

ORDER SHEET
**IN THE HIGH COURT OF SINDH, CIRCUIT COURT,
LARKANA.**

Constitutional Petition No.D-508 of 2024.
(*Re. Ghulam Nabi & Ors v. D.C Kashmir & Ors*)

DATE OF HEARING ORDER WITH SIGNATURE OF HON'BLE JUDGE

Before:

Mr. Justice Muhammad Saleem Jessar.
Mr. Justice Adnan-ul-Karim Memon.

Date of hearing & Order: 20.02.2025.

Mr. Habibullah G. Ghouri, advocate a/w the petitioner.

Mr. Liaquat Ali Shar, Addl. A.G. a/w Agha Farooque Ahmed, Deputy
Director, Sindh Food Authority, Kashmir.

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ORDER

ADNAN-UL-KARIM MEMON - J.:- The petitioners request the following relief
from this Court:

- a) *A writ of Mandamus, declaring the action of respondent No. 01 and their order dated July 30, 2024, prohibiting the transportation and movement of fresh milk and dairy products, to be null and void, as it was issued without lawful authority, jurisdiction, or justification.*
- b) *A writ of prohibition, restraining the respondents from interfering with the petitioners' lawful business of fresh milk and dairy products.*
- c) *An order directing the respondents to establish milk and dairy product testing laboratories in District Kashmir at Kandhkot and to regularly regulate, check, and test the milk through experienced and well-trained staff.*

2. The case of the petitioners is that they are licensed by the Director General Sindh Food Control Authority, Larkana (Respondent No. 03), and operate a fresh and pure milk business, their primary source of income. They averred that they collected milk from various locations in District Kashmir at Kandhkot and neighboring areas of District Sadiqabad, Rahimyar Khan (Punjab). However, subordinates of Respondents No. 01, 03, and 05 regularly inspect the milk, demanding illegal gratification and commissions from the petitioners and other dairy businesses. Refusal to comply with their demand, results in threats of confiscation and destruction of milk, along with fines. It is submitted that the untrained employees of the respondent department have destroyed the petitioners' milk due to non-payment, causing significant financial losses. It is added that false reports regarding the milk quality were/are then submitted to Respondent No. 01 (Deputy Commissioner Kashmir at Kandhkot) and other officials, severely affecting the petitioners' legitimate milk business. It is submitted that on July 30, 2024, Respondent No. 01 issued an order restricting the transportation and movement of milk to and from District Kashmir at Kandhkot from other provinces.

This order has devastated the petitioners' businesses, despite their licenses, and caused hardship for thousands of consumers. The petitioners, assuring Respondent No.1 of their commitment to providing high-quality milk and their non-involvement with adulterated products, voluntarily offered their milk for inspection by trained personnel at laboratory points. It is submitted that Respondents No. 01, 03, and 05 admitted the absence of a government milk testing laboratory in District Kashmore at Kandhkot and requested the petitioners to provide the necessary equipment, a responsibility that falls upon the respondents using government funds. To address this, the petitioners purchased testing equipment in Lahore and provided it to Respondent No. 03 via Respondent No. 01's office. However, the respondents have neither established a testing laboratory nor permitted the petitioners and other milk sellers to collect and sell milk, leading to hardship for the petitioners, their families, and countless others involved in the milk trade. This situation also results in significant daily financial losses to the public treasury. For sake of convenience, an excerpt of the order is reproduced as under:-

"In order to address the growing public concerns about health hazards from adulterated Milk in the local markets of the district. The general public condemns the price structure, unavailability of pure milk and deteriorating local market prices affecting cattle rearing in rural areas. Sindh Food Authority initiated action against toxic and adulterated milk products resulting in appearance particles of boric acid and detergent rendering milk not fit for human consumption. To regulate the transportation, equitable supply of pure milk products in the district and uphold public trust in government functions, the pure milk as essential commodity shall be supplier as per health hygiene standards under the law/rules. In pursuance of powers conferred upon by section 3 (2a)(2c) and section 4 of The Sindh Essential Commodities, Price Control and Prevention of Profiteering and Hoarding Act, 2005 (Amended 2023). I, Ameer Fazal Avesi, am pleased to order that transportation through vehicles & movement of contaminated/adulterated milk products from other provinces inside the jurisdiction of district Kashmore @ Kandhkot shall be strictly prohibited till further order.

