

ORDER SHEET

IN THE HIGH COURT OF SINDH, KARACHI

C.P No.D-5431/2013 & 1274/2015.

Date Order with signature of Judge

Priority Case.

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1. For order on Misc. No.33239/2015 (151 CPC)
 2. For order on Misc. No.11551/2015 (151 CPC)
 3. For hearing of Misc No. 5562/15 (151 CPC)
 4. For hearing of Misc No.33089/2013
 5. For hearing of Main Case.

08.12.2015.

Mr. Umer Hayat Sandhu and Mirza Sarafarz Ahmed, Advocates for the petitioner.

Mr. Ghulam Muhammad Advocate for Respondent No.1 along with Mr. M. Ramzan Awan Managing Director Karachi Fish Harbour Authority

Mr. Ghulam Hyder Sheikh Advocate for Respondent No.2

Mr. Ainuddin Khan D.A.G.

Through both the petitions, the petitioners have impugned refusal of grant of Registration Certificate to their Indian Fishing Boats purchased by them from Auction conducted by Maritime Security Agency.

Counsel for the petitioners contends that they have purchased the Boats seized and auctioned by MSA in a lawful manner and were entitled to have them registered with respondent No.1 as there is no such provision in Karachi Fish Harbour Authority Ordinance, 1984, which could place any restriction on registration of Indian Seized Boats, auctioned by a Government Agency.

Pursuant to our directions comments have been filed whereas, MD of respondent No.1 has also affected appearance and has filed an affidavit to the effect that due to congestion at the Harbour, no registration is being granted to any New Boats, whereas, it has, for the time being restricted only to replacement of boats. He further submits that there is no restriction for the petitioners to operate their Boats in other Harbours including Korangi Fish Harbour and Ibrahim Hyderi. He has also referred to Office Order dated 26.11.2013 whereby, it has been decided that henceforth no keel placement for construction of new boats will be allowed, whereas, only those Indian auction Boats which have

been registered prior to enforcement of ban will be allowed to operate.

We have heard the respective Counsels and have perused the record, and are of the view that the restriction placed by respondent No.1 appears to be a policy decision to regulate the affairs at the Fish Harbour, for which the Authority is empowered under the 1984 Ordinance, including, the powers to undertake efficient operation of harbour facilities and to prescribe procedure and conditions for registration of fisherman including their transport used for transportation of fish as well as disposal of fish within the harbour area. Moreover, as informed, the petitioners can operate at other Harbours as mentioned hereinabove.

In such circumstances, we have not been persuaded so as to exercise any discretionary powers / authority vested in this Court under Article 199 of the Constitution of Pakistan for interfering in Policy decision taken by respondent No.1, whereas, even otherwise exercise of such discretion cannot be claimed as a matter of right. Accordingly we decline to issue any writ in the instant matter as prayed. However, while doing so we direct respondent No.1 to continue with its efforts for reducing congestion, and if registration of new boats is independently granted, without replacement mechanism, the request of the petitioners shall also be considered sympathetically.

Petitions dismissed along with listed applications. The Respondent No.1 shall file a comprehensive report regarding their efforts to reduce congestion of the Harbour within 2 months from today.

JUDGE

JUDGE