

ORDER SHEET

IN THE HIGH COURT OF SINDH, KARACHI

C. P. Nos.D-4567, 4568, 4369, 4370, 4371, 4372, 4373, 4374,
4375, 4388, 4389, 4390, 6964, 7374 of 2017 & 1989 of 2018

DATE ORDER WITH SIGNATURE OF JUDGE

Present:-

Mr. Justice Muhammad Ali Mazhar

Mr. Justice Amjad Ali Sahito

1. **C.P. No.D-4567 of 2017**
[Zubaida Begum vs. Government of Sindh & others]
2. **C.P. No.D-4568 of 2017**
[Huma Younus vs. Government of Sindh & others]
3. **C.P. No.D-4369 of 2017**
[Naseem Begum vs. Government of Sindh & others]
4. **C.P. No.D-4370 of 2017**
[Afshan Khan vs. Government of Sindh & others]
5. **C.P. No.D-4371 of 2017**
[Sajid Khan vs. Government of Sindh & others]
6. **C.P. No.D-4372 of 2017**
[Ms. Sobia Sajjad vs. Government of Sindh & others]
7. **C.P. No.D-4373 of 2017**
[Mst. Quratul Ain vs. Government of Sindh & others]
8. **C.P. No.D-4374 of 2017**
[Mst. Quratul Ain vs. Government of Sindh & others]
9. **C.P. No.D-4375 of 2017**
[Muhammad Farhan vs. Government of Sindh & others]
10. **C.P. No.D-4388 of 2017**
[Zubaida Mansoor vs. Government of Sindh & others]
11. **C.P. No.D-4389 of 2017**
[Ms. Nadia Jabeen vs. Government of Sindh & others]
12. **C.P. No.D-4390 of 2017**
[Saima Qurban Ali vs. Government of Sindh & others]
13. **C.P. No.D-6964 of 2017**
[Mst. Haseena Anjum vs. Government of Sindh & others]
14. **C.P. No.D-7374 of 2017**
[Muhammad Farhan Saeed & another vs. Government of Sindh & others]
15. **C.P. No.D-1989 of 2018**
[Rizwana Hassan vs. Government of Sindh & others]

27.01.2021

Ms. Shamim Akhtar, Advocate for the Petitioners
in C.P. Nos.D-4567 & 4568 of 2017.

Ms. Naila Tabassum, Advocate for the Petitioners
in C.P. Nos.D-4369, 4370, 4371, 4372, 4373, 4374,
4375, 4388, 4389, 4390, 6964 of 2017 and 1989 of 2018.

Mr. Ghulam Mehdi Shigri, Advocate for the Petitioner
in C.P. No.D-4390 of 2017.

Mr. M. Rizwan Saeed, Advocate for the Petitioners
in C.P. No.D-7374 of 2017.

Mr. Jawad Dero, Addl. A.G. Sindh.

Dr. Sakina Samo, Addl. Director Colleges (Inspection),
Regional Directorate of College Education,
Karachi Region, Government of Sindh.

Muhammad Ali Mazhar, J: All these petitions have been filed by the persons who are running different canteens in different colleges. They all have challenged the common order dated 25.05.2017 issued by Secretary, College Education Department, Government of Sindh which is reproduced as under:

“GOVERNMENT OF SINDH
COLLEGE EDUCATION DEPARTMENT

Karachi dated the 25-05-2017

ORDER

No.SO(G)/College-Edu/25/2017: All allotments / agreements / contracts of canteens in all Government Colleges in Sindh shall stand cancelled w.e.f. 01-07-2017. In future all the allotment of canteens shall only be made according to new government policy to be notified by this department separately.

SECRETARY TO GOVT. OF SINDH

No. SO(G)/College-Edu/25/2017

Karachi, dated the 25-05-2017”

2. All learned counsel appearing for the petitioners argued that the impugned order has been issued without complying with requisite formalities and due process of law and no right or opportunity was given to place point of view by the petitioners, however, they also admit that in some cases their agreements have already been expired but they are in possession and claim extension in their canteen contracts by the competent authority.

3. The learned Additional Advocate General Sindh at the very outset pointed out a Policy document presented in C.P. No.D-4567 of 2017 that was circulated by the Section Officer (General), College Education Department, Government of Sindh to all Regional Directors Colleges, Karachi, Hyderabad, Sukkur, Larkana, Mirpurkhas and Shaheed Benazirabad. In fact this policy germane to the operation of canteens in Government colleges of Sindh. According to policy

guidelines, in para 1 the discretion has been conferred to the college principals for granting permission to sell any items in the college but this must be done according to the policies given by the College Education Department and the college principals will be held responsible for any issue arising out of hiring inappropriate vendors. The learned Additional A.G. Sindh submits that the purpose of introducing this policy is to ensure that the proper licence fee should be collected in a transparent manner as for last several years according to the management of colleges the canteen vendors were paying the meager amount of licence fee and also violating the conditions of their licence, therefore, the policy guidelines have been framed so that all should be adhered to it and follow the same in letter and spirit. A bidding document is also attached with the policy guidelines. Dr. Sakina Samo, Addl. Director Colleges (Inspection), Regional Directorate of College Education, Karachi Region, Government of Sindh submits that the bids will be invited for future contracts under the Sindh Public Procurement Rules, 2010 and all the bids shall be submitted to the principals of colleges by the bidders and that will be opened by the principals of colleges in the presence of the bidders in their office. She further submits that all the petitioners may also apply if the bids are invited and their bids will be considered fairly in a transparent manner. The learned Addl. A.G. Sindh has also concurred this proposal. Now according to new policy the bids are to be invited under the SPPRA Rules, 2010 wherein under Rule 31 a proper mechanism is also provided in case a bidder is aggrieved by any decision of the procuring agency, he may approach to the Complaint Redressal Committee (CRC) and thereafter an appeal may also be filed before the review committee of SPPRA.

4. At this juncture the learned counsel for the petitioners pointed out that they are still in possession of their respective canteens and during Covid-19 pandemic the colleges were closed but now all colleges have resumed their normal educational activities, therefore, they request that they may be allowed to continue their canteens till such time the bids are invited and bidding documents are issued to all petitioners and other prospective participants to join bid proceedings.

This request seems to be reasonable. The petitioners shall not be dispossessed from their respective canteens in view of earlier contracts till such time the bids are invited and new procurement proceedings are initiated under the relevant Rules and successful bidders are declared, however, the petitioners shall continue to pay their licence fee to the competent authority. It is further clarified that if they are not declared successful bidders after complying with all bidding formalities and decision of competent authority, they may avail appropriate remedy in accordance with the law.

All petitions are disposed of alongwith pending applications in the above terms.

Office is directed to place copy of this order in all connected petitions listed above.

Judge

Judge

Asif