

IN THE HIGH COURT OF SINDH AT KARACHI

Present: **Mohammad Ali Mazhar** and **Agha Faisal, JJ.**

CP D 1020 of 2019 : Shaheen Freight Services & Others vs. Federation of Pakistan & Others

For the Petitioners : Mr. Khalid Jawed Khan
Advocate

For the Respondent No.1 : Mr. Ishrat Zahid Alvi
Assistant Attorney General

For the Respondent No.2 : Mr. Farmanullah Khan
Advocate

For the Respondent No.3 : Mr. Taha Alizai, Advocate
Mr. Zeeshan Khan, Advocate

For the Respondent No.4 : Mr. Kumail Ahmed Shirazee
Advocate

Dates of Hearing : 25.09.2019, 18.10.2019
& 31.10.2019

Date of Announcement : 05.12.2019

JUDGMENT

Agha Faisal, J. The petitioners, representing themselves to be eligible haulers of petroleum products, have filed this petition seeking directions to the respondent no. 3, Pakistan State Oil, to conduct its commercial loading and decanting operations on a first come first serve basis, without any nepotism and / or discrimination.

2. Brief facts pertinent hereto are that respondent no. 3, being a Government owned and controlled entity, is *inter alia* engaged in the distribution of petroleum products, including motor gasoline, diesel, furnace oil, jet fuel, kerosene, CNG, LPG, petrochemicals and lubricants. The aforesaid products are primarily imported and received at Karachi, wherefrom they are conveyed nationwide. It is contended that while the distribution of petroleum products takes place on a non-

preferential basis, the same principle is not maintained in the instance of distribution of motor gasoline. The grievance of the petitioners is that respondent no. 3 maintains two separate queues at its depots; one being exclusively for the respondent no. 4 and the other being for everyone else, notwithstanding the admission of the respondent no. 3's counsel that the volume of motor gasoline transported through the respondent no. 4 is a mere four percent of the total volume distributed by respondent no. 3. The petitioners have assailed such partiality, favoring the respondent no. 4, as being discriminatory and repugnant to Articles 4, 10A and 18 of the Constitution.

3. Mr. Khalid Jawed Khan, Advocate set forth the case of the petitioners and submitted that pursuant to the *Regulations*¹ of the respondent no. 2 Oil & Gas Regulatory Authority ("OGRA") stringent standards have been specified in respect of *inter alia* vehicles that can transport petroleum products. Learned counsel adverted to an OGRA communique² and demonstrated that a two year extension had been given for compliance with the *Regulations* and that with effect from 26.10.2019, unless the timeframe was reconsidered by OGRA, no non-compliant vehicle would be able to transport petroleum products. It was argued that the *Regulations* compliant vehicles of the petitioners, and other similar parties, numbered 1,600; while the respondent no. 4 only possessed 4 *Regulations* compliant vehicles. However, respondent no. 3 insisted in maintaining one queue for the respondent no. 4 and another for all the others.

It was submitted that respondent no. 3 is a state owned / controlled entity, hence, liable to scrutiny before this Court as the issue under deliberation was that pertaining to fundamental rights³. Learned counsel relied upon authority to substantiate that a state entity could not sponsor one party, at the detriment of others, in a commercial competitive scenario⁴. It was argued that favoring one party at the expense of the others is monopolistic and contrary of Article 25 of the

¹ SRO 900(I)/2009 dated 19.10.2009 Technical Standards for the Petroleum Industry (Road Transport Vehicles, Containers and Equipment Used for Transportation of Petroleum Products) Regulations.

² OGRA Letter to the Ministry of Petroleum dated 27.10.2017.

³ *Owaisco vs. Federation of Pakistan & Others* reported as *PLD 1992 Karachi 472*.

⁴ *M Akram & Others vs. Government of Pakistan & Others* reported as *1999 CLC 745*.

Constitution⁵. In closing it was demonstrated that the Senate Standing Committee on Petroleum (“Senate Committee”) had taken up this issue in its meeting dated 19.04.2019 and directed that respondent no. 3 should operate its queues in a non-discriminatory manner.

4. Mr. Taha Alizai Advocate appeared on behalf of the respondent no. 3 and submitted a statement dated 18.06.2019. The statement was accompanied a written proposal wherein it was specifically stated that respondent no. 3 was complying with the directives contained in the *Minutes*⁶ and in such regard proposed that six, of its nine depots, be utilized by all eligible transporters and the remaining three be reserved and dedicated solely to cater for the respondent no. 4.

