

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

CP No. D- 595of 2025

[M/s Unicol Limited vs. Province of Sindh & others]

Before:

JUSTICE ADNAN-UL-KARIM MEMON.

JUSTICE RIAZAT ALI SAHAR.

Mr. Pervaiz Tariq Tagar, Advocate for the petitioner.

Mr. Muharram Abro, Advocate for respondents.

Mr. Ayaz Ali Rajper, Assistant Advocate General, Sindh.

Date of hearing &
Decision : 10.12.2025.

ORDER

ADNAN-UL-KARIM MEMON, J. - Petitioner prayed this Court to set aside the impugned Letter / Notice dated 12-06-2025 and Impugned Seizure Order dated 04-09-2025 as illegal, void, malicious, without jurisdiction, and coram non judice; Direct Respondents 2 to 6 to de-seal the Petitioner's distillery premises and permit him to continue his business without obstruction.

2. The case of the Petitioner Company is that it is a public limited company incorporated with the Securities and Exchange Commission of Pakistan under Registration No. K-09683 of 2003-2004 and holds NTN No. 1886997-1 and STRN No. 17-00-2800-037-19. It owns and operates the "Unicol Limited Mirpurkhas Distillery" located at Jamrao, Umerkot Road Mirpurkhas, where it procures molasses for the production of ethanol, all of which is exported. The Petitioner's operations contribute substantially to the national economy and provide significant employment to local communities. The petition is filed through its Manager Administration Mr. Asad Ali Baloch, who is duly authorized and conversant with the facts. Under the Agricultural Produce Markets Act, 1939, a "Dealer" is a person who buys or sells notified agricultural produce within a notified area, and such persons must obtain a licence under Section 6. The Act and Rules also empower Market Committees to levy fees on agricultural produce brought to or traded within the notified area. However, the Petitioner purchases only molasses, which is a by-product of sugarcane and under Rule 29-A, no further market fee can be charged where a fee has already been paid on the primary agricultural produce. Molasses cannot, therefore, be treated as fresh produce for the purpose of imposing an additional levy. Despite this legal position, Respondent No.2 issued a notice directing that the Petitioner's premises be sealed unless it obtains a license and pays market fee, even though by-products such as molasses and bagasse do not appear in the Schedule to the Act. Market Committees in Sindh have long remained non-functional, and their duties are being exercised by

Administrators under Section 25-A, despite the absence of any lawful basis for invoking emergency powers. Although elections of Respondent No.2 were held in 2018, no fresh elections were conducted after the expiry of three-year term, and the Market Committee has continued to function through an Administrator. On 04-09-2025, the Petitioner sought from Respondent No.2 various legal documents relating to the authority to collect market fee, constitution of Committee, revision of fee, and the appointment of Administrator. None were provided. Instead, later that same evening, officials of Respondents 2, 4, 5 and 6, accompanied by police, arrived at the distillery and attempted to seal it. Despite the Petitioner's explanation that it is not a Dealer within the meaning of the Act and that no legal authority exists to seal its premises, the Respondents sealed the distillery through a Seizure Order issued under Rule 34-B. It is urged that the Government of Sindh is following a policy of deregulating sugarcane and its by-products, and the Market Committee has not shown fair or uniform enforcement with respect to other agricultural produce. No prior notice was served before the seizure, rendering the action arbitrary and unlawful.

3. Learned counsel for the Petitioner submitted that the impugned Letter and Seizure Order are unlawful, *mala fide*, and without jurisdiction, as they violate the provisions of the Agricultural Produce Markets Act, 1939. He argued that Rule 29(11) relied upon by the Respondents, is itself ultra vires to Section 19 of the Act, which permits levy of fee only on produce bought or sold within the notified market area. Rule 29(11) by extending fee liability to produce merely brought into the area, exceeds the statutory mandate. Counsel further submitted that Rule 34-A authorizes only the seizure of agricultural produce or related materials and Rule 34-B provides the procedure for dealing with such seized produce. Neither provision empowers the sealing of an entire industrial premises; therefore, the sealing of Petitioner's distillery is arbitrary, illegal, and beyond jurisdiction. It was emphasized that the Petitioner purchases molasses outside the notified market area and carries out no buying or selling activity within the respondent's jurisdiction. Accordingly, it does not fall within the definition of a "Dealer" under Section 2(aa), and no licensing requirement arises under Section 6. Since Section 19 applies only to transactions conducted within the notified area, no market fee can be imposed on the Petitioner. Learned counsel argued that Respondent No.2, functioning merely as an Administrator under Section 25-A, lacks authority to levy or recover market fees a power reserved exclusively for a duly constituted Market Committee under Section 8. Reliance was placed on the Supreme Court judgment in Fauji Sugar Mills v. Market Committee, Tando Muhammad Khan (1988 SCMR 155), which prohibits an Administrator from exercising fee-levying powers. Lastly, it was contended that the impugned actions unlawfully restrict the Petitioner's fundamental right to conduct its business under Article 18 of the Constitution. Counsel therefore prayed that this Court set aside the impugned Letter dated 12-06-2025 and Seizure Order dated 04-09-2025; suspend their

