

ORDER SHEET
THE HIGH COURT OF SINDH, KARACHI
C.P. No. D-1322 of 2024

Dated: Order with signature of Judge(s)

1. For hearing of Misc No. 6878 of 2024
2. For order on Office Objection
3. For hearing of Misc No. 6876 of 2024
4. For hearing of Misc No. 6160 of 2024
5. For hearing of Main Case

Date of Hearing : 15 April 2024

Petitioners : Shabbir Ahmed and 53 others through Mr. Abdul Wahid Bughio Advocate.

Respondent No. 1: : The Chief Executive Officer, Pakistan Steel Mills through Mr. Kazi Abdul Hameed Siddiqui along with Mr. Muhammad Asghar Shaheen

Respondent No. 2 : The Director Administration and Personal, Pakistan Steel Mills through Mr. Kazi Abdul Hameed Siddiqui along with Mr. Muhammad Asghar Shaheen

Respondent No. 3 : The Chief Financial Officer, Pakistan Steel Mills through Mr. Kazi Abdul Hameed Siddiqui along with Mr. Muhammad Asghar Shaheen

Respondent No. 4 : The Incharge Township Department, Pakistan Steel Mills through Mr. Kazi Abdul Hameed Siddiqui along with Mr. Muhammad Asghar Shaheen

ORDER

MOHAMMAD ABDUR RAHMAN, J. Through this Petition, maintained under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, the Petitioners have impugned various Gas Bills that have been issued to them by the Pakistan Steel Mills Corporation (Private) Limited (hereinafter referred to as "PSM") which they contend are illegal and are liable to be withdrawn.

2. Each of the 54 Petitioners were employees of PSM and were provided with accommodation in a locality known as "Steel Town". The terms of each allotment letter for each of the Petitioners units, regarding the amount to be paid for the provision of gas varies in each of their Allotment Letters with various clauses contained therein defining their obligations. It

is apparent that the Petitioner services have been dispensed with by PSM, each of whom have received Letters of Retrenchment and after which PSM has been issuing independent Gas Bills to each of the Petitioner which the Petitioners contend, is in violation of the terms of their allotments and hence they maintain this Petition.

3. PSM is an “industrial consumer” of gas which is supplied to it by the Sui Southern Gas Company Limited. It has filed comments raising numerous legal objections, including but not limited to, an objection that an adequate remedy existed before the Gas Utility Courts that have been constituted under Section 3 of the Gas (Theft Control and Recovery) Act, 2016 (hereinafter referred to as the “Act, 2016”) and which the Petitioners having not availed would render this Petition as not being maintainable.

4. The jurisdiction of the Gas Utility Courts as established are defined in Sub-Section (1) of Section 6 of the 2016, Act and which are as hereinunder

“ ... (1) Where a person is involved in an offence under this Act or where there are sums due or recoverable from any person, or where a consumer has a dispute regarding billing or metering against a Gas Utility Company, a consumer or Gas Utility Company, as the case may be, may file a complaint or suit, as the case may be, before a Gas Utility Court as prescribed by the Code of Civil Procedure, 1908 (Act V of 1908) or the Code of Criminal Procedure, 1898 (Act V of 1898).

We have considered the above provisions and are of the opinion that the jurisdiction of the Gas Utility Court is limited to three specific situations:

- (i) where an offence has been committed under the provisions of the 2016, Act; or
- (ii) where there are sums due or recoverable from any person; or
- (iii) where a consumer has a dispute regarding billing or metering against a Gas Utility Company.

5. Under clause (h) of Sub-Section (1) of Section 2 of the 2016, Act the expression “Gas Utility Company” has been defined as hereinunder:

“ ... mean Sui Southern Gas Company Limited, Sui Northern Gas Pipelines Limited and such other companies, government agencies or persons licensed by the Authority, that the Oil and Gas Regularity Authority may, from time to time, determine and publish in the official Gazette;”

As per the definition given hereinabove, PSM being an “industrial consumer” of gas cannot be classified as company, government agency or person that has been issued a license by the Oil and Gas Regulatory Authority to sell gas in Pakistan. As such, while it does claim an amount under the heading of a gas bill, it cannot be classified as a company supplying gas and has only implemented a mechanism to recover a proportion of the costs that are incurred by it for housing its workers by deducting such an amount from its workers salary and which amount would be utilised in paying its bill to the Sui Southern Gas Company Limited. We cannot find anything that would be considered to be illegal in such a scheme as clearly, while the final liability would be that of PSM, it would not be illegal for PSM to enter into an agreement with any person, to whom it allots a property, to reimburse the costs incurred by it for consuming gas. To our mind this would not make PSM a supplier of gas or a gas utility company and its status would continue to remain that of an “industrial consumer” of Gas.

6. Having come to the conclusion that PSM is not a “Gas Utility Company” and rather that it is an industrial consumer, we would therefore conclude that the Gas Utility Court would not have the jurisdiction to deal with the dispute involved in this *lis*. The Petitioner cannot therefore be prevented from maintaining this Petition on this ground. Needless to say, this Order will in no way interfere with PSM maintaining any other grounds as to the maintainability of this Petition and which having not been argued before us can be pressed by PSM at the time of the hearing of this Petition and which should be relisted by the office in the third Week of August 2024.

JUDGE

JUDGE

ANNOUNCED BY

JUDGE

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