

ORDER SHEET  
IN THE HIGH COURT OF SINDH AT KARACHI

**High Court Appeal No.60 of 2024**

M/s. Abbot Laboratories Pvt. Limited  
Versus  
Federation of Pakistan and others

DATE	ORDER WITH SIGNATURE OF JUDGE(S).
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Present:  
Mr. Justice Muhammad Shafi Siddiqui  
Mr. Justice Omar Sial.

Hearing case (priority)

1. For order on office objection/reply at "A".
2. For hearing of main case.
3. For hearing of CMA No.337/2024 (Stay).

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**Dated 14.03.2024**

M/s. Abdul Sattar Pirzada and Mamoon N. Chaudhry, Advocates for appellant.

Mr. S.M. Ghazanfar, Advocate along with Mr. Jameel Ahmed for Respondents/DRAP.

Mr. Abdul Majeed Ansari, Assistant Director MOH, Karachi.

Mr. Khaleeq Ahmed, D.A.G.

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**Muhammad Shafi Siddiqui, J.-** This appeal is arising out of an order passed on 23.01.2024 deciding several other suits along with the instant suit. It is appellant's case that the suit was not even taken up or tagged with the rest of the bunch, as involved different points and controversy and ought to have been dealt with independently. Incidentally it was fixed on the same day and was taken up as if it was clubbed earlier with the bunch involving same questions. It is claimed that the impugned order is confusing, as at one end it suggests rejection of plaint, whereas, on the other hand the suits were dismissed having become infructuous on account of the fact that the remedy after the decision of the appellate authority was not availed and even if it does, the follow-up petition should have been preferred at Islamabad. In the end Mr. Pirzada submits that if at all it is to be referred to the Appellate Board,

then it could only be ordered if it is functional as the interim order is inevitable. He submits that the jurisdiction of this court was invoked as the Appellate Board was not functional at all at the relevant time.

2. Mr. Ghazanfar, learned counsel for the Drug Regulatory Authority of Pakistan [DRAP] has appeared and has conceded that the only jurisdiction that could have been exercised in the circumstances is of the Appellate Board, which was not functional at the relevant time when the suit was filed. It is still claimed that if the Board is not being functioning, however, it is expected and believed that the notification will certainly be issued in the coming week. He submits that in case such matters are referred to the Appellate Board, they would be dealt with in accordance with law.

3. The conclusion drawn by the learned single Judge in para-22 is as under:-

*22. Appropriate remedy is appeal before Appellate Board and if aggrieved, writ jurisdiction at Islamabad High Court, therefore captioned complaints are liable to be rejected Under Order VII Rule 11 C.P.C along-with injunction applications. However subsequently in view of directions issued by this court, authority passed speaking order, but the same has not been assailed before Appellate Authority in line with the provisions of Section 9 & 9A, of the Drugs Act, 1976, nor the complaints were amended, as a result of which the present suit proceedings would not serve any purpose, therefore, suits having become infructuous, are dismissed on both accounts.*

4. We, therefore, are of the view that no doubt the subject controversy could at best be set at rest before the Appellate Board in terms of the Drug Act, 1976, however, since the Board was not operating, the appellant at the relevant time could not be left remediless. It is now claimed that the Board shall start functioning from next week; thus, in view of the above facts and circumstances

and as agreed by Mr. Ghazanfar, the appellant may approach the Appellate Board by filing their appropriate appeal along with application for any interim relief, as required within 7 days. However, till such time the Appellate Board is made functional and take cognizance of the appeal and hear parties and decides injunctive relief and/or controversy, the coercive action may not be taken<sup>1</sup>. Order accordingly.

5. We presume that the learned single Judge has also suggested in the concluding para that the appellant may approach the Islamabad High Court in a writ jurisdiction, if aggrieved of the decision of the Appellate Board. Such jurisdiction if not available with the learned Judge, no further order could have been passed and such jurisdiction of suggesting the appellant, cannot be exercised by the learned single Judge, as the law would take its own course as far as the jurisdiction of the courts are concerned, hence to such an extent the impugned order is set aside.

6. The appeal stands disposed off in the above terms along with listed application(s).

JUDGE

JUDGE

Ayaz Gul

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<sup>1</sup> Order passed by this Court in C.P. No.D-3743/2021 [The Searle Company Limited v. Federation of Pakistan and others].