A specific query was put to the learned counsel that if respondent no. 3 is complying with the directives of the Senate Standing Committee on Petroleum, despite submitting on the record that the total volume of transportation of motor gasoline undertaken by the respondent no. 4 is a mere four percent of the aggregate, then what was the justification in dedicating six depots to cater for ninety four percent of the volume and reserving three depots for the four percent.

At this juncture the learned counsel for respondent no. 3 submitted that the Senate Committee on Petroleum had also required that respondent no. 3 maintain the queues itself and if the petitioners had no cavil to the same then respondent no. 3 would implement the directive of the Senate Committee on Petroleum in letter and spirit and maintain no distinction between the respondent no. 4 and any other logistical entity. Learned counsel for the petitioners accepted this proposal in the presence of a number of petitioners present in Court. Learned counsel for respondent no. 3 then sought time to seek further guidance from his client.

However, on the next date of hearing learned counsel for respondent no. 3 withdrew his proposal and argued against the petition. It was submitted that the petition was not maintainable as the issue was

⁵ *M Arif Idrees & Others vs. Sohail Aamir & Others* reported as 2017 SCMR 1379.

⁶ Minutes of the meeting of the Senate Standing Committee on Petroleum.

covered by an earlier Division Bench judgment⁷ of this Court and that factual⁸ / contractual⁹ issues could not be agitated in the Constitutional jurisdiction. It was argued that the said respondent was justified in giving preferential treatment to the respondent no. 4 on the basis of the doctrine of reasonable classification. Learned counsel submitted that general carriers are susceptible to protests / strikes and have the propensity to create law and order situations, hence respondent no. 3 was justified in maintaining dedicated queues for the respondent no. 4. In conclusion it was also unequivocally stressed that the directive of the Senate Committee on Petroleum was not binding upon respondent no.3.

5. Mr. Kumail Shirazi Advocate appeared on behalf of the respondent no. 4 and adopted the arguments advanced on behalf of the respondent no. 3. Learned counsel relied upon authority to argue that the respondent no. 4 was endowed with protected special status under the law and it was reasonable under the circumstances for the said respondent to receive preferential treatment.

6. We have heard the respective learned counsel and considered the record / documentation to which our surveillance was solicited. It is an admitted position that in so far as the issue of cartage of motor gasoline is concerned, as opposed to other petroleum products wherein the respondent no. 3 maintains no preferences, the respondent no. 4 receives preferential treatment. The petitioners are aggrieved by this state of affairs, whereas, the respondent nos. 3 and 4 have justified the said arrangement as being in due conformity with the law. In view hereof, in order to demarcate the scope of the present determination, we do hereby frame the following points for determination:

a. Whether the present petition is maintainable.

b. Whether the respondent no. 3 has been able to justify the extension of preferential treatment to the respondent no. 4.

⁷ *All Pakistan Oil Tanker Owners Association vs. PSO & Others (CP D 958 of 2018) dated 05.06.2018)*

⁸ *2015 PLC 45 & 2015 CLD 1257.*

⁹ *PLD 2011 SC 44 & PLD 2007 SC 642.*

7. The challenge to maintainability was essentially rested upon two grounds; firstly that the matter has already been determined in an earlier round of litigation¹⁰, hence, hit by the principle of *res judicata*; and secondly that the Constitutional jurisdiction of this Court would not extend to delving into contractual issues.

8. It is imperative to first consider the import of the *Tanker Association case*. An earlier Division Bench of this Court was seized of a similar grievance advanced by an association of oil tanker owners. The petition was dismissed in the following terms:

“Under the facts and circumstances of the instant case, we are of the opinion that the instant petition is misconceived and not maintainable, as it involves disputed facts, whereas no fundamental right appears to be infringed or violated by the respondents. Consequently, instant petition being misconceived is hereby dismissed...”

The aforesaid dismissal was predicated upon the existence of disputed facts and the absence of demonstrable infringement of any fundamental rights. We now proceed to consider each of these aspects.

In the present petition there are no disputed questions of fact. The existence of preferential treatment, by the respondent no. 3 towards the respondent no. 4, has been admitted and in addition thereto expressly justified.

