

ORDER SHEET

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Constitution Petition No.D-2106 of 2024
(*Ghulam Shabbir & others Vs P.O Sindh & others*)

Constitution Petition No. D-2322 of 2024
(*Shahmeer Ali Vs P.O Sindh & others*)

DATE OF HEARING	ORDER WITH SIGNATURE OF JUDGE
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Before;
Muhammad Saleem Jessar J;
Adnan-ul-Karim Memon, J;

For hearing of main case.

Date of hearing and order 12-02-2025.

Mr. Illahi Bux Jamali advocate for the petitioners.
Mr. Shaharyar Imdad Awan, Assistant Advocate General Sindh along with Arif Ali Jagirani Sub-Divisional Forest Officer Naushahro Feroze.

Adnan-ul-Karim Memon, J. The Petitioners, claiming to possess valid sawmill licenses that are renewed annually (as per Annexure A), request this Court to compel the Respondents to allow them to operate their sawmills in their respective area, which has been restricted under the garb of order passed by this court.

2. These petitions arise in the context of previous litigation (Constitution Petition D-1688 of 2021, filed by Petitioner Hubdar Ali Mallah) concerning forest encroachment and the Supreme Court's subsequent order on the subject issue. On October 1, 2024, this Court directed Deputy Commissioners of several districts to prevent sawmill operations within 10 kilometers of forest boundaries and to relocate existing sawmills beyond that limit.

3. Learned counsel for the petitioners argued that Respondent No. 4, instead of targeting *illegal* sawmills, unjustly issued closure notices to Petitioner No. 1 and an unnecessary license renewal notice to Petitioner No. 2 (whose license remains valid until June 30, 2025, and against whom no complaints exist with any respondents. He added that Respondent No. 4 then misused this Court's October 1, 2024, order to forcibly and unlawfully close the Petitioners' sawmills (Annexure B). Per learned counsel the Petitioners have consistently operated their businesses lawfully, complying with all rules and regulations and regularly renewing their licenses. He emphasize that Respondent No. 4's actions have

infringed upon the Petitioners' legal and fundamental constitutional rights. He prayed for allowing the petition.

4. The respondents filed a report and detailed comments and submitted that that the petitioners failed to comply with the conditions and illegally established sawmills in the prohibited zone and requested the petition's dismissal as the same falls within the ratio of the order passed by this court in Hubdar Ali's case supra.

5. We have heard the counsel for the parties and perused the record with their assistance and order passed by this court.

6. In *Hubdar Ali Mallah's* case, restrictions on sawmill operations near protected forests were maintained. The petitioners argued a shutdown notice violated their fundamental rights of earning their bread and butter. However, citing established precedents, this court has already determined that the restrictions, including the 10km buffer zone, were/are reasonable and served the public interest of environmental conservation, which is in line with the judgment passed by the Supreme Court in Qazi Athar Ali's case. This court reasoned that the restrictions were/are not arbitrary, as their purpose was to prevent deforestation. This key order established the principle that environmental protection can take precedence over individual business rights, setting a precedent for balancing development with sustainability.

7. Primarily, sawmills proprietors are required to register their businesses with the Forest Department and maintain specific records. While the petitioners claim to have met all requirements, they have not provided any evidence of maintaining the necessary records. Furthermore, they have failed to demonstrate that their businesses are not operating within the prohibited 10-mile radius of the forest. Without this supporting documentation, the petitioners' challenge to the notices is unsubstantiated, even if their businesses do not falls within the prohibition this factum requires evidence and it is for the respondents department to look into to the that aspect and if their businesses are genuine do not falls within the prohibitory area they cannot be disturbed, as the petitioners assert they operate their businesses in compliance with all regulations, while the respondent department denies this. This Court, in its writ jurisdiction, cannot summarily resolve such a factual dispute on the subject issue. Questions involving factual controversies cannot be decided under Article 199 of the Constitution.

8. Relocating sawmills and related operations away from forests serves primarily to protect natural ecosystems. Proximity to forests often leads to overexploitation, deforestation, and biodiversity loss. Relocation encourages responsible sourcing and promotes forest regeneration and conservation.

Additionally, industrial activities like sawmilling can generate significant noise, dust, and waste pollution, posing a risk to nearby forest environments, air quality, and water sources.

9. The relocation of sawmills, firewood storage, and furniture showrooms away from forests is driven by a range of environmental, economic, and social considerations. This move not only safeguards delicate ecosystems and encourages sustainable resource use but also contributes to cleaner urban areas and better community relations. As the world faces challenges like climate change and biodiversity loss, such strategies are crucial for a sustainable future that balances industrial needs with ecological preservation. Prioritizing forest and community health paves the way for a more harmonious relationship between industry and nature.

10. In this era of global warming, robust forest protection is crucial. Often called the "lungs of the Earth," forests play a vital role in mitigating climate change and global warming. Through interconnected processes like carbon sequestration and biodiversity preservation, forests are essential for building a sustainable future.

11. In view of the foregoing, the respondents were justified in issuing notices to the concerned to relocate their sawmills, etc., outside the 10 km radius of the forest boundary. The petitioners' counsel has failed to demonstrate sufficient grounds for intervention by this court, which is subject to operation of their business outside the 10 KM radius of the Forest boundary and if outside they are free to operate their businesses in accordance with law. Therefore, these petitions are disposed of in the above terms.

Office is directed to place a signed copy of this order in the captioned connected matters.