

**IN THE HIGH COURT OF SINDH,  
CIRCUIT COURT, HYDERABAD**

**Admn. Appl. No. S- 10 of 2013**

Date of hearing: 28.10.2019  
Date of order: 08.11.2019

Petitioner: Nemo for petitioner.

Respondent: Wana Group of Electronics Planting through  
Mr. Farhad Ali Abro, advocate

DCO Hyderabad and others through  
Mr.Wali Muhammad Jamari, Asstt: A.G.

**ORDER**

**ADNAN-UL-KARIM MEMON, J:** - This court, vide order dated 23.8.2013 took cognizance of the matter regarding dumping of chemical material in a shop being hazardous to the health of public at large, however a report from the then District Co-Coordination Officer was called to ascertain the factual position of the case. This matter was being taken up from time to time; finally it was heard on 28.10.2019 and reserved for orders. Basically, the Applicant Muhammad Usman being aggrieved by and dissatisfied with dumping of chemical material in shop No.3 in the name of “Wana Group of Electronics Planting”, which deals with different kinds of chemicals, had sent a formal complaint to this Court against the owner of business on the ground that it causes air pollution which is hazardous to the environment and to the health of residents of the area; however, notices were issued to all concerned vide order dated 23.8.2013. In compliance of notice, Assistant Commissioner Hyderabad inspected the subject shop and found the chemical being run without license and finally the concerned Assistant Commissioner sealed the subject shop till production of license. Record does not reflect that any appeal was filed against the order of Assistant Commissioner.

2. I have heard learned Counsel for the parties on the aforesaid proposition and perused the material available on record.

3. To address whether this Court has power to convert and or convert one kind of proceeding into another is always existed and can be exercised by the High Court not only at an advanced stage in order to prevent injustice. No fetters or bar could be placed on the powers of High Court to convert one kind of proceeding into another and to decide the matter either itself in exercise of its jurisdiction or to order its transfer to another Court having jurisdiction or may remit it to Court / forum / authority having jurisdiction on merits. The High Court in number of cases converted appeals into revisions or vice versa or Constitution Petitions into appeals or revision and vice versa. Reference is made to the cases of **Jane Margret William v. Abdul Hamid Mian (1994 SCMR 1555)**, **Capital Development Authority v. Khuda Baksh and 5 others (1994 SCMR 771)**, **Shams-ul-Haq and others v. Mst. Ghoti and 8 others (1991) SCMR 1135)**, **Muhammad Anis and others v. Abdul Haseeb and others (PLD 1994 Supreme Court 539)**, **Province of Sindh and another v. Muhammad Ilyas and others (2016 SCMR 189)** **Engineer Musharraf Shah v. Government of Khyber Pakhtunkhwa through Chief Secretary and 2 others (2015 PLC (C.S) 215)**, **The Thal Engineering Industries. Ltd. v. The Bank of Bahawalpur Ltd and another (1979 SCMR 32)**, **Karamat Hussain and others v. Muhammad Zaman and others (PLD 1987 Supreme Court 139)**, and more particularly in the case of **Mian Asghar Ali v. Government of Punjab and others (2017 SCMR 118)**.

4. Prima-facie the issue involved in the present proceedings is of public importance, whether the chemicals stocked in the subject shop are hazardous to nature or not? Or whether it can be a threat to the environment? And whether the shop is being run under some valid license / permission or not? Whether the Assistant Commissioner has the power to seal a unit which is not compliant with the concerned Agency? Therefore it is expedient to take immediate measures to preserve the environment and to chalk out mechanism especially where certain kinds of harm or pollution which require immediate stoppage, must be stopped if any. Prima-facie there is imminent threat to the public or cause to believe environmental degradation / pollution will be irreversible. In such cases, the enforcement mechanism must act immediately to effectively control the harm and prevent any further degradation which requires immediate stoppage or immediate removal of the

pollutant then allowing the harm and pollution to continue would defeat the purpose of law, therefore the aforesaid issues can be looked into by the court having jurisdiction as per law.

5. In view of above discussion, prima-facie, this matter needs to be heard and decided by learned Division Bench of this Court in its Constitutional jurisdiction. Therefore the office is directed to place this case before a Division Bench of this Court for an appropriate order including the maintainability and other ancillary issues. The office to arrange another set of pleadings accordingly.

**JUDGE**

Karar\_hussain/PS\*