DIRECTIONS:

The Senior Superintendent of Police, Kashmore @ Kandhkot, Wing Commander, 51-Wing, Shahbaz Rangers, Assistant Commissioners and Deputy Director, Sindh Food Control Authority, Kashmore @ Kandhkot are required to prohibit the movement of vehicles/containers of Milk from other province i.e Punjab and Balochistan to District Kashmore @ Kandhkot"

3. Mr. Habibullah G. Ghouri, the learned counsel for petitioners submitted that the July 30, 2024 order issued by Respondent No. 01 was/is unlawful, unauthorized, and issued in bad faith. He contended that the impugned order violates their fundamental rights to trade, commerce, and business as guaranteed by Article 18 of the Constitution of the Islamic Republic of Pakistan 1973, and contravenes established legal precedents on the subject issue. He argued that the petitioners have unsuccessfully sought redress from Commissioner Larkana. He emphasizes that, as licensed dairy businesses under the Sindh Food Control Authority, they cannot be prohibited from operating under the pretext of contaminated milk. The respondents' failure to establish milk testing

laboratories and regulate the milk trade, as is their duty, further exacerbates the situation. learned counsel, referencing the statements made under oath in his affidavit in rejoinder, requests that the petition be resolved following the Standard Operating Procedures (SOPs) proposed by the petitioners in that same affidavit.

4. The learned Additional Advocate General (A.A.G.) submits that the petitioners, involved in the sale, purchase, and transport of dairy products across Sindh, Punjab, and the Nasirabad Division of Balochistan (as reported to the Assistant Commissioner Tangwani, District Kashmore), operate under a license issued under Section 19(1) of the Sindh Food Authority Act 2016. However, this license is subject to conditions and can be canceled or suspended under Section 20(2) of the same Act for non-compliance with improvement notices. As per learned AAG the petitioners collect milk from rural areas at low prices and transport it to other cities for sale at higher prices, allegedly creating a supply and demand gap that contributes to food inflation due to local milk shortages. He added that Milk transported from Punjab has, on occasion, tested positive for adulterants like boric acid and detergent (Annexure-A) by the Sindh Food Authority. However, the respondents deny any wrongdoing, stating that all operations, checkpoints, and seizures are conducted under the supervision of senior officers, including the Assistant Commissioner, Food Safety Officers, and Mukhtiarkars, who are legally authorized to do so. They claim the petitioners have interfered with these operations, threatening and disrespecting officers, particularly at rural collection points suspected of handling unfit milk for consumption, leading to unrest and protests against adulterated milk. He submitted that a seizure and search operation in June 2024 resulted in fines for adulterated milk (Annexure-B), with the petitioners identified as major suppliers to vendors selling such milk. He argued that to regulate prices, supply, and demand, and support local milk producers, the transportation of untested milk from Punjab was prohibited under relevant sections of the Sindh Essential Commodities, Price Control and Prevention of Profiteering and Hoarding Act 2005 (Amended 2023). The petitioners' local supply network remains operational under Sindh Food Authority supervision. The respondents deny the petitioners' claims of being denied the ability to test milk. They state the petitioners approached them with "political motives and pressure tactics," demanding a laboratory within their premises and a purity stamp on their milk supply chain, which the respondents deemed inappropriate. The respondents further allege the petitioners launched a social media campaign against the Sindh Food Authority's certified testing system, undermining public trust. The petitioners were directed to provide sales and purchase records under Section 5(e) of the Sindh Essential Commodities Act. Their failure to do so led to accusations of hoarding. Subsequently, the petitioners and other milk suppliers from Punjab proposed establishing a food testing laboratory at District Kashmore in coordination with the Sindh Food Authority. This