The other aspect to consider is the issue of the fundamental rights of the petitioner. In the *Tanker Association case* the petitioner was an association. It is well settled law that an association may not maintain a petition in respect of its members. In the *Mutual Funds Association case*¹¹ a Division bench of this Court maintained that an association cannot be held to be entitled to maintain a petition in respect of its members, since any decision rendered therein could not be binding upon or against persons who are not party to the said petition. It was further illuminated that in order to constitute *res judicata* it is essential that order be made between the same parties. The petitioners before us

¹⁰ *All Pakistan Oil Tanker Owners Association vs. PSO & Others* (CP D 958 of 2018) dated 05.06.2018).

¹¹ *Mutual Fund Association of Pakistan vs. Federation of Pakistan & Another* reported as 2010 PLC 306.

are individual parties that claim direct infringement of their fundamental rights¹². Whether or not such a claim is sustainable is to be considered by this Court, however, the incapacity attributable to an association, to assert the rights of its members, cannot conceivably be ascribed to individual parties seeking equality before the law.

It is observed that the dismissal of the *Tanker Association*¹³ case was predicated upon the maintainability thereof rather than merit. Thus, and with utmost respect, we are of the considered view that the reliance by the respondents upon the *Tanker Association* case, with a view to non-suit the present petitioners, is unmerited as the said judgment was specified to have been applicable to the facts and circumstances seized of by the said Division Bench, which are *prima facie* distinguishable in the present case.

9. The maintainability of the present petition was also challenged on the ground that this Court was precluded from delving into matters of a contractual nature. If we sustain this objection then the necessary consequence would be to denude the High Courts of the jurisdiction to scrutinize any contractual relationship entered into by the state and / or any entity controlled by the state.

It is an admitted fact that the respondent no. 3 is a Government owned and controlled entity. The honorable Supreme Court has consistently observed that in matters where Government bodies exercise their contractual powers, the principles of judicial review cannot be denied¹⁴. The manifest intent of the law is to prevent arbitrariness or favoritism so that only public interest was the paramount consideration. This Bench had earlier maintained, in the *Otsuka* case¹⁵, that it was onerous upon the court to deliberate upon whether a decision making authority exceeded its powers; committed an error of law; committed a breach of the rules of natural justice; reached a decision which no reasonable person would have reached; or abused its powers. Reliance

¹² Article 4, 10A, 18 and 25 of the Constitution.

¹³ All Pakistan Oil Tanker Owners Association vs. PSO & Others (CP D 958 of 2018) dated 05.06.2018).

¹⁴ *Re: Suo Moto Case 13 of 2009* reported as *PLD 2011 Supreme Court 619*.

¹⁵ *Otsuka Pakistan Limited vs. Province of Sindh & Others* (CP D 881 of 2019).

is also placed upon the *Vardag case*¹⁶ wherein the august Court reiterated that the principles of judicial review would apply to the exercise of contractual powers by Government bodies in order to prevent arbitrariness or favoritism. It was specifically observed that if such power was exercised for any collateral purpose then such an exercise merited being struck down.

10. *Owaisco*¹⁷ was a case in which an ink purveying entity had challenged purchase orders by the Pakistan Security Printing Corporation (Private) Limited in favour of a competitor. A Division bench of this Court deliberated upon the consideration of contractual issues in Constitutional jurisdiction and maintained that the same was possible when the State, in the said case the reference was to a state owned / controlled entity, appeared to have acted arbitrarily. It was held that if a transaction did not seem transparent to the court and appeared to be taken by adopting pick and choose methods, promoting favoritism and nepotism, then not only was it lawful to delve therein but further that the court was endowed with the power to look into and examine all material available on the record in order to arrive at its own findings.

11. The decision of the honorable Lahore High Court in the *Shaukat Ali*¹⁸ case was placed before us to illuminate the parameters circumscribing the grant of state largess. *Mian Allah Nawaz J. (as he then was)* explicated that wherever the state functionaries are dealing with public at large, whether by way of giving jobs or entering into contracts or issuing quota or licenses or with any grants of state largess, the said functionaries are required to act reasonably, impartially and without any arbitrariness. It was concluded that whenever such actions are contrary to above principle, the High Court has power under Article 199 to strike down such orders as the Constitutional scheme leaves no room for arbitrariness, capriciousness, nepotism and jobbery.

12. The honorable Supreme Court has maintained in *Re: Suo Motu Case 13 of 2009* that that the basic test in determination of whether

¹⁶ *Asif Fasihuddin Vardag vs. Government of Pakistan & Others* reported as 2014 SCMR 676.

¹⁷ *Owaisco vs. Federation of Pakistan & Others* reported as PLD 1999 Karachi 472.

