

Order Sheet

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

C.P.No. D-1056 of 2023

DATE ORDER WITH SIGNATURE OF JUDGE(S)

1. For orders on office objection.
2. For hearing of MA-5029/2023
3. For hearing of main case.

24-8-2023

M/s. Noor-ul-Haq Qureshi and Saad Salman Ghani, Advocates for petitioners.

Mr. Rafique Ahmed Dahri Assistant Advocate General, Sindh along with Muhammad Shah Mukhtiarkar Umerkot, Fazul Haq DSP City Umerkot

This matter was diluted to the extent of a petrol pump site which was originally sealed by the Mukhtiarkar, purportedly on a complaint of Pakistan State Oil Company Limited issued to Deputy Commissioner Umerkot.

Learned A.A.G has not been able to demonstrate as to how the instructions were passed on to Mukhtiarkar by the Deputy Commissioner to take action, which include sealing of the premises and to impose fine on the accusation raised. It is claimed that a letter was circulated to all Revenue Officers including Mukhtiarkar by Deputy Commissioner in this regard. The Mukhtiarkar claimed to have obliged and could not refuse the unlawful directions of officer concerned.

We have no material on record when and how such instructions were passed to the Mukhtiarkar and the correspondence to Mukhtiarkar are missing. The action by Mukhtiarkar was taken on the basis of Sindh Essential Commodities Price Control and Prevention of Profiteering and Hoarding Ordinance 2005, which does not include the commodity (Petrol / Diesel) as involved in this matter. The first schedule in terms of Section-8 of the Ordinance includes 59 entries which does not include the one in consideration i.e. petrol / diesel. Thus, the action taken by the Mukhtiarkar was illegal and unlawful and so also the imposition of fine of rupees fifty

thousand. We are therefore of the view that the action taken by the Mukhtiarkar was illegal and unlawful and if such action was taken on the directions of any officer including Deputy Commissioner, action should be taken after an inquiry to be conducted by the Chief Secretary.

It is expected that the inquiry be conducted in about four weeks' time with report to this Court and whosoever is found to have traveled beyond the mandate of law, strict action shall be taken with report to this Court in 6 weeks' time. The amount of fine that was imposed by Mukhtiarkar be also deposited in one week's time with the Additional Registrar of this Court. Once such amount is deposited the petitioner may move an application for its withdrawal which shall be decided accordingly.

Petition stands disposed of in above terms.

Learned counsel for the petitioners submits he may be permitted to seek the redressal about unlawful sealing of site and damages from the Court of law. No permission is required; if the law permits for initiating proceeding against anyone, Court's permission is not essential.

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