

**IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA**

**C.P No. D-156 of 2023**

[Muhammad Ilyas vs. Province of Sindh & Others]

**BEFORE:**

**JUSTICE MUHAMMAD SALEEM JESSAR**

**JUSTICE NISAR AHMED BHANBHRO**

Petitioner: Through Mr. Atta Hussain Qadri advocate  
Muhammad Ilyas Memon

Respondents: Through Mr. Liaquat Ali Shar Additional  
A.G Sindh a/w Mukhtiarkar Shikarpur  
(Abdul Hameed Katto)  
Mr. Muhammad Ali Memon Advocate for  
Market Committee Shikarpur

Date of hearing: 07.10.2025

Date of decision: 31.10.2025

Date of Announcement 13 .11.2025

**JUDGEMENT**

**NISAR AHMED BHANBHRO, J:-** It is the case of the petitioner that he was appointed as Chowkidar in the Market Committee (MC) Garhi Yasin in year 1990 on permanent basis. Petitioner performed his duties in MC Garhi Yasin until 12.09.2019, when he was transferred to MC Shikarpur by order of the Director General Agriculture Extension Hyderabad. Petitioner has served both the MCs without salary, viz. from 01.07.2012 to 12.09.2019 in MC Garhi Yasin and from 2019 till today in MC Shikarpur. It is further the case of the Petitioner that pursuant to transfer order dated 12.09.2019; MC Shikarpur did not allow his joining. Petitioner remained pendulum in between two MCs. Petitioner sought assistance of this Court for release of his salary and joining of service in MC Shikarpur.

2. Pursuant to Court notices, Secretary MC Shikarpur appeared in the Court on 13.03.2025 and undertook to allow Petitioner to join duties in terms

of transfer order referred above, ultimately Petitioner was allowed to join service in MC Shikarpur on 17.03.2025.

3. Learned counsel for the petitioner argued that petitioner was appointed as Chowkidar on permanent basis and he was performing his duties at MC Garhi Yaseen/respondent No.5; that petitioner was initially paid salary but w.e.f 01.07.2012 to 12.09.2019 respondent No.5 failed to pay even a single penny; that then vide Order dated 12.09.2019 issued by the respondent No.2 the services of the petitioner were transferred to respondent No.4/Chairman MC Shikarpur, but the said respondent neither allowed petitioner to resume his duties nor paid his salaries; that petitioner also moved such application to respondent No.2, but to no avail, hence this petition.

4. Conversely learned Additional A.G Sindh, assisted by Mr. Muhammad Ali Memon Learned Counsel for Respondent No 4, while referring to the comments filed by respondent No.4/Chairman MC Shikarpur, contended that petitioner was accorded joining; that some amount towards the salary of the petitioner was already credited to his account, as far as arrears as well as future salary are concerned, learned Additional A.G argued that MCs were facing shortage of funds. He further contended that under Section 14 of the Agricultural Produce Markets Act, 1939 (APM Act), the MCs in Sindh are body corporate and are operating on a self-finance basis and do not receive any funds or grants from the Government; that, at present, the MC Shikarpur has no available funds, however, the remaining amount towards petitioner's salary will be paid as and when funds become available. He prayed for appropriate orders.

5. Arguments heard and record perused.

6. The Agriculture Produce Marketing has remained the talk of the day in the sub-continent. Since pre-partition days until now the farmers have been denied "the due cash" against the crop due to a monopolized marketing system. In British Era, "The Royal Commission on Agriculture" was set up to examine this issue and furnish recommendation paving way to shun exploitation in Agriculture Produce Marketing. The Royal Commission recommended in 1928 the regulation of marketing practices and the

