitioner has submitted that Dairy farmers' grievance, besides legal grounds, is to the effect that for determination and fixation of milk price and before issuing impugned Notification by the Commissioner Karachi, no useful consultation or exercise has been undertaken by the respondents as it was done in the year, 2015 [details available at page 99 Annexure 'G' of the petition i.e. CP No.2651/2017]. Learned counsel for the petitioners further submits that the petitioners will be satisfied if such exercise is undertaken afresh by calling the meeting of all the stakeholders including the representative of petitioners, and the following stakeholders:-

1. Dairy & Cattle Farm Association

2. Dairy Farmers Association
3. Dairy Farmers Association, Karachi
4. Live Stock Department
5. Dairy, Supply and Prices Committee
6. Commissioner Karachi
7. Department of Animal Husbandry
8. Consumers Protection Society
9. Consumers Rights Protection Council
10. Consumers Rights Council
11. Consumers of Pakistan Association

Learned Addl. AG duly instructed by the Commissioner, Karachi does not oppose such request of the petitioners.

In order to make an effort to resolve the dispute with regard to fixation of milk price, without prejudice to the legal rights of the parties, we would direct the Commissioner Karachi to call a meeting of aforesaid stakeholders within 01 week from the date of this order, who shall submit their written proposals alongwith costing formula, if any, or the mechanism for determination of milk price to the Commissioner Karachi well in advance, however, such proposals shall be made and considered, keeping in view the relevant law, rules and regulations, and also the interest of consumers/public at large.

It has been observed that entire exercise being undertaken by the stakeholders revolves around fixation of price of milk for the dairy farmers, whole sellers and retailers, however, it appears that no steps whatsoever, are taken for the purposes of determining the quality of milk which is supplied in the market. We expect that Commissioner Karachi while calling the meeting of above stakeholders may also call some concerned officials either from Health Department, Government of Sindh or from KMC, who shall provide necessary assistance towards fixing some benchmark for ascertaining the quality of milk, where-after, all the stakeholders including dairy farmers, whole sellers and retailers shall be bound to maintain such quality while selling the milk in the market.

The minutes of such meeting and the progress thereon shall be furnished in court before next date of hearing, however, not later than 02 weeks of such meeting.

Office is directed to fix instant petitions alongwith CP No.D-5943 of 2015 on the next date as requested by the petitioner who is also present in court.

To come up on 20.3.2018 as first case in the morning. Till then, interim order passed earlier to continue.”

“20.03.2018

Mr. Altamash Arab, advocate for the petitioner in C.P.No.D-2651/2017.

Petitioner in person in C.P.No.D-2652/2017.

Mr. Asim Mansoor Khan, D.A.G.

Mr. Ghulam Shabbir Shah, Addl: Advocate General Sindh along with Aijaz Ahmed Khan, Commissioner Karachi.

Mr. Muhammad Yousuf, A.A.G.

Mr. Ahmed Pirzada, Advocate.

Muhammad Saleem Jehangir & Ali Haider Arain, Assistant Directors, Bureau of Supply and Prices.

*Dr. Rafique Ahmed Memon,
Additional Director Livestock, Sindh.*

*Syed Zahid Hussain, Officer Incharge, Control Room,
Commissioner Office, Karachi.*

*Imran Shahzad petitioner in C.P.No.D-5943/2015 and Chairman
Consumer Committee Amenity International.*

*Ejazul Hassan,
Mukhtiarkar, Ibrahim Haidri.*

*Muhammad Aziz, Member and Rahat Khan, President, All Karachi
Fresh Milk Wholesalers Association.*

*Muhammad Hanif Meo, President, Retailer Association & Shaikh
Eijaz Ahmed Qureshi, Retailer.*

*Muhammad Sikandar Nagori, President, Shakir Umar, DC FA, All
Dairy Farm Association, Sadaruddin Qureshi, General Secretary,
All Dairy Farm Association.*

Pursuant to Court's directions as contained in order dated 27.02.2018, the Commissioner Karachi has shown appearance along with Addl. A.G. Sindh, and placed on record a detailed report along with its annexures, which is taken on record, copy supplied to the counsel for petitioners and other stakeholders present in Court.

After hearing the learned counsel for the parties as well as all the stakeholders present in Court and from perusal of the report submitted by the Commissioner Karachi, it appears in meetings held by Commissioner Karachi for the purposes of determining the price of Milk, input of all the stakeholders was taken into consideration by the Commissioner, whereas, after detailed deliberations and the input given by the stakeholders, some consensus developed amongst the participants of the meeting at a higher rate as fixed in the impugned Notification, however, the retailers have extended their inability to sell the Milk at the proposed price of per liter Milk on the ground that margin of profit @ Rs.5/- per liter is too low and the same may be increased to Rs.6/- liter atleast. Representatives of Dairy Farmers Association contended that Rs.86/- per liter of Milk may be fixed as a provisional price subject to change within six months keeping in view the inflation and increase of cost of production from time to time.

