

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH AT KARACHI**  
**C.P. No.D-1957 of 2019**

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**Order with signature of Judge**

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**Present: Mohammad Ali Mazhar and Agha Faisal, JJ.**

- 1. For hearing of CMA No.8861 of 2019*
- 2. For hearing of main case*

**02.04.2019**

**Mr. Mohammad Ahmed Hussain, Advocate for the Petitioner.**  
**Mr. Jawad Dero, Additional Advocate General Sindh.**

*Mohammad Ali Mazhar J.*, Mr. Hussain Bux Sario, advocate has filed Vakalatnama for respondent No.2 as well as parawise comments. He submits that against the imposition of fine the remedy of appeal is available but the petitioner has not filed the appeal. On the contrary, learned counsel for the petitioner argued that after imposition of fine demand notice was directly issued for the payment without providing any opportunity of filing of appeal, therefore, the petitioner approached this Court for the protection of his rights so that any coercive action may not be taken by the respondents.

We have examined Section 43 of the Sindh Food Authority Act, 2016. Under subsection 2 it is envisaged that in case of cancellation of license or imposition of fine on a food operator, the food operator may within fifteen days of communication of the order prefer an appeal against such order to such appellate authority as the Government may specify by Notification. Under subsection 3, it is further provided that the authority or the appellate authority shall not pass any order relating to suspension or cancellation of license or imposition of fine without providing an opportunity of hearing to the food operator. Learned counsel for the petitioner argued that fine imposed without providing any opportunity of hearing, whereas the learned counsel for the respondent No.2 pointed out the inspection report and argued that the fine was imposed on the basis of inspection report in which certain irregularities and illegalities were highlighted including unhygienic conditions. The main ground of attack through this petition was non-allowing an opportunity to approach

the appellate authority but now the counsel for the respondent No.2 has himself given categorical statement that the petitioner may be given an opportunity to file an appeal. The counsel for the petitioner agrees to this proposal which is otherwise provided under the law as remedy. Let the petitioner file an appeal to the appellate authority in accordance with law. The amount of fine deposited by the petitioner will remain intact with the Naizer of this Court subject to the final outcome of the order as may be passed by the appellate authority. In case petitioner succeeds, he may apply for refund of the amount lying with the Nazir and in case the fine is maintained then the respondent No.2 may move an application for receiving of fine amount in accordance with law. The appeal may be filed within three days and both the learned counsel including the learned AAG pointed out that the respondent No.1/Director General Food, Sindh Food Authority, Government of Sindh is the authority who will decide the matter after providing ample opportunity of hearing. Copy of this order may be transmitted to the learned AAG as well as respondents No.1 and 2. The respondent No.1 shall decide the appeal within four weeks. The petition stands disposed of alongwith listed application.

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