

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

C.P.No.D-7029 of 2021
a/w C.P.No.D-452 of 2022

DATE ORDER WITH SIGNATURE(S) OF JUDGE(S)

C.P. No. D-7029 of 2021

For hearing of CMA No.17524/2023.

C.P. No. D-452 of 2022

For hearing of CMA No.18859/2023.

13.11.2024

Ms. Maria Ahmed, Advocate for the Petitioner (C.P.No.D-7029/2021)

Mr. K. Jehangir, Advocate for the Petitioner (C.P.No.D-452/2022)

Mr. Khaleeq Ahmed, D.A.G.

Mr. Fahim Raza, Advocate for the Respondent No.4 (F.B.R)

Ms. Syeda Sidra Majid, Section Officer, Cabinet Division.

1. The Petitioners pray for initiating contempt proceedings against members of the Federal Cabinet. The application has come about in the following circumstances.

2. The judgment passed in this petition on 07.04.2023 was that:

“24. That being so, while setting aside the impugned Decision to the extent of the Subject Vehicles, we hereby remand the matter for decision afresh through a speaking order on the basis of a proper summary to be prepared by the Ministry and placed before the Cabinet within 10 days of the date of this Judgment, incorporating Paragraphs 3 and 5 of the Judgment in the Prior CPs, as well as paragraphs 22 and 23 above. The auction of the Subject Vehicles to remain in abeyance pending such determination. The Petitions stand allowed in such terms.”

3. In furtherance of the above, the matter was placed before a Cabinet Committee comprising the Minister for Law, the Minister for Commerce and the Minister for Board of Investment, who recommended to the Cabinet that:

“In view of the foregoing, the Cabinet Committee for Relaxation of Import/Export related conditions/prohibitions, constituted vide Notification of 11 October 2022, deliberated up the issue in its meeting held on 20 July 2023, and directed MoC to place it before the Cabinet for decision, with the following recommendations;

- i. Import of these cars may be allowed subject to payment of duties as provided under SRO 833 and surcharge at the rate of 10% of the applicable duties, and*
- ii. A decision in principle may be made to allow import clearance all the vintage cars imported under the SRO 833/2018 dated 3 July 2018 till 7 March 2022 (when the SRO 833/2018 was rescinded by FBR).”*

However, the decision of the Cabinet was simply:

“The Cabinet considered the summary titled ‘One-Time Condition for Release of Vintage Cars’ dated 25th July, 2023, submitted by the Commerce Division, and did not approve the proposal contained in para 7 of the summary.”

4. Counsel for the Petitioners submit that even though the Cabinet Committee constituted for the purpose had recommended that the subject vehicles be released in terms of the erstwhile SRO 833, the Cabinet has given no reason whatsoever for declining the same, thereby committing contempt of court. On the other hand, the learned DAG submits that the Cabinet had duly considered the summary placed before it but decided not to approve it which was its prerogative.

5. We are inclined to agree with learned counsel for the Petitioners that despite the order of the Court to pass “a speaking order”, the decision of the Cabinet is devoid of reasons. While that decision refers to the summary of the Cabinet Division, it does not notice let alone discuss the recommendations made by the Cabinet Committee. Agreed, that said recommendations were not binding on the Cabinet, but then there were also two detailed judgments of the Court setting-out points of law and fact upon which the Cabinet was called upon to deliberate. In the absence of a speaking order there is nothing to show that the Cabinet had even considered those judgments. Therefore, we observe that the

judgment dated 07.04.2023 passed by the Court has yet to be complied with. The DAG shall refer the matter to the Cabinet once again with a copy of the order dated 07.04.2023 along with this order for a decision afresh in three weeks.

To come up after four weeks. Office to place a copy of this order in the connected petition listed above.

Judge

Judge

nasir