establishment of regulated markets for sale and purchase of agriculture produce. It proposed regulation of trade practices and the establishment of markets in the countryside, so that the places to sell agriculture commodity were available within the reach of farmers. The “Royal Commission Report of 1928” on Agriculture justified the need to establish physical marketplaces in the countryside to counter exploitation of the farmers by the private moneylenders through unregulated private marketing system. The prescribed design of these markets required a physical location managed by a neutral **“MARKET COMMITTEE”** which should have at least 50 percent representation of growers/ farmers of the area. These measures were designed for farmers to bring produce to the market instead of selling it in the village. Additionally, auctioning was specified as the mode of price discovery with the hope that it would lead to a competitive and fairer price for growers. In fact the recommendation to establish markets in countryside was foreseen as a step forward to emancipate the growers from the clutches of moneylenders and hoarders on the one hand and to ensure a fair price for the consumers on the other. For this goal to be achieved, a large number of markets had to be established in major agriculture productions regions. The government of British - India came up with a model that has been in practice for almost a century now and struggles to catch as a real market place since then.

7. The British Raaj in India prepared a Model Bill in 1938 and circulated it to all states. The Punjab was the first from the parts comprising Pakistan, to enact the *Agricultural Produce Markets Act in 1939*. This act has been the foundation of agricultural marketing ever since then. Other provinces of Pakistan followed the example of Punjab and established similar regulatory environments for the marketing of agricultural produce in the respective territories.

8. Before the 1939 Act, a variety of private markets existed that collected and traded produce. Farmers were not direct participants in those markets given the lack of logistical infrastructure and connectivity between farms and markets. Farmers had no real option but to sell to local middlemen within their villages. Often, these middlemen were also moneylenders and this intertwined role continues to this day. With poor access to market and information, farmers were never able to get a good price for their produce as

more knowledgeable and downstream connected intermediaries and participants were able to capture most of the value at the site. The farmers preferred to sell the commodities at site instead of bringing them in the markets for competitive rates.

9. Province of Sindh followed the colonial-era agricultural marketing legislation of 1939 until 2010, when *The Sindh Wholesale Agricultural Produce Markets (Development and Regulation) Act, 2010* (SWAPMDR Act) was passed by the assembly to replace the 1939 Act. SWAPMDR Act embodied many reforming and modernizing aspects including encouragement of private markets. However, the lack of implementation through lack of rules has made it ineffective and the good intentions of legislation for a reformed regulatory design have not been achieved. Sindh Law of 2010 includes the concept of a physical marketplace, managed by a Market Committees relying on commission agents acting as middlemen, with auctioning as the price discovery mechanism. The Market Companies are the prime aspect of the new law, if materialized and implemented that will usher in a new era of agriculture produce revolution, with a boost in agriculture economy by innovative technologies.

10. *The Sindh Wholesale Agricultural Produce Markets (Development and Regulation) Act, 2010*, was to come into effect after three years of its enactment as envisaged under section 21 of the said Act, which reads as under:

**21. Repeal:** *The Agricultural Produce Markets Act, 1939 shall stand repealed on expiry of three years of the commencement of this Act; provided that the Government shall continue to exercise all the powers under the Agricultural Produce Markets Act, 1939 to ensure that the statutory functions are performed by the notified markets until the same are transferred to market companies within the stipulated period as may be prescribed.*

11. The legislature through above provision of law empowered the Government to exercise all the powers conferred under APM Act. Since the notified markets have not yet been transferred to the market companies intended to be established under SWAPMDR Act, therefore, for all practical purposes the APM Act was in field and being acted upon to oversee the affairs of MCs.

12. In terms of Section 14 of the APM Act, MC is a *“body corporate”* by such name as the Government may specify in the notification establishing it, having perpetual succession and a common seal, may sue and be sued in its corporate name. The MCs instituted for the management of the markets consisted of growers, consumers, market traders, and government officials. The MC employs its own staff for regulatory purposes and for facilitating growers who brought their produce to the market. The MCs were supposed to be financially self-sustaining through the collection of transaction and licensing fees. The law also stipulated that MC is entitled to collect a market fee on all wholesale produce sold within a geographical notified area in which the actual market was located. This local monopoly on wholesale marketing for each market committee was supposed to provide a level playing field for all including those who did not bring their produce to the market but transacted outside. MCs are also responsible for providing annual licenses to commission agents that allow them to conduct business within the market premises and earn a commission on the value of produce auctioned on behalf of growers.

