

**IN THE HIGH COURT OF SINDH BENCH AT SUKKUR**

**Constitution Petition No. D- 428 of 2024**  
(*Illahi Bux Bhatti vs. Province of Sindh & others*)

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**Constitution Petition No. D- 437 of 2024**  
(*Riaz Bhanbhro and others vs. Province of Sindh & others*)

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**Constitution Petition No. D-443 of 2024**  
(*Muhammad Saleem and others vs. Province of Sindh & others*)

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**Constitution Petition No. D- 444 of 2024**  
(*Hoat Khan and others vs. Province of Sindh & others*)

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**Date of hearing 25-04-2024**

M/s Asif Ali Dharejo advocate for petitioner in CPD No.428 of 2014 Tarique G Hanif Mangi, Advocate for petitioner in CPD No. 437 of 2024 Mr. Muhammad Nasir Malik, Advocate for petitioner in CPD No. 443 of 2024 and None present for the petitioner in CPD No. 444 of 2024.

Mr. Liaquat Ali Shar, Additional Advocate General Sindh.

Mr. Ghulam Mustafa Abro, Assistant Advocate General Sindh along with Hakim Ali Mahar, District Food Controller Khairpur and Dildar Ali Kalwar, District Food Controller Sukkur

**ORDER**

**Adnan-ul-Karim Memon J:-** The captioned petitions are being taken up together as the issue involve therein is related to the distribution of BARDANA/wheat bags to the petitioners as per policy/guidelines of Food Department for wheat procurement 2023-24.

Learned counsels representing the petitioners in some of the petitions submit that the issue involve in the present proceedings is a kin to the cases decided by this Court in Constitution Petition No. D- 380 of 2024 (*Ali Hassan Bozdar vs. Province of Sindh & others*) and other connected petitions vide common order dated 24-04-2024, he prayed for similar treatment to be meted out with the petitioners. For convenience sake an excerpt whereof is reproduce as under:-

*“We have heard the learned counsel for the parties and perused the record as well as policy 2023-24 with their assistance.*

*This Court is of considered view that the discretion to distribute BARDANA as disclosed in the policy 2023-24 is not only susceptible to misuse but is being exercised in a non-transparent and discrete manner by concerned official respondents at distribution centers throughout Sindh. It is an undeniable fact that every grower is not given BARDANA to purchase wheat crops in proportion to the crop cultivated by him/her, rather most of the farmers/growers have not been given a single bag.*

*This Court reemphasizes the importance of the structured exercise of discretionary powers in terms of law laid down by the Supreme Court in its various pronouncements. The discretion given through the policy is not structured one and, therefore, is not being exercised transparently. The equality clause is being offended; because the price, higher than the market price, to purchase wheat crop is a privilege offered, yet several equally placed farmers/growers are not given a single bag.*

*Notwithstanding the facts, that the policy is not only capable of being applied discriminately and discretionary powers are being used in a non-transparent manner; this Court is constrained not to strike down the policy, in the presence of the fact that the crop is lying under sky in open field and the delay in its collection shall cause loss of crop, which is national asset, but the grower shall also suffer as they shall be left on the mercy of investors who shall at liberty to determine forced sale price under compelling circumstances.*

*At this stage learned Additional A.G Sindh has undertaken and assured that the remaining quantity of BARDANA at the relevant centers shall be distributed fairly and transparently without discrimination; therefore, these petitions are disposed of with direction to the competent authority/ Secretary Food/ concerned District Food Controller/Incharge Center who shall ensure that wheat bags/BARDANA are distributed equally amongst the petitioners, similarly placed genuine growers; small farmers, having minimum cultivated holding, who shall be given preference without delay preferably by tomorrow i.e. 25-04-2024. They shall secure the interest of those growers also who could not approach this Court.*

*Learned Additional A.G is directed to ensure that no mal practice shall be committed by the concerned official respondents and in case they are found to be indulging in such mal practice, he shall ensure initiation of inquiry into the allegation by the directorate of Anti-Corruption Establishment and the petitioners/growers/farmers shall be heard and the actual culprits shall be proceeded against under the law.*

*The petitioners shall approach the concerned officials for such BARDANA as per policy.*

*Secretary Food Sindh shall ensure the distribution of BARDANA to the petitioners/growers/Khatedars on or before 25-04-2024 positively without fail; however their other ancillary issues shall be taken care of accordingly.*

*The compliance report shall be submitted by the Secretary Food Sindh/concerned District Food Controller through the Additional Registrar of this Court accordingly within a week. Office is directed to send the copy of this Order by fax to all concerned.*

*These petitions are disposed of accordingly”.*

Learned AAG has filed statement in C.P No. D-437 of 2024 and submit that the petitioners have not approached the office of concerned District Food Controller for obtaining permission pertaining to issuance of BARDANA in their favour from concerned Wheat procurement Centers; however, he agreed that as when they approached the concerned Officer, they will be granted permission for issuance of such BARDANA as per Policy notified by the Government of Sindh dated 18-03-2024. The submission made by the learned AAG has not been opposed by the learned counsel for the petitioners and petitioners who are present in person; however, they state that this Order shall be passed in terms of the ratio of the order dated 24-04-2024 passed by this Court in the referred petitions and they may be provided the requisite BARDANA as per their entitlement under the Policy. The request seems to be reasonable is exceeded to and these petitions are disposed of in the terms of the order dated 24-04-2024 as discussed Supra. The petitioners shall approach the concerned officials for such BARDANA as per policy.

Secretary Food Sindh shall ensure the distribution of BARDANA to the petitioners/growers/Khatedars on or before **26-04-2024** positively without fail; however their other ancillary issues shall be taken care of accordingly.

The compliance report shall be submitted by the Secretary Food Sindh/concerned District Food Controller through the Additional Registrar of this Court accordingly within a week. Office is directed to send the copy of this Order by fax to all concerned.

These petitions are disposed of accordingly.

JUDGE

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