operation pending disposal of the petition; and direct Respondents No. 2 to 6 to de-seal the distillery and allow the Petitioner to continue its business without interference.

4. Learned counsel for Respondents 2 & 6 submitted that the Petitioner Company admits purchasing molasses for ethanol production and that molasses, being a by-product of sugarcane, is expressly included in the Schedule to the Act, including the amended Schedule of 2011. The Petitioner has concealed these documents and attempted to mislead the Court. Under Section 2 of the Act, agricultural produce includes by-products, and since the Petitioner deals in molasses, it is legally required under Section 6 to obtain a license. The Petitioner, however, has neither obtained the mandatory license nor paid any market fee despite continuously purchasing agricultural produce within the notified area, and has been willfully violating the Act and Rules from the outset of its operations. Counsel further stated that the Petitioner purchases molasses both inside and outside the notified limits of Market Committee Mirpurkhas, yet has never paid the market fee for either category. The Petitioner is fully aware of its statutory obligation, a position reaffirmed by the Supreme Court in *1993 SCMR 920*. The Market Committee has never been suspended; rather, under Sections 10 and 25-A, its functions lawfully continue through the Administrator, who is empowered to perform all duties, including recovery of dues, as clarified in *2003 SCMR 162*. The respondents' counsel maintains that notices have been issued to the Petitioner regularly since 2013, but the Petitioner never responded. Following the directions of High Court in CP No. D- 1375 of 2023 for strict action against defaulters, additional notices were issued, yet the Petitioner still remained non-compliant. Repeated inspections and a detailed assessment of arrears amounting to Rs.16,27,76,842/- were served, but no reply was ever received. The Petitioner did not write any letter before the premises were sealed; only after sealing on 04-09-2025 he attempted to send a letter showing an incorrect date, which was never received. Counsel denied the Petitioner's claim of any government policy deregulating sugarcane or its by-products and submitted that the Petitioner is misrepresenting facts. The Market Committee has successfully prosecuted numerous defaulters, demonstrating consistent enforcement. Despite repeated notices and visits, the Petitioner avoided compliance. It is argued that the petition is not maintainable and has been filed with *mala fide* intent to obstruct lawful action. The Petitioner refuses to obtain the required license or pay dues but seeks to misuse this Court's jurisdiction. Under Rule 19 of the 1940 Rules, the Petitioner should have first approached the Deputy Commissioner in appeal but failed to do so. Counsel emphasized that all notices and actions taken were lawful and in strict accordance with the Act and Rules. Rule 34 authorizes the Market Committee to seize or de-seize premises where violations occur, and the Petitioner being engaged in purchasing agricultural produce, is squarely liable to pay the market fee. Case-law, including **PLD 2016 Sindh 201**, supports this position. The Administrator is fully empowered under Section 25-A to

recover fees, as reaffirmed in **2003 SCMR 162**. In conclusion, Respondents submit that the petition is based on misrepresentation and suppression of material facts. The Petitioner is liable to obtain the requisite license and pay the assessed market fee of Rs. 16,27,76,842/-, and the petition deserves dismissal in the interest of justice.

5. We have heard learned counsel for the parties and perused the record with their assistance.

6. The question is whether Molasses Constitutes “Agricultural Produce” or a Notified By-Product. The respondents have relied upon Schedule to the Act, including the amendments issued by the Government of Sindh in 2011, to assert that molasses is covered as a by-product of sugarcane. The Act empowers the Government to include agricultural produce and its by-products through notification. However, the petitioner’s core argument is that molasses is a processed industrial by-product of sugar manufacturing and not independently notified as agricultural produce. The principle articulated by the Supreme Court in Fauji Sugar Mills v. Market Committee, Tando Muhammad Khan (1988 SCMR 155) is instructive: levy of market fee requires (i) a notified agricultural produce and (ii) a transaction of purchase or sale in a notified market area. Any levy beyond these statutory conditions is ultra vires. Where there is ambiguity regarding inclusion of any item in the Schedule, the burden lies on the Market Committee to prove lawful notification. The respondents have not demonstrated that molasses has been independently notified as agricultural produce in accordance with Section 2 read with Section 3 of the Act. Accordingly, no market fee can be imposed unless the produce is expressly notified in terms of ratio of the judgment in the case of *Fauji Sugar Mills*, supra.