Muhammad Imran Shehzad and Ahsanuddin, representatives of consumer society, have stated that whatever proposals of Dairy Farmers, wholesalers and Retailers of Milk have been considered by the Commissioner Karachi, for fixation of price of Milk, will not be acceptable to the consumers/public at large as they are mostly poor and low paid citizens, whereas, the milk is a necessary commodity, which is consumed every day. It has been further contended that inspite of Court's directions Milk is being sold @ Rs.100/- liter in Karachi as sell of Milk is under the control of Dairy Milk Mafia. We have made an effort to ask all the stakeholders to reach to some agreed price of Milk at different stages i.e. Dairy Farmers, Wholesalers & Retailers, however, it appears that there is still some dispute in respect of fixation of such price and the margin of profit of stakeholders. Commissioner Karachi present in Court submits that if some more time is granted, he will reconsider the issue and will issue a fresh Notification in accordance with law, after taking into consideration all the relevant factors.

Since, there has been no settlement between the stakeholders regarding fixation of Milk price, it will be appropriate if the Commissioner Karachi shall undertake fresh exercise to finally determine the price of Milk, keeping in view all the relevant factors and the relevant law(s), rules and the policy, if any, however, the interest of the consumers/public at large shall also be secured while issuing fresh Notification to this effect. It is expected that needful shall done within seven days from the date of this order. In the meanwhile, respondents shall ensure that the milk is sold out at the existing price as per impugned Notification @ Rs.85/- and in case of any violation by any of the stakeholders, appropriate legal action shall be taken in accordance with law.

To come up on 28.03.2018 at 11.00 a.m.”

2. Pursuant to aforesaid orders, today the Commissioner, Karachi present along with Addl. A.G. Sindh has submitted a compliance report along with copy of Minutes of meeting held on 27.03.2018 of all the stakeholders and draft Notification, which is taken on record, copy supplied to all the learned counsel present in Court. Learned counsel for the parties and all the stakeholders in the aforesaid petitions present in Court have submitted that instant petitions may be disposed of by consent in terms of the settlement reached between all the stakeholders as reflected in the meeting held on 27.03.2018 under the Chairmanship of Commissioner Karachi, regarding review of fresh Milk price, whereas, the

Commissioner Karachi present in Court submits that pursuant to minutes of the aforesaid meeting, fresh Notification will be issued within two days. However, according to learned counsel for the petitioners, disposal of instant petitions in the above terms will not affect the right of any of the party/stakeholders to challenge the issuance of fresh Notification by raising legal grounds, whereas, some of the legal grounds, including the ground as to whether Notification of Milk price can be issued under Price Control Prevention of Profiteering and Hoarding Act, 1977 or the Sindh Essential Commodities Price Control and Prevention of Profiteering and Hoarding Act 2006, is already pending decision before a bench of this Court in C.P.No.D-225/2007.

3. Accordingly, by consent of all the relevant parties and representatives of various Associations who have participated and signed the minutes of the meetings held under the Chairmanship of Commissioner, Karachi, instant petitions stand disposed of along with listed applications in terms of the minutes of meeting held on 27.03.2018. Commissioner Karachi is directed to issue Notification within two days from the date of this order under the relevant law accordingly, and shall ensure that the Milk shall be sold out in the market as per agreed price amongst the stakeholders and to be fixed in the Notification, and shall also ensure the quality of the Milk, shall be checked at every stage i.e. Dairy Farm, Wholesaler and Retailer, and in case of any violation, strict legal action shall be taken against such delinquent person.

4. At this juncture, the Commissioner Karachi has submitted that all possible efforts will be made to ensure that the Milk shall be sold in the market as per rates to be fixed through Notification while maintaining the standard and quality of Milk, however, in view of less number of Food Inspector, available with the KMC, the Administration is facing hardship in this regard. It has been requested that Mayor, KMC, Karachi, may be directed to increase the number of Food Inspector in KMC by inducting

more Food Inspectors as per requirement, so that the quality of food items, particularly, of the Milk shall be maintained. Such proposal shall be put up before the Mayor, Karachi, whereas, it is expected that needful will be done in accordance with law at an early date to ensure that all the food items, particularly, Milk shall be checked at every stage till it reaches to the Consumers.

5. Before parting with this order, we may clarify that we have not dilated upon the merits of the issue regarding fixation of price of Milk, which in our view is a necessary commodity consumed by large number of consumers who are mostly poor and may not feel comfortable with the increase in Milk price. However, since representatives of consumer's society have also consented to the proposed price, in the meeting held for such purpose, we will examine this aspect of the matter in some other case at appropriate time.

All the aforesaid petitions stand disposed of in the above terms along with listed applications.

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