

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

C. P. No. D-1100 of 2023

(Engro Fertilizers Limited v. Government of Sindh & others)

Present:

Mr. Muhammad Iqbal Kalhoro, J.

Mr. Arbab Ali Hakro, J.

Date of hearing : **16-04-2024**

Date of decision : **16-04-2024**

M/s Taha Alizai, Fawad Syed and Shaezer Azmat, Advocates for the petitioner.

Mr. Nisar Ahmed Bhanbhro, Advocate for respondent No.2.

Mr. Ali Raza Baloch, Assistant Advocate General Sindh.

ORDER

Muhammad Iqbal Kalhoro, J. – Petitioner, a business concern running Engro Fertilizer over the land situated in Dehs Jung and Raharki Taluka Daharki district Ghotki, is aggrieved by impugned Notices dated 10.04.2023, 07.06.2023 and 20.06.2023, available at page-23 and onward, given by the Director, Town Planning Sindh Master Plan Authority, Hyderabad calling upon it to submit application along with relevant property documents for commercializing the mentioned property to avoid penal consequences.

2. The case of the petitioner is that it is running the company under an agreement dated 22nd December, 1970, whereby the land was granted to it by the Government of Sindh for construction and operation thereon of a plant to manufacture fertilizers, chemical and by-products thereof together with such additional or ancillary facilities or amenities. Hence, the petitioner is not required to obtain any permission from any government department for the said purpose because grant of the land is a superior outlook than the concept of lease given to a person for running a business concern.

3. On the other hand, the case of the other side is that the law requires the petitioner to seek necessary permissions from all concerned departments of Government of Sindh for running a fertilizer company irrespective of grant of land for such purpose by

the Government which only provides a right of the grantee over the land to use the same for such purpose.

4. We have heard the parties at some length and are of a humble view that since against an adverse final order to be passed under Regulation 6 of Sindh Interim Building & Town Planning Regulations, 2018 r/w section 6 of Sindh Building Control Ordinance, 1979 in consequence of impugned notices, a remedy is provided to the petitioner to challenge the same within a stipulated period of 30-days, the petition for the relief(s) essentially seeking enforcement of sanctity of the agreement is not maintainable. Any concern, who has been granted land by the Government or any other forum/entity, would be required in law to seek all necessary permissions for running a particular company including the one manufacturing the fertilizer. The grant of land in such context is limited only to reorganization of a right over the use of land for such purpose and will not be deemed to curtail or snuff out all other requirements envisaged in law to be complied with first for establishment and running a particular nature of business. In this case, since the petitioner has already replied impugned notices and which *prima facie* respondents have not found satisfactory, let them pass some order thereupon within the 15-days, but after providing an opportunity of hearing to the petitioner. If the order is adverse to the interest of the petitioner, it may file appeal against such order within a stipulated period of 30-days. Till that time, however, no coercive action shall be taken against the petitioner in terms of impugned Notices. However, after the appeal is filed or limitation period for filing of such appeal expires, whichever is earlier, the concession/facility provided under this order shall automatically expire.

5. This petition along with listed application is **disposed of** accordingly.

J U D G E

J U D G E

Ahmad