

**IN HIGH COURT OF SINDH, CIRCUIT COURT,
HYDERABAD**

CP No. D-1003 of 2014

PRESENT:

MR. JUSTICE ARBAB ALI HAKRO

MR. JUSTICE RIAZAT ALI SAHAR

None present for the petitioner.

Mr. Muhammad Ismail Bhutto, Additional Advocate General Sindh.

Date of hearing & decision: 04.03.2025.

ORDER

RIAZAT ALI SAHAR, J: - Through this petition, the petitioner claims to be a social activist in District Tando Muhammad Khan, dedicated to public welfare. He asserts that the Pandhi Wah System, originally a non-perennial system, was converted into a perennial system in 1973 upon representations made by *Khatedars*. This conversion was undertaken through an approved government scheme, involving extensive work at significant public expense.

2. However, in 2001, the Sindh Irrigation Department, without consulting the *Khatedars*, issued a notification dated 30.06.2001, reverting the Pandhi Wah System to a non-perennial system and transferring its administrative control back to the Guni Canal Division, effective from 01.07.2001. The petitioner further alleges that respondent No.4, in collusion with other officials of the Irrigation Department, unlawfully sold scrap material, including valuable iron pipes worth billions of rupees, which were located at the 30th Mile Regulator of the Phuleli Canal, Tando Muhammad Khan. He contends that this sale was conducted without due process, public notice, or an

auction, in blatant violation of the Sindh Public Procurement Rules, 2010.

3. The petitioner also claims that respondent No.4 fraudulently issued an illegal Delivery Report (D.R.) in favour of his associate, Mr Shakeel Kabbari, without following the requisite legal procedures. Furthermore, he states that on 28.04.2014, when Shakeel Kabbari was in the process of loading the scrap onto trucks, the local police intervened and seized the material, thereby confirming the illegal nature of the transaction.

4. The petitioner, therefore, prays for the following reliefs:

- a). *To declare the act of respondent No.4 by issuing the illegal D.R Delivery Report on favoritism in order to sale of Scrape i.e. Iron Pipes of Billion Rupees from 30th Mile Regulator of Irrigation Department of Government of Sindh is illegal without due course of law and is clear violation of Rule 17 Methods of Notification and Advertisement of Sindh Public Procurement Rules of 2010.*
- b). *To direct the Respondent No.1 to take Departmental Action against the illegal act of the official respondents involve in the illegal theft and misappropriation to sale the billion rupees scrape of Irrigation Department Government of Sindh lying on the 30th Mile Regulator of Pandhi wah Guni Canal Tando Muhammad Khan.*
- c). *To direct the respondents No.8, 11 and 12 to conduct impartial inquiry/investigation into the FIR bearing crime No.61/2014 u/s 379 PPC on PS Tando Muhammad Khan lodged by the respondent No.10 and against the official respondents of Irrigation Department as such they have committed misappropriation/corruption being a Public Servant and submit such report before this Honorable Court within stipulated time.*

d). Any other relief, which this Honorable Court deems fit, just and proper in favor of the petitioner.

5. Upon receiving notice from this Court, respondent No.4 submitted written comments, formally denying all allegations levelled against him. In his response, he stated that the alleged incident took place prior to his tenure. Furthermore, upon perusal of the official record, he ascertained that the scrap from the old pumping station at the 30th Mile Regulator of the Phuleli Canal had not been officially auctioned but was, in fact, being unlawfully removed by Walidad Lashari, a retired Senior Clerk of the Guni Canal Division, in collusion with Shakeel Kabbari. This illegal activity was allegedly discovered by respondent No.9 during a site visit, accompanied by respondent No.10 and his subordinates. Upon inquiry, it was revealed that Delivery Report No. 25/91, dated 27.03.2014, purportedly issued for Rs. 300,000/- in favour of Shakeel Kabbari, appeared to be fictitious and fraudulent. As a result, respondents No.9 and 10, after verifying the record, reported the matter to respondent No.12, the Station House Officer of Police Station Tando Muhammad Khan, who promptly registered an FIR. Subsequently, the police intervened, seizing the vehicles loaded with the scrap, along with a crane, and took the accused persons into custody.

6. None appeared to represent the petitioner. However, the learned Additional Advocate General, Sindh opposed the petition, arguing that the entire case is based on assumptions rather than actual facts.

7. We have heard the learned A.A.G. Sindh and carefully examined the available record. It is evident that the petitioner has failed to provide material evidence to substantiate his claims. On perusal of record, it appears that

there was no auction to have been announced by the respondents, as such, question of violation of the Sindh Public Procurement Rules, 2010 does not arise. Further, the authorities had already taken appropriate action by registering an FIR and seizing the allegedly misappropriated material. The petitioner has not demonstrated any legal right or *locus standi* to pursue this matter, nor has he shown any procedural violations warranting interference by this Court. Moreover, the allegations of favoritism and misappropriation appear to be unsubstantiated assertions without documentary proof.

8. In view of the above discussion, we find no merit in the instant petition as the respondents have acted within their lawful authority and the alleged misappropriation had already reported. Consequently, this petition is dismissed as meritless, with no order as to costs.

JUDGE

JUDGE