

## ORDER SHEET

IN THE HIGH COURT OF SINDH, KARACHI

C.P. No.D-6445 of 2018

C.P. No.D-7336 of 2018

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Date	Order with signature of Judge
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**Present**

**Mr. Justice Muhammad Ali Mazhar**

**Mr. Justice Agha Faisal**

C.P. No.D-6445 of 2018

Syed Mureed Ali Shah.....Petitioner

VERSUS

Province of Sindh & others.....Respondents

C.P. No.D-7336 of 2018

Mirpurkhas Sugar Mills  
Limited & others.....Petitioners

VERSUS

Province of Sindh & others.....Respondents

**30.10.2018**

Syed Mureed Ali Shah, Advocate/Petitioner  
in C.P No.D-6445/2018.

M/s. Abdul Sattar Pirzada & Mamoon N. Ch.,  
Advocates for Petitioners in C.P. No.D-7336/2018  
and for Respondent No.3 in C.P No.D-6445/2018.

Aga Zaheeruddin, Secretary Agriculture present.

Engr. Abdul Samad Shaikh, Focal Person for  
Legal Matters, Agriculture Department present.

Mr. Kabool Muhammad Khatian,  
President Sindh Chamber of Agriculture present.

Mr. Nabi Bux Sahito, SVP-SCA present.

Abdul Qayyum Rajput, Deputy Director/Technical  
Officer, Cane Commissioner Office present.

Nawab Zubair Talpur, President Sindh Growers  
Alliance present.

Mehmood Nawaz Shah, Senior Vice President  
Sindh Abadgar's Board present.

Mr. Miran M. Shah, Addl. A.G.

Mr. Tahir Durrani, State Counsel.

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**Muhammad Ali Mazhar, J:** The Constitution Petition No.D-6445/2018 has been brought by Syed Mureed Ali Shah Advocate in person whereas C.P. No.D-7336/2018 has been moved by 24 Sugar Mills with Pakistan Sugar Mills Association (Sindh Zone). The respondents in both the petitions are almost same with slight variation. The gist of both the petitions spells out the prayer for directions against the respondents to establish Sugarcane Control Board and the fulfillment of duties ancillary and incidental thereto.

2. According to Section 3 of the Sugar Factories Control Act, 1950, the Government of Sindh by notification requires to establish a Sugarcane Control Board with a Chairman and members. According to Section 16 of Sugar Factories Control Act, 1950 (Sindh Amendment Act X of 2009 dated 09.12.2009), the Government may on the recommendations of the Board or otherwise by notification determine minimum price of the cane having regard to the cost of production of sugarcane and the return to the grower from alternative crops and the general, trend of prices of agricultural commodities. It is further provided in Sub-section (3) that the occupier of a factory shall pay quality premium at the end of crushing season at such rates as may be determined by the Government in proportion of sucrose recovery of such factory in excess of base level sucrose contents viz. 8.7 per 100 kilograms. It is further provided that the price of the cane shall be paid to the cane grower by issuing payee's account cheques.

3. Consistent with Section 8 of the same Act, the occupier of a factory is bound to send a notice to the Cane

Commissioner in the prescribed form intimating him of his intention to start crushing one clear month before the crushing starts but the proviso attached to Section 8 unequivocally stipulates that the occupier shall start crushing by a date not later than 30th November each year.

4. Aga Zaheeruddin, Secretary Agriculture, Government of Sindh with certainty put forward that within 10 days the Sugarcane Control Board will be established/constituted and the meeting will be immediately convened for fixation of sugarcane price. On this definitive statement, the learned counsel for Sugar Mill owners submits that the crushing season/date will be notified in accordance with Section 8 of the Sugar Factories Control Act, 1950.

5. By consent, both the petitions are disposed of along with pending application in the following terms:

- (i) The Sindh Government shall establish/constitute the Sugarcane Control Board under the provisions of Sugar Factories Control Act, 1950 within 10 days positively.
- (ii) Immediately on constitution of Sugarcane Control Board, the meeting will be convened for fixation of sugar cane price in accordance with Section 16 of the Sugar Factories Control Act, 1950 (Sindh Amendment Act X of 2009 dated 09.12.2009) including the cost element of production of sugarcane, the return to the grower from alternative crops and the general, trend of prices of agricultural commodities and quality premium.

- (iii) The occupier of the sugar mills/factories shall send a notice to the Cane Commissioner for showing their intention to start crushing strictly in accordance with Section 8 of the Sugar Factories Control Act, 1950.
- (iv) The price of sugarcane as may be fixed by the Sugarcane Control Board shall be notified by the Government of Sindh before 30th November, 2018 positively.

Office is directed to transmit copy of this order to the Secretary Agriculture, Government of Sindh and Advocate General for compliance.

Judge

Judge

Asif