

ORDER SHEET

IN THE HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD

C.P. No.D-343 of 2017.

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DATE	ORDER WITH SIGNATURE OF JUDGE
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28.08.2017.

Mr. Imam Bux Baloch, Advocate for the petitioner.

M/s. Ali Ahmed Palh and Asif Talpur Advocates.

Mr. Allah Bachayo Soomro, Additional Advocate General Sindh.

Mr. Jhamat Jethanand Advocate as learned Amicus Curiae.

M. Akhlaque Khan DGHS Sindh, Dr. Muhammad Waseem Shaikh DHO Tando Allahyar, Qaribullah Soomro DFC Badin on behalf of Deputy Director Food Hyderabad, Agha Bashir Khan DSP / Legal on behalf of DIG Shaheed Benazirabad Range and SIP Noor Muhammad on behalf of DIGP Hyderabad.

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Learned AAG files compliance report of DIGP Hyderabad Range and DIGP Shaheed Benazirabad; whereas counsel for petitioner files certain documents through statement, taken on record, copies thereof provided to other side.

2. Partly heard Mr. Jhamat Jethanand the learned *Amicus Curiae*, Mr. Ali Ahmed Palh and Mr. Imran Qureshi, Advocate who appears on behalf of Hyderabad Municipal Corporation in other cases.

3. Mr. Jhamat Jethanand, the learned *Amicus Curiae* has pointed out that under Food Ordinance, 1961, Municipal Authority is the main Authority to regulate the process of manufacturing, storing and selling the food items as provided in the said Ordinance. Besides, there are Penal clauses in Pakistan Penal Code. It is also pointed out that Food Regulatory Authority is working under Federal Government; however, Province of Sindh has not made any legislation likewise in other Provinces i.e. Punjab there is recent legislation on this issue. Mr. Ali Ahmed Palh Advocate contends that another petition bearing C.P. No.D-1075/2017 is also pending on identical issue, which may be fixed alongwith the instant petition on next date. Order accordingly.

4. Mr. Ali Ahmed Palh further contends that by this Court there was a Committee constituted wherein Justice (R) Mrs. Majida Rizvi was also a member and a report was prepared by the said Committee, which is available in Sindh Human Rights Commission; he seeks time to produce that report. Time is granted.

5. For achieving the *spirit* of the order dated 18.08.2017, passed in the instant petition in its letter and spirit, the I.G.P. Sindh shall direct all SSPs throughout Sindh to comply with the said order in its letter and spirit. He shall also submit comprehensive report with regard to steps taken in compliance of earlier directions issued by this Court from time to time in identical nature petitions.

6. It is emphasized that there is mechanism for issuance of license and regulating / checking the manufacturing; storing as well selling of the food items by the Municipal Authorities. At this juncture, it would be relevant to mention the *ordinary* meaning of the term '**food**' which is: "***the things that people and animals eat***" hence the *authorities* concerned are always under obligation rather a *duty* to ensure the same to be as per required *standard* which *least* requires a thing to be not *injurious* to health. At this juncture, Mr. Imran Qureshi Advocate, who appears before this Court in the cases on behalf of Hyderabad Municipal Corporation, contends that in compliance of the earlier orders passed by this Court they have conducted two raids and have sealed the factories found busy in manufacturing the food items in contravention of Section 5 of the Food Ordinance, 1961.

7. Accordingly, issue notice to Secretary Local Government to direct all Municipal Corporations and Town Committees through their Mayors, Chairman as well Secretaries throughout Sindh for strict compliance of above referred Ordinance and to submit compliance report.

8. As well the Secretary Local Government shall direct Food Inspectors of said Municipal Corporations / Town Committees to conduct surprise visits in

order to check any violation of section 5 of Food Ordinance, 1961 and , if so, to take strict action against the delinquents in accordance with law with compliance report through Additional Registrar of this Court. It is, *however*, needless to add that this *order* should not be exploited for prejudicing a *legal* right or a *departure* from legal obligation and if any such *complaint* is reported the concerned shall have to face the legal consequence.

9. Besides, we seek assistance of the Law Department with regard to new legislation on the said issue as in name of '*foods*' the children and even *adults* are offered things which have never been tested to be falling within meaning of a *safe-food* or otherwise. Sale of every single *food-item* must not go unchecked / regularized, hence issue notice to Secretary, Law Department, Government of Sindh. He shall also depute any responsible / focal person to assist this Court with regard to work on this issue as well to report whether any work is going on bringing such *things* under a legislation or *otherwise* , as has been done in other Provinces.

10. In order to maintain law and order situation, the SSP Hyderabad shall provide complete police assistance to Food Department of Hyderabad Municipal Corporation.

11. In order to comply with the above-referred order as well I.G.P Sindh shall issue such directions to all SSPs to provide the said assistance to the Municipal Corporations / Town Committees of their respective jurisdiction throughout Sindh. As well they shall ensure that **Gutka** is not sold in their jurisdiction.

12. Further, the MIT-II of this Court shall submit complete breakup of cases registered under Food Ordinance, 1961 / Sections 271 to 273 PPC in entire Sindh during last five (05).

13. Adjourned to 11.09.2017 at 11:00 a.m. Attendance of the officials present is dispensed with unless is directed otherwise. However, they shall

depute any responsible officer of their respective department(s) to appear before this Court on the next date of hearing.

14. Copy of this order as well order dated 18.08.2017 shall be sent through fax to all District & Sessions Judges, I.G.P. Sindh, SSPs, Secretary Local Government, Secretary Law Department for information, compliance as well report.

JUDGE

JUDGE