

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA
C.P. No.D-2566 of 2011.

DATE OF HEARING	ORDER WITH SIGNATURE OF HON'BLE JUDGE
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1. For Katcha Peshi.
2. For Hearing of M.A.No.6821/2011.

01.12.2016.

Syed Sikandar Ali Shah, advocate files power on behalf of the petitioners, which is taken on record.

Mr. Abdul Hamid Bhurgari, Addl. A. G.

Instant petition has been filed by the petitioners seeking directions to respondents for the implementation of Notification dated 07.02.2011 issued by the Government of Sindh, Secretary Agriculture Department, the respondent No.1 and declaration that the Order dated 22.09.2011, issued by the Secretary Agriculture Department, Govt. of Sindh, the respondent No.2 to have been issued in colourable exercise of powers and in excess of authority is illegal, malafide and without lawful authority, thus can not hold field.

Mr. Syed Sikandar Ali Shah, learned counsel for the petitioners contends that the petitioners are serving in market committee which is a statutory body and the pay scales are given to all the employees according to Government policy/rules. He further contends that the employees of market committee are receiving the benefits from the recovery of market fee as they are drawing salaries from it and they are paying 50% of the recovery to the Government as share towards pensionary benefits to the employees of unified grade and also are expanding 50% on development/maintenance of the offices and other day-today necessary expenses. He also contends that previously upto the year 2010-2011 the rate of market fee on paddy product was fixed at 0.32 per mound and due to such meager rate the employees of Taluka Kashmore, Thull and District Jacobabad were not able to receive their salaries. Looking to such critical position, Government of Sindh issued Notification dated 07.02.2011 whereby the schedule of recovery of market fee was amended by revising the rate of paddy product At Rs.1.00 per fifty kilogram but subsequently respondent No.2 issued Order

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dated 22.09.2011 directing the recovery of Market fee at lump sum rate of Rs.40,000/- in Sindh Province on sale or purchase of paddy. He added that due to subsequent Order, every Market Committee is sustaining loss in lacs of rupees, hence the impugned Order being in violation of Notification dated 07.02.2011 is illegal, ultra vires, therefore, the same is liable to be declared as such and the said Notification is liable to be restored to its original position.


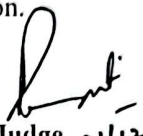
Mr. Abdul Hamid Bhurgari, learned Addl. A. G while opposing the contention of learned counsel for the petitioner maintains that under section 14 of Agriculture Produce Market Act, 1939, the Market Committees have been declared as body corporate while under section 19 (ibid) the Market Committee may levy and collect the fees on an Agriculture produce bought or sold in its notified market area and the fees so called is utilized for payment of salary, pension and required expenditures under section 21 of the said Act. He further maintains that in past Market Committees were contributing pension fund contribution against their Unified Grade Services employee to the Pension Fund Committee but after amendment in Sindh Unified Grade Committee Service Rules, 1983, now Market Committees are solely responsible for payment of service benefits of their retired employees. He also maintains that since there was meager recoveries from Rice Mills of Sindh Province in past, the respondent No.2, issued impugned order regarding fixation of market fee for transparent collection so that the market Committee may meet with required expenditures including pay and pension of regular and retired employees and after issuing the impugned order dated 22.09.2011, the market committees of the Province are being benefited and their income is more than the income which Market Committee generated in past years.

Heard the learned counsel for the parties and perused the material available on record.

It may be noted that the respondents No.2, 3 & 4 filed their para-wise comments to the petition on 03.10.2012, wherein it has categorically been stated that the impugned Order dated 22.09.2011 was issued in the best interest of market committees for the transparent collection so that the market committees may get sufficient amount from the Rice Mills for further payment of salaries and pension of employees and to meet with other expenditures. It has also been mentioned in the comments that after



issuance of said impugned Order the Market Committees are being benefited and their income is more than the income generated in the past years. The petitioner has not filed any counter affidavit or objection to the comments filed by the said respondents, hence stance of respondents in this regard stands un-rebutted. Moreover the petitioners being employees of market committees have failed to show their *locus standi* to maintain this petition as they are not the effectees of impugned Order. This petition is; therefore being devoid of merits is dismissed, accordingly along with listed application.


Judge

Judge 01/12/2016