

ORDER SHEET
HIGH COURT OF SINDH, KARACHI

Date	Order with signature of Judge
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Present

Mr. Justice Muhammad Ali Mazhar.

Mr. Justice Agha Faisal.

C.P. No.D-3218 of 2019

M/s. Sanofi-Aventis Pakistan Limited.....Petitioner

Versus

Federation of Pakistan & othersRespondents

C.P. No.D-3328 of 2019

Martin Dow Marker (Pvt) Limited.....Petitioner

Versus

Federation of Pakistan & othersRespondents

&

C.P. No.D-3332 of 2019

Martin Dow LimitedPetitioner

Versus

Federation of Pakistan & othersRespondents

Date of hearing 16.05.2019

M/s. Abdul Sattar Pirzada and Mamoon N. Choudhry advocates for the petitioner in C.P. No.D-3218 & 3332 of 2019.

Barrister Umaimah Khan advocate for the petitioner in C.P. No.D-3328 of 2019.

Mr. Kafeel Ahmed Abbasi, DAG.

Mr. Hussain Bhora, Assistant Attorney General.

Syed Hakim Masood, Federal Inspector Drugs, DRAP, Karachi

Muhammad Ali Mazhar, J: Learned counsel argued that in terms of the consolidated judgment dated 16.04.2019 passed

by this Bench in CP D 398 of 2019 and connected matters, they have filed their appeals before the Appellate Board in view of directions given by this court as well as directions in the judgment passed by the hon'ble Supreme Court in HRC No. 2858/2006. The grievance of the petitioners is that despite filing appeals and stay applications before the Appellate Board in terms of the DRAP Laws, though their applications and appeals were heard on 24th and 25th of April, 2019 but no order has been passed in such regard and communicated to the petitioners/appellants. It is further submitted that despite the stay applications, and appeals, not having been ordered upon the DRAP authorities are raiding the premises of the petitioners/appellants and continuously taking coercive action without waiting for the decision of the appellate board. It is further contended that the delay in deciding the stay applications, in the very least, is attributable solely to the appellate board, yet the petitioners are being made to suffer.

2. In C.P. No.D-3218 of 2019 the notices were issued to the DRAP as well as DAG on 09.05.2019 and today Syed Hakim Masood, Federal Inspector of Drugs, DRAP, Karachi is present. C.P. Nos.D-3328 & 3332 of 2019 are also fixed today for orders. The representative of the DRAP waives notice in these two petitions also. Prior to the break today we had asked the FID to seek instructions from the Appellate Board, Islamabad regarding the status of the pending appeals of the petitioners. After break, he appeared, with the assistances of

the DAG, and informed us that the appeals have been heard and within ten days the orders will be passed by the Appellate Board and communicated to the petitioners.

3. We are also informed by the FID that no decision has been taken /announced in respect of the stay applications preferred by the petitioners, despite them having been heard along with the appeals. Learned counsel for the petitioners had drawn our attention to a Full Bench judgment of this Court *Pak Saudi Fertilizers vs. Federation of Pakistan & Others* reported as 2002 PTD 679, relied upon in the consolidated judgment dated 16.04.2019 passed by this Bench in CP D 398 of 2019 and connected matters, wherein initiation of coercive measures without having decided pending applications for interim relief was deprecated.

4. Since it is categorically stated by the representative of the DRAP that appeals have been heard and decision is expected within ten days, therefore, we are of the view that till decision of the pending appeals, the DRAP authorities should stay their hands from taking any coercive action, otherwise, the whole purpose of the appeal would become infructuous.

5. Learned DAG is also of the view that till final orders passed by the Appellate Board which have already been heard no coercive action should have been taken by the DRAP against the petitioners.

6. As a result of above discussion, the above petitions are disposed of on the statement of the FID that within ten (10) days the appeals of the petitioners shall be decided and order communicated to the petitioners. Till decision of the appeals no coercive action shall be taken by the DRAP against the petitioners.

7. These petitions and pending applications are hereby disposed of. Office is directed to place copy of this order in connected petitions.

JUDGE

JUDGE

Aadil Arab