

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
Suit No.1074 of 2014

| DATE | ORDER WITH SIGNATURE OF JUDGE |
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For hearing of CMAs:

1. 8684/14 (U/O 39 Rule 1 & 2 CPC.)
2. 2207/15 (U/O VII Rule 11 C.P.C)
3. 9218/16 (U/O 39 Rule 1 & 2 CPC.)

15.06.2016.

Mr. Umer Akhund, Advocate for the plaintiff.

Mr. Naveed-ul-Haq, Advocate undertakes to file Vakalatnama on behalf of Defendant No.2

Dr. Abdul Jabbar, Deputy Director, Health Department and Dr. Naeem Laghari (NIMRA).

Mohsin Rafique, Coordinator Legal, Shirazi Trading Co. (Pvt) Ltd (Def.No.3)

3. On 09.06.2016, Dr. Dabeer, Focal Person, Secretary Health was present and sought time to seek instructions on the application listed at Serial No.3 bearing CMA No.9218/16. Today he is not present, however, Dr. Abdul Jabbar, Deputy Director, Health Department and Dr. Naeem Laghari (NIMRA), both are present and submit that Dr. Dabeer is reported to be busy in some meeting.

Through this application, the plaintiff has prayed that they may be extended similar relief as granted by this Court vide Orders dated 04.09.2014 and 08.05.2016, passed in C.P No.D-3275/2014 and Suit No. 590/2015, respectively, whereby, the common impugned order in respect of all three parties has been set-aside and matter has been remanded.

It appears that in this matter, the plaintiff was aggrieved by an Order dated 21.05.2014, whereby, the plaintiff in addition to two other Companies was blacklisted by the Ministry of Health. Such orders were challenged by the plaintiff through present Suit, whereas, the two other parties had impugned the same through Suit No.590/2015 and C.P No.D-3275/2014, which have been disposed of by the aforesaid orders in the following terms.

ORDER DATED 04.09.2014 in CP No. D-3275/2014

“Learned counsel for Petitioner contends that vide office order passed by Respondents on 21.05.2014 the Petitioner company was black-listed without giving them opportunity of being heard which is clear violation of Article 10-A of Islamic Republic of Pakistan, 1973 besides contrary and in violation of the principles of natural justice.

We hereby set aside the impugned order dated 21.05.2014 passed by Respondents [available at page 121 of MoP and marked as Annex “AA”] with direction to the Respondents to decide the case of the petitioner company afresh after affording

them full opportunity of hearing and pass speaking order within a period of 15 days' time from today.

Copy of this order be communicated to the Respondents for information and compliance. Copy of this order may also be supplied to Focal Person of Respondent No.1.

Petition alongwith listed applications stands disposed of."

ORDER DATED 08.05.2015 in Suit No. 590 of 2015

"Both the learned counsel submit that it is an admitted position that impugned office order dated 21.5.2014 filed by the plaintiff as Annexure "B" at page-19 was passed without issuing any show cause notice to the plaintiff and without affording him opportunity of being heard. They also point out that a Company namely M/S. Shirazi Trading was also one of the Companies against whom the same order was passed. The said Company filed C.P NoD-.3275/2014 challenging the same order impugned in the present suit and that petition was disposed of vide Order dated 04.09.2014 with the direction to the respondents to decide the case of the petitioner-company afresh after affording them full opportunity of hearing and passing a speaking order within 15 days time from passing of such order. Learned counsel for defendant on instructions of officers present in Court submits that they have no objection if this suit is finally disposed of in similar terms in which C.P No.D-3275/2014 was disposed of, therefore, this suit is disposed with the consent of all present in following manner:

"That the order dated 21.5.2014 passed by Secretary Health, Government of Sindh annexed as Annexure "B" to the memo of plaint is set-aside and defendant is directed to decide the case of the plaintiff-company afresh after affording them full opportunity of hearing and defendant shall pass a speaking order in this regard within 15 days from today".

In the above terms by consent of the parties this suit stands disposed of alongwith listed application."

Though Mr. Abdul Jabbar, Deputy Director (Health) has made an effort to oppose disposal of instant Suit on the same terms, however, I am not inclined to agree with his submissions for the reasons that Order impugned dated 21.05.2014 is common and same reasoning has been applied to all three parties, whereas, cases of two other parties before this Court have been disposed of with the consent of Focal Person, Ministry of Health, Mr. Saeed Qureshi, to the effect that order dated 21.5.2014 be set aside by remanding the matter to the authority who will pass appropriate order after notice and hearing in accordance with law. I see no reason and justification to oppose similar request of the present plaintiff in respect of the same impugned order.

In the circumstances, the impugned Order dated 21.05.2014 is also set-aside to the extent of the present plaintiff with directions to the respondents to decide the case of the plaintiff afresh after affording full opportunity of hearing and pass a speaking order within fifteen days from today.

Suit stands disposed of in the above terms along with all pending applications.

J U D G E

Ayaz P.S.