7. Whether the Petitioner Falls Within the Definition of a “Dealer” Under Section 2(aa). Under Section 2(aa), a “Dealer” is a person who sets up a place for the *purchase or sale* of agricultural produce within the notified market area. The respondents have not shown that the petitioner conducts purchase or sale within their notified area; the petitioner maintains that all purchases occur directly from sugar mills and outside the notified market. The Supreme Court in **PLD 1975 SC 244** held that where the foundational jurisdictional facts (purchase/sale within notified area) are absent, the Market Committee cannot levy fees. Thus, unless the respondents produce evidence of purchase/ sale within their territory, the petitioner cannot be treated as a “Dealer”.

8. Section 19 permits levy only when agricultural produce is bought or sold within the notified area. Rule 29(11), to the extent that it imposes fee on produce merely *brought into* the area, extends beyond the parent statute and is therefore ultra vires. The Supreme Court in Messrs Shujabad Vegetable Ghee v. Market Committee (PLD 1978 SC 1) held that delegated legislation cannot enlarge the scope of statutory levy. Any rule inconsistent with the parent statute is invalid. Applying this principle,

Rule 29(11), in so far as it creates fee liability in the absence of a purchase or sale transaction, cannot be sustained. The respondents argue that an Administrator appointed under Section 25-A inherits all powers of the Market Committee, including recovery of fees, relying on **2003 SCMR 162**. However, the Supreme Court in *Fauji Sugar Mills* (supra) held that levy of market fee is a quasi-taxation measure, permissible only through a duly constituted Market Committee under Section 8. An Administrator may perform functions of management but cannot exercise *tax-levying powers* unless expressly authorized. Moreover, express statutory delegation of fiscal authority must be strictly construed. The respondents have not provided any notification showing that a validly constituted Committee existed at the time of levy, nor that the Administrator was expressly empowered to impose new or enhanced fees. Thus, the levy lacks statutory foundation.

9. Rule 34 authorizes seizure of agricultural produce or connected material, but not the sealing of entire industrial premises. This distinction has been recognized in **PLD 2012 Sindh 107**, where it was held that administrative powers must be exercised strictly within the limits prescribed by statute, and any excessive or coercive action is void. Rule 34-A and 34-B regulate seizure, custody and disposal of produce only. No provision exists empowering sealing of a large-scale industry such as the petitioner's distillery. The seizure order therefore exceeds jurisdiction, being contrary to the express scope of the Rules.

10. Article 18 protects the right to conduct lawful business, subject to reasonable restrictions imposed by law. The sealing of an industrial establishment without lawful authority amounts to an unreasonable restriction and is inconsistent with Article 18. In *Suo Motu Case No. 11 of 2011* (**PLD 2012 SC 664**), the Supreme Court reaffirmed that no business can be interfered with except under express statutory authority. As no valid basis existed for sealing the petitioner's premises, the action constitutes a constitutional infringement.

11. Based on the foregoing findings, the respondents have been unable to demonstrate that *molasses* stands duly notified as "agricultural produce" under the Sindh Agricultural Produce Markets Act, 1939. No material has been produced to show that the petitioner qualifies as a "Dealer" operating within the notified market area as defined under Section 2(aa) of the Act. The fee sought to be imposed under Rule 29(11) is inconsistent with the charging provision under Section 19 and is therefore *ultra vires* the parent statute. Furthermore, an Administrator appointed under Section 25-A does not possess the authority to levy or recover market fee in absence of a validly constituted Market Committee. Consequently, the sealing of petitioner's distillery under Rule 34 is without jurisdiction, unconstitutional, and violative of the petitioner's fundamental right to carry on lawful business under Article 18 of the Constitution.

12. Accordingly, the impugned Letter/Notice dated 12-06-2025 and the Seizure Order dated 04-09-2025 are hereby declared to be illegal, void, and issued without lawful authority. The respondents are directed to *immediately de-seal* the petitioner's premises. They are further restrained from interfering in the petitioner's lawful business operations unless such action is expressly supported by statutory authority. Any proceedings for recovery of market fee if ever legally maintainable may only be undertaken strictly in accordance with the Act and upon the prior establishment of all requisite jurisdictional facts.

13. The petition stands disposed of in the above terms.

JUDGE

JUDGE

Karar_Hussain/PS*