

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT,
HYDERABAD

C.P No.D- 2104 of 2017

DATE	ORDER WITH SIGNATURE OF JUDGE
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PRESENT:

Mr. Justice Aqeel Ahmed Abbasi

Mr. Justice Yousuf Ali Sayeed

09.06.2017.

Mr. Mushtaque Ali Tagar, Advocate for petitioner

Mr. Allah Bachayo Soomro, Additional A.G, Sindh.

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ORDER

AOEEL AHMED ABBASI, J:- Since a common question of law and fact has been agitated through instant petition, whereas, all the petitioner have sought declaration to the effect that respondents shall not create any harassment to the petitioner to carry out their hotel business during Ramzan provided as authority to learned Counsel for the petitioner, petitioner is entitled to the exemption in terms of Section 5 of Ordinance XXIII of Ehtam-e-Ramzan Ordinance, 1981, therefore, instant petition is being disposed of by consent of the petitioner and the learned Additional Advocate General present in Court, who waives the notice of all the petitions.

2. Learned Counsel for the petitioner and the learned Additional Advocate General have candidly stated that similar petitions were disposed of by a Division Bench of this Court vide combined order dated 24.05.2016 passed in

C.P.NO.D-1553 of 2017 (Ali Ahmed V/s. Deputy Commissioner, Shaheed Benazirabad and others) and submit that instant petition may also be disposed of in similar terms. Copy of passed order in the above petition has been placed on record.

3. We have examined the relief sought in instant petitions by the petitioners, as well as the relevant provisions of Ehtram-e-Ramzan Ordinance, 1981, with particular reference to provisions of Sections 4 & 5 of the Ordinance, and have also perused the order already passed by a Division Bench of this Court in the aforesaid petition, under the similar circumstances and would, therefore, by consent of the parties dispose of instant petitions in the following terms.

- (1) Subject to verification of the facts regarding claim of exemption of the petitioners in terms of Section 5 of the Ehtram-e-Ramzan Ordinance, 1981 and its observance in letter and spirit, the respondents shall not create any hindrance in the hotel business activity of the petitioners during the Holy Month of Ramzan, the petitioners are entitled to the exemption in terms of Section 5 of the Ehtram-e-Ramzan Ordinance, 1981, which reads as under:-

“5. Exemption.—Nothing contained in section 4 shall apply in respect of—

(a) a canteen or kitchen maintained in hospital for serving food to patients;

(b) a restaurant or canteen within the premises of a railway station, airport, or seaport or bus stand or in a train or aircraft;

(c) a kitchen or dining-car of a train; or

(d) a kitchen or canteen meant for children within the premises of a primary school.”

- (2) In case of any violation or contravention of the provisions of the Ehtram-e-Ramzan Ordinance, 1981 or the non-fulfillment of the requirements of Section 5 of the Ordinance, the competent authority may be at liberty to take action against such violators in accordance with the provisions of Ehtram-e-Ramzan Ordinance, 1981.

4. Let a copy of this order be transmitted to concerned Commissioner for onward transmission to the Deputy Commissioner Jamshoro for information and compliance. Copy of this order may also be provided cover-in-hand to the learned Additional Advocate General for onward transmission to all the concerned officers.

Petitions stand disposed of in above terms alongwith pending applications, if any.

JUDGE

JUDGE

Ali Haider