

ORDER SHEET  
THE HIGH COURT OF SINDH AT KARACHI

C.P No.S-743 of 2022.

-----  
Date:           Order with signature(s) of the Judge(s)  
-----

Fresh Case.

1. For Orders on Office Objection No.1 and reply of counsel as at 'A'.
2. For Hearing of CMA No. 4888/2022.
3. For Hearing of Main Case.

04<sup>th</sup> October, 2022.

Mr. W. R. Shaikh advocate for the petitioner.

Mr. Ghulam Sarwar Baloch, Assistant Attorney General.

Mr. Zahid Farooq Mazari, AAG Sindh a/w

Inspector Fasihullah, Special Branch, DIG, Karachi,

Inspector Sabir Hussain on behalf of AIGP Legal CPO, Sindh  
Karachi,

SI-Noorullah Khan of PS Mithadar,

DSP Hassan Baloch, Special Branch, Sindh, Karachi

DSP Raza Mian on behalf of IGP Sindh, Karachi.

Mr. Muhammad Rafiq, Registrar Trademark.

\*\*\*\*\*

Mr. Salim Gulam Husein advocate files Memo of Appearance on behalf of Registrar, Trademark, which is taken on record.

At the outset learned counsel for the petitioner has emphasized over Page-21 of the petition, which speaks that in view of Pakistan Tobacco Board Ordinance 1968 there is no ban, restriction on manufacturing and sale of Tobacco Pan Masala, however, word permission is also not mentioned. Needless to mention that in view of decision of Division Bench of this court in the case of Jalil Ahmed & Ors Vs. Province of Sindh through Secretary & Ors reported in 2019 CLC 1872 [Sindh (Hyderabad Bench)] this issue was adjudicated and decided whereby it was held that such business is hazardous to the human being and cannot be permitted and also not falling within the definition of food, accordingly, strict directions were issued to Secretary, Local Government and I.G.P Sindh to take action against all persons who are in business of Tobacco Pan Masala, Gutka, Manpuri and other like articles. Whereas, the

petitioner filed application before the Registrar, Trademark and that is pending for decision.

Registrar, Trademark on notice alongwith counsel are present submits classification of summary, which is taken on record and copy of such classification and one certificate issued is provided to learned Assistant Attorney General, AAG Sindh and learned counsel for the petitioner as well.

Further Registrar Trademark contends that they have issued more than 2,00,000 certificates pertaining to tobacco trademark but he is not in a position to provide details that how many pertaining to Tobacco Pan Masala, however, he undertakes to scrutinize and will place on record at least 50 certificate issued by them on different dates with logo showing therein title reflecting Tobacco Pan Masla as well as he will submit certificates with regard to Betel Nuts logo trade. Needless to mention that this court will hear respective parties whether betel nuts can be used for direct consumption for human and that is permissible under the law. Learned A.G. Sindh & DAG shall call detail report from the concerned authorities with regard to any ban for consumption by the human being.

Learned counsel for the petitioner shall provide memo of petition with annexure to learned A.G. Sindh and DAG on or before the next date of hearing.

At this juncture learned counsel for the petitioner contends that with regard to issuance of certificate they are required to issue sample to the trademark authorities whereas, counsel for Trademark contends these are not the requirement of law and they are only required to examine the label at the time of opposition.

All parties shall proceed in view of judgment of Jalil Ahmed & Ors Vs. Province of Sindh through Secretary & Ors reported in 2019 CLC 1872 [Sindh (Hyderabad Bench)] and I.G.P Sindh shall depute any responsible officer not below the rank of Additional I.G.P Sindh who shall submit report with regard to compliance of judgment passed by this court as referred above.

To come up on **20.10.2022**.

JUDGE