¹⁸ *Shaukat Ali vs. Secretary Industries Government of Punjab & Others* reported as 1995 MLD 123.

there was any infirmity in the decision making process, warranting interference, is to ascertain if it appears to be predicated upon arbitrariness, illegality, irrationality, procedural impropriety and / or actuated by mala fides. In order to apply this test to the facts and circumstances before us, in view of the ratio of the judgments cited herein, the present petition is hereby determined to be maintainable, *inter alia* on account of being in the public interest. Therefore, we now proceed to address the merits of the matter before us.

13. The parties before us, including the respondent nos. 3 and 4, have no cavil to the fact that the respondent no. 4 is the recipient of preferential treatment, despite the relationship *inter se* being of a commercial nature. The respondent no. 4 charges the respondent no. 3 cartage of motor gasoline as do all other haulers, however, there is one queue for all others whilst one queue is reserved exclusively for the respondent no. 3.

14. The issue of preferential treatment has been deliberated by our Superior Courts time and time again and some illuminating findings are discussed herein.

The honorable Supreme Court was seized of the *Mejee Flour & General Mills case*¹⁹ wherein the Government had challenged orders of the honorable Peshawar High Court setting aside the arbitrary sanction of wheat quota. *Muhammad Bashir Khan Jehangiri J.* (as he then was) held that the action, of cherry picking the recipients of the quota, was repugnant to the principles of equality before the law and equal protection of the law as guaranteed vide Articles 18 and 25 of the Constitution. In order to define the concept of actionable inequality, reliance was placed upon the eloquence of the legal luminary *Mr. A. K. Brohi*, as recorded in *Fundamental Laws of Pakistan*, wherein it was explained as follows:

“There are, let us note, various kinds of inequalities; inequality emanating, for example, from economic disequilibrium observable in our society, and this inequality in its turn leads up to the denial of equal opportunity for all. Then there is what might be called, political inequality, which leads up to disenfranchisement of a vast section of the people of a given country and thus inevitably involves the deprivation of the right of the people to participate in the political life of the State. The ideal of political equality can only be realized by

¹⁹ *Govt. of NWFP & Others vs. Mejee Flour & General Mills (Private) Limited & Others* reported as 1997 SCMR 1804.

universal suffrage and free participation in the representative institutions by recourse to which modern democratic States are functioning. Similarly, there is such a thing as social inequality: the growth of humanism has brought about the liberation of people from the thralldom of slavery and the evil of untouchability and such other social abominable practices which deprive people of an honorable place as free citizens in a democratic society. To this list of inequalities might be added the inequality which results from racial pride; this, again, finds its culmination in the dogma that only those who have blue blood in their veins are capable of taking part in the political, civic and economic activities of the State.

Historically considered, the notion of human equality has arisen as a protest against the practice of magnifying artificial distinctions between man and man based on considerations like wealth, purity of blood and religious superstition and making these as criteria for determining the status of each individual in the total legal order. If the judicial administrative organs of the State while applying the law were to discriminate between man and man and exercise what may be characterized as arbitrary authority in singling out some persons for discriminatory treatment they would be acting counter to the ideal of equality before law which has been proclaimed by the framers of the Constitution... which declares that all citizens are equal before law."

In the *Arshad Mahmood case*²⁰ it was observed that in the context of running of transport all citizens have equal rights. The *Arshad Mahmood case* was also relied upon by *Maqbool Baqar J.* while delivering judgment in the *M Arif Idrees case*²¹ which pertained to the distribution of the Hajj quota. It was held that the creation of artificial, unfair and unjust classifications offends against Article 25 of the Constitution, which guarantees all citizens equality before the law and equal protection of the law. It was further maintained that preferential treatment amounts to encouraging monopolies, defeating the right to freedom, trade and / or business and stifling free competition.

15. It is manifest that the respondent no. 3 has accorded *primus inter pares*²² status to the respondent no. 4. The honorable Supreme Court has held, in the *M Arif Idrees case*, that preferential treatment in such circumstances is an anathema to the law and so long as the trade or business is lawful, the rights of a citizen, eligible to conduct the same cannot be marginalized. The respondent nos. 3 and 4 have justified this preferential treatment on two basic grounds; i.e. special status of the respondent no. 4 and the propensity of other transporters to protest / strike and / or create law and order situations. We shall endeavor to consider each ground in seriatim.

16. It has been argued before us that the respondent no. 4 is a special purpose vehicle of national security entitled to preponderant

²⁰ *Arshad Mahmood & Others vs. Govt. of Punjab & Others* reported as *PLD 2005 Supreme Court 193*.