13. Adverting to the issue of Petitioner that since last many years he was deprived of the monthly salary. The material available on record depicted a very sad rather gloomy state of affairs in terms of the financial capabilities of MCs Shikarpur and Garhi Yaseen respectively. Despite of the fact that both the MCs were located in a fertile agriculture produce zone, where paddy (rice crop), wheat crop, lotus and vegetables were grown in abundance, the MCs were unable to generate funds to run day – to – day affairs and pay salaries to the staff and make good the pension dues to the retired employees.

14. The respondents through their comments have described the financial condition of the MC Shikarpur as severely constrained, with difficulties in disbursing regular staff salaries as well as pensions. The Secretary MC Shikarpur filed a comprehensive report to justify its abysmal financial conditions. The report contained the names of defaulter licensees, who for a decade or so failed to pay the license fees and MC was not a position to recover the same. The Reports in that regard were also called from the Director General Agriculture Marketing/respondent No.2, Regional Director Market Committee Larkana/respondent No.3, Deputy Commissioner and Assistant

Commissioner Shikarpur. The Respondents through their respective comments/statements while referring to the APM Act and Sindh Market Committee Unified Grade Service Rules 1983 (**Rules 1983**) saddled responsibility to pay salaries and pension to their employees on MC by generating funds and out of the recoveries of fees and tax collections. The contention of the Respondents is well within the limb of the provisions of APM Act.

15. The MC under the provisions of law was an independent entity and required to generate its own income through collection of fees plus taxes as embodied under section 6 of the APM Act to make payment of salaries. The APM Act has enunciated the scheme through which the licenses can be granted to the business concerns dealing in agriculture produce and debars the business dealing in absence of the license. The law also empowers the MC to levy fines, the scheme of the law conferred unabridged powers to MCs to generate funds for self-sustainability. Unfortunately, the lack of interest of the overseers in implementation of laws led to the failure of MCs. Section 6 of the APM Act being relevant provision of law is reproduced below for the sake of convenience:

**06. License and the fees:-**

*(1) Any person who work or wishes to work as a dealer in a notified market area shall apply on the prescribed Form to the Market Committee concerned for a License or for the renewal conditions and on payment of such fee not exceeding one thousand rupees per annum as may be prescribed:*

*Provided that no fee shall be charged from dealer who is a Cooperative Society registered under the Sind Co-operative Society Act, 1925.*

*(2) License under this Act, shall not be granted to a person who.*

*(a) is minor other than that who inherits the business; or*

*(b) is found to be un-sound mind by a Court of competent jurisdiction; or*

*(c) is insolvent, or*

*(d) has been found guilty of criminal mis-appropriation or criminal breach of trust or cheating or any other offence involving moral turpitude or abetment jurisdiction; provided that this disqualification will not operate if a period of three years has elapsed since the completion of the sentence imposed on any person in respect of any such offence.*

*(3) If any person carrying on business of a dealer in a notified market area immediately before the date of publication of the notification under Section-4, fails to apply for a License within thirty days from such date, the fee as specified below in each with the market committee:-*

*(i) Upto three months one thousand rupees.*

*(ii) Upto six months two thousand rupees.*

*(iii) Exceeding six months three thousand rupees.*

*(4) The Market Committee may, on being satisfied that there has been a breach of any of the conditions of a License shall not be renewed for such period not exceeding four months for the first breach as may be specified in that order:*

*Provided that no such order shall be passed without giving the License an opportunity to show cause within fifteen days from the date of issue of the show cause notice.*

