

ORDER SHEET
HIGH COURT OF SINDH, KARACHI

C.P. No.D-697 of 2019

Date	Order with signature of Judge
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Present

Mr. Justice Muhammad Ali Mazhar.

Mr. Justice Agha Faisal.

Nuzzer Pharmaceuticals and NutritionsPetitioner

Versus

Sindh Food Authority & another.....Respondents

Date of hearing 23.04.2019

M/s. Muhammad Haseeb Jamali and Muhammad Najeeb
Jamali advocates for the petitioner.

Mr. Hussain Bux Sario advocate for the respondent No.1

Mr. Jawwad Dero, Addl. A.G.

Imtiaz Ali Abro, Deputy Director, Sindh Food Authority.

Muhammad Ali Mazhar, J: The case of the petitioner is that they are engaged in the lawful business of importing baby milk and other food products. The details of the products have been described in Annexure “B” attached to the petition. They have brought this petition for declaration that a ban and recall of product of the petitioner without just cause by the respondents is illegal and without jurisdiction. They have further sought directions against the respondents not to take any adverse action against the petitioner or their products without due process of law.

2. Comments have been filed by the respondents in which it is averred that the petition is not maintainable as the alleged products of the petitioner have neither been recalled nor banned by the respondents but the authority only

collected some samples from the MCC Mart during routine inspection on the allegation of some misbranding and mislabeling. They have further stated that the authority shall act strictly in accordance with the provisions of Sindh Food Authority Act, 2016 and Sindh Food Authority Regulations, 2018. They further stated that the authority intends to examine the quality of product and the mandatory requirements including the registration of product and issuance of license from the authority.

3. This petition was filed on 30.01.2019. Learned counsel for the petitioner invited our attention to the rejoinder with which he has attached an e-mail dated 15.02.2019 sent by Areeba Ali, Food Safety Officer of the respondent No.1/Authority in which she called upon the petitioner to submit some documents. Learned counsel for the petitioner articulated that response of this e-mail was submitted on 22.02.2019 and some material was also supplied. At this stage, respondent No.2 though admits the communication through e-mail including response of the petitioner but he submits that still some queries are unanswered by the petitioner. Under Section 20 of Sindh Food Authority Act, 2016 it is lucidly provided that if a Food Safety Officer has some reasons to believe that any food operator has failed to comply with any provisions of the Act, the rules or the regulations, he may serve an improvement notice upon the food operator. This is an admitted fact that no notice has been issued so far to the petitioner under section 20 (supra)

but the officer present in court submits that notice under Section 20 of the Sindh Food Authority Act, 2016 was issued to the MCC Mart. Since it is clearly mentioned in the reply of the respondents that no action has been taken by them against the petitioner therefore in our considerate view, this petition is premature at this stage as no adverse or coercive action has been taken against the petitioner, however, under the relevant law, certain formalities and compliance are to be made and if the respondents have any reservation on the products they may issue proper notice to the petitioner in accordance with the provisions contained in the 2016 Act which may be replied by the petitioner and they will also submit all relevant documents and details to the satisfaction of the Authority, thereafter, the action, if any, may be taken in accordance with the provisions of Sindh Food Authority Act, 2016. Petition is disposed of accordingly along with pending application in the above terms.

JUDGE

JUDGE