

IN THE HIGH COURT OF SINDH AT KARACHI

Constitutional Petition No.D-3103 of 2020

Zulqarnain.....Petitioner

Vs.

Qazi Abdul Wasay & others.....Respondents.

Present:

Mr. Justice Irfan Saadat Khan

Mr. Justice Yousuf Ali Sayeed

Date of hearing : 08.12.2020

For the petitioner : M/s. Rehman Ghani Khattak and Matloob Hussain Qureshi, Advocate.

For the respondent No.1 : Mr. Muhammad Akram, Advocate.

For the respondent No.2 : Nemo, despite proper service.

For the respondents No.3, 5, 6 and 7 : Mr. Miran Muhammad Shah, Additional Advocate General Sindh (AAG) along with Saad Hussan and Syed Danish Arshad, Food Safety Officers.

For the respondent No.4 : Mr. Dhani Bux Lashari, Advocate.

For Karachi Water & Sewerage Board (KW&SB) (On Court's notice) : Mr. Waleed Khanzada, Advocate.

ORDER

IRFAN SAADAT KHAN, J. The instant petition has been filed on the ground that the respondent No.1 is running an illegal RO Plant in a residential House No.B-351, Block-N, North Nazimabad, Karachi. Notices thereafter were issued to the respondents.

2. M/s. Rehman Ghani Khattak and Matloob Hussain Qureshi, Advocates, have appeared on behalf of the petitioner and reiterated

their prayers made in the instant petition that the respondent No.1, with the connivance of the respondent No.2, is running a RO Plant in a residential house on commercial /industrial basis, without having any legal and lawful authority in this behalf. They further stated that even the said RO Plant is unhygienic and hazardous for the general public.

3. Mr. Muhammad Akram, Advocate, has appeared on behalf of the respondent No.1 and has conceded that a RO Plant is being run on the aforementioned property; however he stated that an application for granting license to the said RO Plant is pending with the Sindh Food Authority, Government of Sindh. He further states that the water obtained from the said RO Plant is hygienic and unhazardous for the public use.

4. Nobody is in attendance on behalf of the respondent No.2, despite proper service of notice.

5. AAG has appeared on behalf of the respondents No.3, 5, 6 and 7 and has supported the stance of the petitioner that the respondent No.1 cannot run RO Plant in a residential area on commercial /industrial basis. He further stated that the RO Plant, being operated by the respondent No.1, was previously sealed by the concerned authorities but is not aware of the latest position of the RO Plant. He next stated that some FIRs were also registered against the respondent No.1 in Police Station Taimooria for violating the SOPs during the lockdown. He finally stated that since the RO Plant, being operated by

the respondent No.1, is illegal, hence the same may be sealed /closed down permanently.

6. Mr. Dhani Bux Lashari, Advocate, has appeared on behalf of the respondent No.4 and has adopted the arguments of the AAG.

7. Mr. Waleed Khanzada, Advocate, has filed his memo of appearance on behalf of the KW&SB, who is on Court's notice, and submitted that granting license to operate RO Plant is the responsibility of his department and has categorically stated that no license /permission for operating RO Plant has been issued by the department to the respondent No.1. While adopting the arguments of AAG, Mr. Waleed has also supported the stance of the petitioner that the respondent No.1 is operating the RO Plant in an illegal and unlawful manner.

8. We have heard all the learned counsel at considerable length and have also perused the record.

9. There is no cavil to the proposition and is an admitted fact that the respondent No.1 is operating the RO Plant in a residential area on commercial /industrial basis. It is also an admitted position that at present the said respondent has no license, permission /authority to run the said RO Plant from the concerned department. It is also a matter of record that mere filing of an application, if any, does not entitle the respondent No.1 to start operating a RO Plant on commercial /industrial basis in a residential area. Even otherwise if for argument's sake it is accepted that the respondent No.1 has filed

any application before the Sindh Food Authority, Government of Sindh, who are not the license /permission granting authority, as per the official respondents. According to Section 4 of the Sub Soil Water (Extraction and Consumption) Regulation, 2018, the concerned authority for granting license is KW&SB. Moreover, the Hon'ble Supreme Court of Pakistan in H.R.C. No.28963-S/2014, vide order dated 23.12.2015, has already directed the MD, KW&SB, to ensure safe supply of water in the city and, vide order dated 07.12.2017, has appreciated the efforts of the MD, KW&SB, when a statement was made before the Hon'ble Apex Court that all illegal hydrants have been decommissioned and the limit of permissible hydrants have also been brought down to only six, one for each district.

10. In view of the above facts, we direct the respondent No.1 not to operate the RO Plant from the above referred house with immediate effect. We also direct the concerned departments i.e. KW&SB, Sindh Food Authority, concerned Deputy Commissioners and the concerned SSPs to keep a vigilant eye on the RO Plants operating in their respective jurisdiction and to make sure that firstly no RO Plant should run without proper license /sanction /permission /authority and secondly to regularly verify and monitor the standard of the water being supplied through those licensed RO Plants. With these directions, the instant petition stands allowed along with the listed application. Let a copy of this decision be sent to the I.G. Sindh, Chief Secretary, Government of Sindh, Managing Director, KW&SB and Director (Operations) Sindh Food Authority for circulating a copy of

this order in their respective department for information and compliance.

Above are the reasons of our short order dated 08.12.2020.

JUDGE

JUDGE

Karachi:

Dated: 12.2020.

(Tahseen, PA)