²¹ *Muhammad Arif Idrees & Others vs. Sohail Aamir & Others* reported as *2017 SCMR 1379*.

²² First amongst equals.

privileges, even in the realm of commercial operations. It is considered prudent to eschew a voluminous debate in respect hereof in view of the pronouncement of this Court, in the *Raza Enterprises case*²³, wherein the status of the respondent no. 4 was exhaustively considered. *Anwar Mansoor Khan J.* (as he then was) exhaustively catalogued the genesis of the respondent no. 4 and concluded that it did not enjoy any special status. The judgment concluded that the status of the said respondent is akin to a corporation, admittedly with interests of the Government therein, and its main function is transportation and logistics, while making profits and remaining financially independent. The aforesaid judgment was assailed before a Division Bench of this High Court, in the *CO NLC case*²⁴, and the judgment rendered therein, authored by *Sabihuddin Ahmed J.* (as he then was), was pleased to dismiss the appeal and maintain the findings arrived at in the *Raza Enterprises case*.

17. It is thus manifest that no special preferential status is conferred by the law upon the respondent no. 4 in the realm of commercial undertakings. The said respondent renders logistical services for profit, in the same manner as any other eligible logistical concern. Learned counsel for the contesting respondents have been unable to highlight any law endowing the respondent no. 4 with preferential status in the present facts and circumstances.

18. We now consider the second aspect of the argument, i.e. preferential treatment for one party on the presumed propensity of others to protest / go on strike and / or create law and order situations.

It is imperative to note at this juncture that, per learned counsel, the respondent no. 3 does not indulge in partisanship while distributing diesel, furnace oil, jet fuel, kerosene, CNG, LPG, petrochemicals and / or lubricants. The preferential treatment under reference is only observed in the instance of transporting motor gasoline.

In a manner of speaking, apparently inequitable treatment is meted out to the entire private sector not for anything that they have

²³ *Raza Enterprises vs. The Assistant Commissioner & Others* reported as 2002 SBLR Sindh 1010.

²⁴ *Commanding Officer National Logistic Cell & Another vs. Raza Enterprises & Others* reported as 2003 CLC 766.

done but on the basis of what the respondent no. 3 assumes the private sector could do. If this argument is sustained then the private sector may effectively be excluded from participating in commercial operations of state enterprises entirely.

19. The Constitution confers upon its citizens the fundamental right to form associations or unions and assemble peacefully²⁵. The august Court has recently enunciated²⁶ that while the Constitution does not specifically stipulate a right to protest, however, democracy recognizes such a right, and it was through democratic means that Pakistan was conceived. It was observed that the genesis of the independence movement in the Sub-Continent was predicated upon peaceful protests and demonstrations, as a consequence whereof independence was achieved. The august Court categorically held that citizens have the right to peacefully protest and hold demonstrations, and may do so against any action or decision of a government or authority. Even though no instance/s of any protest by the petitioners was placed before us, the judgment in *Suo Motu Case 07 of 2017* recognizes that the right to protest is Constitutional as it is said to be implied in the right to assemble peacefully, in the right to form associations or unions and in the right to freedom of speech and expression.

It is paramount to record that the right to protest is not unfettered and that it remains subject to all just restrictions, especially that such class action must be devoid of any resort to violence and / or any infraction of the law. Any attempt or perpetration of violence and / or precipitation of a law and order situation is disapproved by the law and strict sanctions are envisaged for the perpetrators. The respondent no. 3, or any entity for that matter, remains at liberty to solicit prosecution in respect of any violence or other criminal conduct directed there against to the fullest extent of the law, however, a mere apprehension of such conduct, unjustifiably attributed to individuals, cannot be sustained as justification for marginalization of the said persons in the arena of commercial enterprise.

²⁵ Articles 16 & 17 of the Constitution.

²⁶ *Suo Motu Case 07 of 2017* reported as *PLD 2019 Supreme Court 318*.

20. Notwithstanding the foregoing, it also defies rationality that preferential treatment would be meted out in commercial operations of distribution of petroleum goods solely in the context of motor gasoline, while no such proclivity is demonstrated when the same entity distributes diesel, furnace oil, jet fuel, kerosene, CNG, LPG, petrochemicals and / or lubricants. It is thus observed that the grounds cited by the relevant respondents, to justify the continuation of partisan commercial practices, do not satisfy the precepts of equitability set forth by the Supreme Court²⁷.