*(5) Any person aggrieved by an order passed under sub-section-(4) may at any time within one month of the passing of the order appeal to the Assistant Director, Bureau of Supply and Prices of the district against such order, and the order passed in appeal, shall be final.*

16. The above provision of law accords financial independence to the MCs. It appears that the retailers, wholesalers and licensees obtain the licenses but prefer to deal with the agriculture produce business outside the notified market area and defy in making good to the license fee. Resultantly MCs were facing dearth of funds, for want of the payment of license fees. Section 9 of the APM Act empowers MCs to enforce the provisions of this Act, and the rules and bye-laws made thereby; arrange open auction of the agricultural produce referred to in Section 4-A, and supervise all operations connected therewith including correct weighment and timely payment of its price in the prescribed manner; to issue Licenses to brokers, weighman, measurer, surveyor, warehousemen, changers, palladars, boriottos and roles, for carrying on their occupation in the market area in respect of agricultural produce as defined in APM Act, and to renew, suspend or cancel such Licenses. Section 9 further provides that no broker, weighmen, measurer, surveyor, warehouseman, changer, palladar, boriotta and rola, shall, unless duly authorized by License, carry on his occupation in a notified market area in respect of agricultural produce as envisaged in APM Act.

17. Section-24 of the APM Act further empowers the MCs to acquire and hold property, both movable and immovable, to lease, sell or otherwise transfer any movable or immovable property which may have become vested in or been acquired by it, and to contract and to do all other things necessary for the purposes for which it was established. Provided that no MC shall permanently transfer any immovable property except in pursuance of a resolution passed at a meeting specially convened for the purpose by the majority of not less than three-fourths of the members. The MC committee was at its discretion to employ such persons as may be necessary for the

management of the market on payment of salaries. MC was required in addition to the contributions made to the Pool Fund under Section-19, make further contribution in the prescribed manner towards its share of retirement benefits in relation to all persons in the said services for the period of such service in such Committee. Since there was an outcry for collection of funds, therefore, contribution towards “**Pool Fund**” could not be made. Reason for poor financial status of MC is the poor oversight capacity of MCs. Commission agents were able to establish a strong foothold in determining the dynamics of agricultural produce markets, with their knowledge and financial strength are still the major actors in agricultural produce markets. Their position has remained unchallenged with no alternative channel able to compete.

18. The MC being an independent entity has consistently failed to discharge its statutory obligations to both serving and retired employees for want of funds. Each MC has a quasi-independent structure with its own bye-laws but overseen and regulated by the agriculture department. This oversight was never strong and over the times became ineffectual, it's why the licensees were reluctant to fulfill their obligations, though under the provisions of APM Act, the licensee cannot default beyond a period of three months. If any licensee defaulted, the penal action followed. In case of the failure of the licensee to pay Market Fees, the APM Act empowers the MC to initiate the recovery proceedings as arrears of land revenue. Section 31 of the Act being relevant provision of law is reproduced below for the sake of reference:

**31. Recovery Of Sums Due To Government From Market Committee:-** *All sums due from a market committee to the Government may be recovered in the same manner as arrears of Land Revenue.*

19. From the record as made available before us, it transpired that the above provisions of law were never resorted by the MCs or Agriculture Department to effect recovery from defaulters. The “**arrears of land revenue**” and procedure for its recovery find place in Sindh Land Revenue Act 1967. Section 80 of the Act enunciates the procedure and guidelines to recover the government dues, which reads as under:

**80. Processes for recovery of arrears.** *Subject to the other provisions of this Act, an arrear of land-revenue may be recovered by any one or more of the following processes, namely: –*



- (a) by service of a notice of demand on the defaulter under section 81;*
- (b) by arrest and detention of his person under section 82;*
- (c ) by distress and sale of his movable property and uncut or un-gathered crops under section 83;*
- (d) by transfer, under section 84, of the holding in respect of which the arrear is due;*
- (e) by attachment, under section 85, of the holding in respect of which the arrear is due;*
- (f) by annulment, under section 86, of the assessment of that holding;*
- (g) by sale of that holding under section 88;*
- (h) by proceedings against other immovable property of the defaulter under section 90.*

