

**ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI**

C.P. No.D-5585 of 2014

Date	Order with signature of Judge(s)
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Present
Mr. Justice Muhammad Ali Mazhar.
Mr. Justice Agha Faisal.

Ocean Services (Pvt.) Ltd.....Petitioner

Versus

Port Qasim Authority & Another.....Respondents

For orders as to maintainability.

30.08.2019

Mr. Nisar Ahmed Tarar, advocate for the petitioner.
Mr. M. Sarfarz Sulehry, advocate for the respondents.

Muhammad Ali Mazhar, J.: This petition has been prayed with the following prayer:

- i. Declaring that the act, commission and omission of the respondents in issuance of bill for port services with inordinate delay, after sailing of vessels, intern adjustment of accounts and delayed refund of surplus amounts of the petitioner/shipping agents is unfair, oppressive practice and ultra constitutional and breach of the fundamental right of free and fair right of business/trade to the petitioner in accordance with the article 18 of the constitution of Islamic Republic of Pakistan.
 - ii. Issue writ/direction against the respondents to structure their discretion for issuance of bills for port services immediately/forthwith after sailing of the vessels and intern immediate adjustment of accounts and refund of surplus amounts of the petitioner/shipping agents.
2. The respondents have already filed their comments and in response to the ground No.ii of the petition the respondents have stated as under:

“It is denied that any delay is caused or being caused all the bills have already been cleared. Whenever the documents are delayed, the end

produce is delayed. It is shipping agent who is responsible for any delay if caused otherwise the bills are being cleared within 15 days. It is denied that any constitutional rights of the petitioner are being affected in way due to respondent. Controversial facts about delay, filing & completion of documents are involved and it cannot be solved through a petition. The petition is liable to be dismissed.”

3. Learned counsel for the respondent has pointed out Annexure-A, which is a letter of Port Qasim Authority, Revenue Department addressed to the Chairman, Pakistan Ship’s Agents Association in which a reference of meeting was given with regard to the delay in finalization of port dues. In order to expedite the finalization of port dues to meet the deadline for finalization of bill and refund to the shipping agencies, certain requirements were mentioned in the same letter before the departure of vessels i.e. 6% withholding tax challan, full payment in advance, ship registry of vessel duly verified with Lloyd Register, vessel departure report from terminal and shifting/cancellation paper of vessel if any. In concluding paragraph of this letter, the Chairman was requested to intimate shipping agents to submit the complete sets of documents alongwith proforma duly filled in by the shipping agent. The purpose of highlighting this letter by the learned counsel for the respondent is to demonstrate that port authorities are not solely responsible for delay but certain formalities are required to be fulfilled by the shipping agents also. However, in the comments, it is clear that if certain formalities are fulfilled then the bills will be cleared within 15 days which position has been confirmed by the learned counsel for the respondent No.1.

4. As a result of above discussion, this petition is disposed of with this order that if shipping agents will fulfill all the formalities within the stipulated time frame as already stated in the comments the respondent No.1 shall clear their bills within 15 days.

JUDGE

JUDGE