21. The concept of reasonable classification has been recently considered by the august Court²⁸ in the context of Article 25 of the Constitution. *Mian Saqib Nisar CJ.* (as he then was) eloquently catalogued the law on the subject and maintained that classification is only permissible under the law where the same has been made on a rational and reasonable basis and although no singular standard of reasonableness can be deduced for such classification, it must be such that can be justified on an intelligible differentia identifying why the classification / distinction has been made and there must be a rational nexus to the object sought to be achieved by the classification. It was further stipulated that discrimination cannot be justified under the garb of reasonable classification.

In the present facts and circumstances learned counsel for the respondents have been unable to demonstrate any discernible nexus between the distinction under scrutiny with the objective sought. This observation is bulwarked by the admission of the learned counsel for the respondents that such treatment is confined only to the distribution of motor gasoline, while no such treatment is contemplated or practiced in respect of the remaining petroleum products distributed by the respondent no. 3.

22. The issue of the *Senate Resolution*²⁹, directing the respondent no. 3 to operate its queues in a non-discriminatory manner, was also placed

²⁷ *Muhammad Arif Idrees & Others vs. Sohail Aamir & Others* reported as 2017 SCMR 1379.

²⁸ *National Commission on Status of Women & Others vs. Federation of Pakistan & Others* reported as PLD 2019 Supreme Court 218.

²⁹ Senate Standing Committee on Petroleum resolution dated 19.04.2019.

before us. The respondent no. 3 had submitted in writing³⁰ that the said respondent had devised a proposed plan in compliance with the directions of the *Senate Committee*. Learned counsel for the said respondent had unequivocally proposed³¹ to maintain non-discriminatory queues and operate the said queues itself, analogous to other oil marketing companies, subject to the concurrence of the petitioners. However, on the very next date of hearing the proposal was retracted, upon instructions, and it was argued that the recommendations / directives of the *Senate Committee* have no binding effect upon the respondent no. 3 in the present facts and circumstances. Learned counsel for the respondent no. 4 had also deprecated the *Senate Resolution* and challenged its bona fides.

On the other hand learned counsel for the petitioners controverted the challenge to the *Senate Resolution* and submitted that not only were the directives never challenged in any proceedings by the respondent no. 3 but that the written submissions of the said respondent demonstrate that it is seeking to comply therewith. It was further demonstrated from the *Minutes*³² that the Director General Logistics of the respondent no. 3 was present in the meeting and his input was also obtained by the *Senate Committee*. Learned counsel argued that it was manifest from the *Minutes* that neither the Director General Logistics of the respondent no. 3 nor the Federal Minister Petroleum Division, also present thereat, had any cavil to the *Senate Resolution* directing the respondent no. 3 to maintain non-discriminatory queues and operate the said queues itself, analogous to other oil marketing companies.

The legislature has its own rules and procedures whereby it may seek implementation of its will. Learned counsel for the respondents have been unable to show that the relevant *Senate Resolution* was unjust, unfair and / or prejudicial to the public interest, however, notwithstanding the same this Court considers it expedient to judicially review the impugned actions of the respondent no. 3 of its own accord and in the public interest.

³⁰ Vide Statement dated 18.06.2019.

³¹ During the hearing conducted on 18.10.2019.

³² Minutes of the meeting of the Senate Standing Committee on Petroleum.

23. There is admitted partisan treatment meted out to the respondent no. 4 by the respondent no. 3, in one sphere of its commercial operations, and the counsel for the said respondents have been unable to justify the same. Learned counsel have also failed to satisfy us as to how maintaining a dedicated queue solely for the benefit of the respondent no. 4 could qualify under the precepts of reasonable classification³³ and / or be in the public interest and / or survive the test of arbitrariness, illegality, irrationality and / or impropriety set forth by the august Court³⁴. Therefore, such conduct does not merit the approval of the Court.

24. In view of the reasoning and rationale herein contained this petition, along with pending application/s, is hereby disposed of with directions to the respondent no. 3 to refrain from according preferential treatment to any entity, including the respondent no. 4, and treat all eligible persons equally, equitably and without any discrimination in the conduct of its commercial operations.

JUDGE

JUDGE

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³³ *National Commission on Status of Women & Others vs. Federation of Pakistan & Others* reported as *PLD 2019 Supreme Court 218*.

³⁴ *Re: Suo Moto Case 13 of 2009* reported as *PLD 2011 Supreme Court 619*.