

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Constitution Petition No.D-987 of 2024
(*Mir Hassan vs. P.O Sindh & others*)

Constitution Petition No.D-780 of 2024
(*Ali Nawaz & others vs. P.O Sindh & others*)

Constitution Petition No. D -787 of 2024
(*Aijaz Ali vs. P.O Sindh & others*)

Constitution Petition No.D-963 of 2024
(*Aijaz Ali Chang & another vs. P.O Sindh & others*)

Constitution Petition No.D-996 of 2024
(*Ali Jan & another vs. P.O Sindh & others*)

Before;
Adnan-ul-Karim Memon, J;
Amjad Ali Bohio, J;

Date of hearing and order: 31-07-2024.

M/s Alam Sher Bozdar, Deedar Ali Chohan, Shabir Ali Bozdar, Rizwana Jabeen Siddiqui an Achar Khan Gabol, Advocates for the petitioners.

Mr. Shafi Muhammad Bango, Advocate for respondents.

Mr. Ghulam Abbas Kubbar, Assistant Advocate General
Hakim Ali DFC Khairpur and Sajjad Ali Narejo Head Clerk Food
Department Naushahro Feroze.

ORDER

ADNAN-UL-KARIM MEMON, J: The issue involved in the instant petitions relates to the non-payment of wheat dues under the Wheat Procurement Policy 2023-24 vide Notification No. SO(W)-7(31)/2023-24.

Petitioners have raised their voices of concern alleging maladministration in non-payment of their legal dues of wheat bags deposited by them at the Wheat Procurement Centers in terms of orders passed by this court from time to time. It is argued by the petitioner's side that official respondents are making payments of wheat crops to their favorites on priority bases based on political interference and influence.

Learned counsel for the petitioners in unequivocal terms submitted that the bunch of petitions on the issue of non-payment bills/amount to the growers/Khatedars have already been decided by this Court whereby the alleged contemnors in the aforesaid proceedings undertook to resolve the

grievance of the growers/Khatedars about the issuance of bills/amount, and contempt applications were disposed of upon their undertaking; however, the growers/Khatedars are still left in the lurch, compelling them to file the captioned petitions for direction to the respondent-Food Department for releasing their legitimate amount whereby they deposited the wheat bags at the Wheat Procurement Centers; and, non-payment thereof is illegal on the part of official respondents. They prayed for direction to the official respondents to release their legitimate amount as per their deposited wheat bags at the Procurement Centers.

The Official respondents present in Court submitted that the target for purchasing Wheat from the current season i.e. 2024-25 is completed all the dues of the growers have been paid to them and there is no outstanding amount against the official respondents; however, DFC made it clear that they are no longer in a position to pay the growers/petitioners and ready and willing to return their wheat bags to the genuine persons, who deposited the wheat bags at Procurement Centers. Prima facie this stance is against the norm of law as well as Policy so framed by the Government of Sindh; for the reason that once they issued the Bardan upon requisite fees and collected the wheat bags at their Procurement Centers, they are bound to make payment to the growers/khatedars who sold out their wheat bags duly received by the in charge of the wheat centers, prima-facie, they cannot back out from their statement made before this court in disposed of petitions on the subject issue for the reason that the admitted facts need not be proved, therefore, upon admission of the respondents the request of the petitioners can be considered in terms of Wheat Procurement Policy 2023-24 as the growers/petitioners are suffering due to non-payment of their legitimate dues and they have been left in the lurch; and now they are at the mercy of official respondents, who are set free to make payment of wheat bags to their favorites on a priority basis; however, the growers are left with no option but to protest for demand of their legal dues to be paid by the official respondents, which triggered the cause to approach this court for enforcement of their fundamental rights.

It appears from the record that the bunch of petitions were disposed of by this Court with the direction to Secretary Food Sindh to ensure the distribution of BARDANA to the petitioners/growers/Khatedars without

fail, and their other ancillary issues to be taken care of accordingly. However, certain issues about payment of dues to growers/petitioners are still unresolved; and, there is a shocking delay in making payment to the growers/Khatedars on the part of official respondents.

At this stage, learned counsel for the petitioners submits that respondents are liable to pay interest on the delayed payment of the price of wheat bags to the growers; and, non-payment, thereof, the account of the Food Department Government of Sindh is liable to be attached to the extent of dues of the petitioners/growers/Khatedars. Be that as it may, we are only concerned with the compliance of the orders passed by this Court in a bunch of petitions as discussed supra and the petitioners are at liberty to initiate contempt proceedings against the alleged contemnors in their respective petitions. However, in the present case, we direct the Chief Secretary Government of Sindh to coordinate with the Secretary Food Department Government of Sindh to clear the legitimate dues of the petitioners/growers/khatedars, if any, subject to verification of their record, under the Wheat Procurement Policy 2023-2024.

The petitioners shall also be called by the Secretary Food Department; and, after scrutinizing and verifying their claim/ record and hearing them, if any legitimate dues are outstanding against the Food Department on account of deposition of wheat bags at the relevant Wheat Procurement Centers under Wheat Procurement Policy 2023-2024; the same shall be cleared/paid to the genuine growers within time.

In case of failure, the Secretary Food Department shall be liable to pay simple interest on the delayed payment. Besides in case of non-payment, within time, the account of the Food Department shall be liable for attachment to the extent of dues of the petitioners/growers/khatedar as disclosed in their respective petitions, however, it is made clear that before such drastic action is taken against the respondent Food Department Government of Sindh, the department shall come forward with clean hands to resolve the subject issue at their end first without intervention of this Court as the parties have raised the genuine issue which needs to be taken care of by the concerned department on priority basis.

These petitions stand disposed of in terms of preceding paragraphs. Let a copy of this be provided to Chief Secretary to Government of Sindh and Secretary Food Department Government of Sindh for compliance.

The office is directed to place a signed copy of this order in the captioned connected petitions.

JUDGE

JUDGE

Sulemen Khan/PA