20. The aid of the above provision of law if invoked by the Market Committee would help ensure recovery of arrears. In absence of collection of fees MCs cannot run affairs smoothly. It is strange to notice that the MCs were not capable of paying years-long outstanding dues of salaries, pensions, gratuities, and other post-retirement benefits. This nonpayment is not merely a breach of internal administrative duties but a denial of constitutionally protected rights of the employees guaranteed under Articles 9 and 25 of the Constitution of the Islamic Republic of Pakistan, 1973. This Court is clogged with the litigations filed by the serving and retired employees of MCs seeking indulgence for non-payment of salary and pension benefits. Despite of strict observations and orders MCs fail to comply with the Court directions for want of funds.

21. For the financial independence, sufficient funds were required, which MC collects through levy of fees. The default in payment of fees erodes the very essence of MC, resulting into a failed entity. It is incumbent upon MCs to recover arrears of fees / tax by invoking the due process of law. Since MCs were functioning under the control of Agriculture Department Government of Sindh, it is imperative upon the administrative department to look into the affairs of MCs and devise a plan to ensure the recovery of arrears and future recoveries in a manner that sufficient funds were available to disburse salaries and pension benefits of the employees.

22. There was a general complaint from the Petitioners agitating for payment of salary and pension that the authority at the helm of affairs who get appointed as Chairman or Administrator of the MC have opened shadow accounts in connivance with the Secretary of MC and collection parked into

shadow accounts instead of government treasury or MC Account. It was also surprising to notice that in the digital age the manual pacrhi system of collection of fees was in vogue. To ensure transparency and timely collection of fees and to promote competitive atmosphere, the digitalization of operations was absolutely necessary to bring financial independence in the MCs. Digital Operations if accompanied by the reengineering of processes and retraining of personnel would bring a new life for the MCs to achieve financial stability. By digitalizing the operations, not only the tax/fees evaders could be brought in the tax/fees net, it will help eliminate farmer exploitation at the hands of moneylenders and middlemen.

23. In the case of MC Shikarpur, the agriculture Department in collaboration with the MC Shikarpur shall make a reference under section 32 of the APM Act to the Collector of the District against defaulting licensees for recovery of arrears and dues as arrears of land revenue on prescribed form within a period of 45 days from the date of this order. The Collector of the District on receipt of the reference shall proceed with the same in terms of the section 80 of the Sindh Land Revenue Act, 1967. It is expected that the recovery proceedings shall be concluded within a period of sixty days on receipt of the reference from MC concerned and Agriculture Department by following the due process of law as laid down under the provisions of Sindh Land Revenue Act 1967.

24. The Agriculture Department shall ensure that the record of the Market Committees in the province of Sindh is digitalized and business concerns falling in the domain of APM Act are registered with the concerned MCs of the notified area. The agriculture Department shall further ensure that the business concerns engaged in agriculture produce are compulsorily registered with the MC concerned and paying fees regularly. In case of default, the department shall ensure that the fees along with the fines embodied under section 6 of the APM Act are recovered from the defaulters. It is expected that the MCs and Agriculture Department will get actively engaged to enforce the provisions of APM Act and in future no cry for deficiency of funds is heard.

25. This petition is disposed of with above observations. The Respondents No.4 and 5 shall pay the monthly salary of the petitioner regularly and will

schedule the arrears of the salary for payment in installments at the convenience of both parties.

26. Office is directed to send the copy of this order to Secretary Agriculture, Secretary Finance, Deputy Commissioner Shikarpur and other Respondents in the instant petition for compliance.

JUDGE

JUDGE

Sajjad Ali Jessar

Approved for reporting

Larkana

Dated:13.11.2025