

IN THE HIGH COURT OF SINDH AT KARACHI

Before:
Ahmed Ali M. Shaikh, CJ
Yousuf Ali Sayeed, J

CP No.D-2775 of 2021

Fresh Case

1. For orders on office objections
2. For hearing of Misc. No.11987/2021
3. For hearing main case.

Date of hearing 08.10.2021.

Petitioner Khawaja Hassan Wadood through Mr. Ayaz Ali Chandio,
Advocate.

Respondent No.1 Federation of Pakistan through Mr. Khaleeq Ahmed,
DAG, alongwith by ASI Jahanzaib, FIA.

Respondent No.2, Trading Corporation of Pakistan through Mr. Fayyaz Ali
Metlo, Advocate.

ORDER

AHMED ALI M. SHAIKH, CJ.- In instant Writ Petition, Petitioner seeks following relief(s):-

- “(a) This Honorable Court direct the respondents to provide record/list of mark-up waived cases resolved as per ECC Cabinet Decision dated 10.04.2007.
- (b) This Honorable Court direct the respondent No.2 to resolve the case of petitioner in same way as other cases has been resolved by the respondent No.2 as per law and as per ECC Cabinet decision dated 10.04.2007.
- (c) This Honorable Court suspend the litigation if any started by the respondent No.2.
- (d) The Hon’ble Court direct respondent No.1 to intervene inot the matter/issue and same may be resolved with the petitioner.
- (e) This Hon’ble Court direct the respondent No.1 to take disciplinary action against the respondent No.2 as per law.
- (f) Any other relief or relief(s) which this Honourable Court may deem fit, proper, justified, equitable may be granted in favour of the Petitioner and while granting such reliefs the same may be mold as per the circumstances or grant further better relief.

(g) Cost of the petition.”

2. Briefly facts of the case as stated in the memo of Petition are that on 14.10.1987 M/s Wadood Industries (Pvt.) Limited (the “**Petitioner**”) and respondent No.2 inked an agreement for supply of fully pressed ginned cotton. A loan of Rs.1,000,000.00 under supervised ginned scheme was also granted to the Petitioner, who submitted documents of immovable property. Later, on demand, the Petitioner through pay order dated 10.01.2015 drawn on MCB (annexure A to the Petition) paid an amount of Rs.1,308,203.00. Petitioner claimed that despite repayment of loan the respondent No.2 is demanding payment of mark-up/interest while to many similarly placed companies the official respondent waived the mark-up. The Petitioner approached the respondent and sent several notices/letters for waiving mark-up but all in vain.

3. Learned counsel for the Petitioner contended that under somewhat similar circumstances in the light of decision of the Economic and Coordination Committee of the Cabinet payment of mark-up/interest to similarly placed companies was waived; however, for the reasons best known to the respondents the Petitioner has been discriminated against, thus, violating the fundamental rights of the Petitioner as enshrined in Articles 4 and 25 of the Constitution. He prays that the respondents be directed to implement the decision of the ECC Cabinet dated 10.04.2007 and extend same treatment to the Petitioner.

4. On the other hand, learned counsel for the respondent No.2 submitted that the Petitioner has approached this Court with unclean hands and deliberately suppressed material facts. He submitted that in instant controversy the Judgement and Decree dated 30.4.2013 rendered by the IV Senior Civil Judge, Karachi South, in Suit No.774 of 2003, filed by the respondent No.2, attained finality whereas in execution proceedings, the trial Court has issued NBWs against the Petitioner. He pointed out that the Petitioner also filed Civil Suit No.600 of 2021 against the respondent No.2, which is pending adjudication before the X Senior Civil Judge, Karachi South. He therefore prays that the Petition be dismissed.

5. Learned DAG adopted the arguments of learned counsel for the respondent No.2.

6. We have heard the learned counsel for the Petitioner, Respondent No.2, DAG and perused the material available on record. Alongwith the parawise comments, the respondent No.2 has annexed photocopy of Judgment dated 30.04.2013 rendered by IV Senior Civil Judge, Karachi South, in Suit No.774 of 2003 (Trading Corporation of Pakistan (Pvt.) Limited versus M/s Wadood Industries Limited and another). There is nothing on record or even argued that the Petitioner has assailed the said Judgment before any forum, therefore, it has attained finality. Moreover, the Petitioner has also filed Civil Suit bearing No.600 of 2021 (copy filed with the comments) and in paragraph 7 of the plaint he has admitted that the trial Court has issued warrant of arrest against him in Execution Application No.19 of 2013. Manifestly, the Petitioner has suppressed material facts and approached this Court with unclean hands. It is settled that jurisdiction of this Court under Article 199 of the Constitutional is discretionary and equitable in character, therefore, Petitioner seeking to invoke the extra-ordinary jurisdiction ought to come with clean hands.

For the aforesaid reasons, we by our short order dated 08.10.2021 dismissed the Petition.

Chief Justice

Judge

Dated: .11.2021