proposal was forwarded to the Directors General of the Sindh and Punjab Food Authorities, but the petitioners allegedly failed to meet lab equipment standards and hygienic supply requirements while simultaneously increasing milk transport from Punjab. The respondents assert that the petitioners are permitted to supply and transport locally produced milk, subject to Sindh Food Authority testing. They claim that the local milk market and the public are satisfied with the current supply of affordable, pure milk. They accuse the petitioners of causing losses to the public treasury through underreporting and concealing transaction levels, requesting an investigation by the FBR and other agencies. He supported the July 30, 2024 order, prohibiting milk supply from Punjab was issued legally and with justification, the respondents claim, citing health risks associated with unchecked milk from other provinces. They state the order has received widespread support. They submit that the Sindh Essential Commodities, Price Control and Prevention of Profiteering and Hoarding Act 2005 (Amended 2023), empowers them to regulate essential commodities in the public interest. The respondents submit that the petitioners lack clean hands, operate dairies distribute milk without proper licensing from the Sindh Food Authority, and have made false allegations to gain illegal benefits and submit that the government has drafted and prepared Standard Operating Procedures (SOPs), and the officer present in Court has no authority to disregard them. However, the A.A.G. points out that the petitioner has been fined by the respondent department on numerous prior occasions, characterizing them as habitual offenders. Therefore, the A.A.G. argues that the petitioners are not entitled to the relief sought and prays for the dismissal of the petition, emphasizing the need to protect public health and maintain the local fresh milk supply.

5. We have heard the learned counsel for the parties and perused the record with their assistance.

6. Milk is a nutrient-rich "complete food" containing vitamins, minerals, proteins, healthy fats, and antioxidants. Its high-quality protein, with all nine essential amino acids, helps reduce age-related muscle loss. Milk also promotes bone growth and reduces the risk of osteoporosis and fractures. Synthetic milk, a dangerous imitation of real milk, is often called "sweet poison." It is a heavily adulterated mix of water, detergent/soap, sodium hydroxide, vegetable oil, salt, and urea. While not immediately fatal, it gradually damages the body, creating a breeding ground for disease. Research shows synthetic milk causes eye swelling, and liver and kidney problems, and is especially harmful to pregnant women, heart patients, those with high blood pressure, and, most critically, young children. Synthetic milk comprises a staggering 15-20% of Pakistan's urban milk supply that's two million liters every day. This poses a severe health risk, especially for vulnerable populations like young children and pregnant

women. Regular consumption of synthetic milk gradually weakens the body, making it susceptible to various diseases. Furthermore, the dairy industry frequently uses banned hormones like bovine somatotrophin (BST) and oxytocin, despite prohibitions in the EU, Canada, India, and other nations. Oxytocin, commonly injected into dairy animals, contaminates the milk supply and has been linked to serious health issues, including uterine cancer, male impotence, baldness, and premature puberty.

7. Milk adulteration, prevalent, poses serious health risks due to common adulterants like water, detergents, urea, and formalin. Prohibiting milk products from other provinces could be a reasonable protective measure, but fair implementation and uninterrupted safe milk supply are crucial. Addressing this requires comprehensive efforts: regular monitoring, strict enforcement, and consumer awareness.

8. Public concern over adulterated milk in Kashmore/Kandhkot, coupled with pricing issues and declining local market prices, prompted the Sindh Food Authority to act. Adulterated milk containing harmful substances like boric acid and detergent was discovered.

9. To regulate milk supply, ensure equitable distribution, and rebuild public trust, the competent authority, under Sections 3 (2a)(2c) and 4 of The Sindh Essential Commodities Act, 2005 (Amended 2023), banned the transport of contaminated/adulterated milk products from other provinces into Kashmore/Kandhkot until further notice.

10. In implementing food safety laws, authorities in the Sindh government, Food Authority, etc.), shall Protect human life and health, and consumer interests, ensuring fair food trade practices. Manage risk using risk assessment results and other relevant factors. Where potential harm exists but scientific uncertainty persists, implement provisional, proportionate risk management measures, pending further scientific data. These measures must be reviewed within a reasonable timeframe. If food poses a suspected health risk, inform the public about the nature of the risk, the food involved, and the measures being taken. If one food item in a batch/lot/consignment fails safety requirements, the entire batch/lot/consignment is presumed non-compliant unless proven otherwise.

11. In compliance with the Court's order dated September 2, 2024, a meeting was convened at the Commissioner's Office, Larkano Division, on September 5, 2024, as per the Commissioner's instructions. Milk distributors/handlers were also present to finalize the following SOPs:

SOP for Milk Distributors/Handlers in District Kashmore Kandhkot

1. Fresh milk is an essential commodity under the Sindh Essential Commodities Price Control and Prevention of Profiteering and Hoarding Act, 2005 (Amended 2023).
 2. All milk retailers and dealers must obtain a license from the Sindh Food Authority (SFA) before conducting any dairy/milk business.
 3. Stocks/collection points/storage will be checked by the Mukhtiarkar/Assistant Commissioner/Special Magistrate for Price Control as per law.
 4. Price controls will be strictly enforced.
 5. Authorized officers/Assistant Commissioners will monitor the transportation of essential commodities to maintain supply and demand balance.
 6. Milk distributors will nominate focal persons to coordinate with Assistant Commissioners, Mukhtiarkars, and SFA officials regarding milk transportation and timing.
 7. The SFA team will continue its work under the Sindh Food Authority Act, including inspections, sampling, enforcement, and legal measures.
 8. The SFA will document chemical ingredients/adulteration found in milk and discard the milk according to applicable laws. They will seek district administration assistance in case of law and order issues or obstruction.
 9. All milk transport vehicles must be labeled and properly licensed.
 10. Details of vehicle model, make, and milk capacity must be periodically submitted/updated to authorized officers/Assistant Commissioners and the SFA Deputy Director/Incharge.
 11. Disputes will be settled according to applicable laws/rules and court directions.
 12. Food business operators must obtain an SFA license for milk distribution within/outside the province.
 13. All transactions must be through bank/wallet accounts, and operators/vendors must be FBR registered.
 14. All dealers must nominate focal persons before vehicle inspection at Deramore, Kashmore, and provide their details to the SFA office in Kashmore and the concerned Assistant Commissioner.
 15. These SOPs are considered dynamic and aim to improve milk transportation and inspection for food safety and quality. The Honorable Court is requested to grant permission for revisions to address emerging challenges/issues in ensuring food safety and quality standards.
 16. These mutually drafted SOPs, covering relevant legal provisions, are submitted for the Honorable Court's further directions. A list of participants is enclosed.
12. The petitioners propose SOP additions: (A) They, not Respondents 1 & 5, should control milk supply/demand based on market fluctuations while providing supply/demand data. (B) Inspections should allow for third-party testing of sealed milk if petitioners disagree with on-site assessments. (C) Respondents 1 & 5 should return the Rs. 900,000 received for a lab. (D) Labs should be established at every Tehsil HQ and district entry point, staffed by qualified personnel, and petitioners should have freedom of trade (Article 18). Petitioners will comply with SOPs, laws, and rules, provided actions are unbiased. The Deputy Commissioner's authority concerns hoarding, black marketing, and retailer price control, not perishable fresh milk. Petitioners believe the Deputy Commissioner is acting against them personally, hindering their business. His order may lack jurisdiction, as Punjab milk is supplied

across Sindh. The Sindh Food Control Authority has already issued SOPs. The Deputy Commissioner is allegedly preventing the petitioners from operating their shops, and his subordinates are reportedly destroying their milk due to animosity. The petitioners claim this is retaliation for refusing to provide free products. They believe the petition should be granted with their suggested SOP additions.

13. To protect infants, children, and the public from adulterated milk, the food authorities have to set limits for microorganisms in pasteurized milk. Even milk from healthy animals can become contaminated at room temperature. Beyond minor skin infections, some bacteria can cause life-threatening illnesses like pneumonia and diarrhea.

14. This court reiterates that the Sindh government must address the issue seriously because milk is a traditional staple for infants and children in Sindh, and adulteration of milk and milk products is a serious concern requiring strong countermeasures. Consuming adulterated milk and milk products poses a risk to human health.

15. In view of the foregoing, we find no reason to interfere with the impugned order, which is hereby maintained. However, to fight milk adulteration, this Court disposes of this petition and directs the competent authority of respondents as under;

1. Enforce the Food Safety and Standards Law effectively.
2. Warn dairy businesses of strict penalties for chemical adulteration (pesticides, caustic soda, detergent, etc.).
3. State Food Safety Authorities must identify high-risk areas/times and increase testing.
4. Ensure adequate, accredited lab infrastructure and well-equipped food testing labs across Sindh Province.
5. District authorities must conduct special milk/milk product sampling, including mobile spot testing.
6. Regular snap surveys to check for hazardous adulterants.
7. District-level committees to be constituted, led by the Food Secretary and Deputy Commissioner, will review anti-adulteration measures without fail.
8. The Sindh government will create websites detailing food safety authority functions, complaint processes, and contact information. Toll-free helplines and online complaints must be available.
9. Public awareness campaigns (including school education on detection methods) about adulteration risks.
10. A complaint mechanism for corruption/unethical practices within Food Authorities.