

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
C.P. No.D-4080 of 2019

Date Order with signature of Judge

Present

Mr. Justice Muhammad Ali Mazhar
Mr. Justice Amjad Ali Sahito

Karachi Vegetable Traders
Welfare Federation (Regd.).....Petitioner

Versus

Province of Sindh & others.....Respondents

03.06.2021

Khawaja Naveed Ahmed, Advocate for the Petitioner
a/w President Saleh Muhammad.
Mr. Aziz Ahmed Shar, Advocate for Respondents No.4 to 20.
Ms. Leela Kalpana Devi, Addl. A.G. Sindh.
Mr. Naseer Ahmed Narejo, Addl. Secretary, Agriculture,
Supply & Prices Department, Government of Sindh present.
Mr. Mansoor Ahmed Baloch, Director Marketing on
behalf of Respondent No.2 present.
Mr. Zulfiqar Ali Vistro, Focal Person on Legal Matters,
Agriculture Department present.

Muhammad Ali Mazhar, J: The case of the petitioner is that they are registered welfare association of the traders of Karachi Sabzi Mandi. Being aggrieved by the impugned notification dated 12.06.2019 issued by Secretary to Government of Sindh whereby in exercise of powers conferred by Sections 7, 8 and 10 of Agriculture Produce Markets Act, 1939, the Government of Sindh was pleased to constitute Market Committee, Karachi (A-Class) for a period of three years and the composition of Market Committee is also mentioned in the notification classifying the grower's side, trader's side and consumer's side. After issuing notices to the respondents, some developments were made and today Mr. Naseer Ahmed Narejo, Additional Secretary, Agriculture, Supply & Prices Department, Government of Sindh on behalf of respondent No.1 has submitted a statement which communicates that a meeting was convened under the chairmanship of Minister Agriculture, Government of Sindh and after due discussion and deliberations it has been decided to draft a new law in place of Agricultural Produce Market Committee Act, 1939 and the Sindh

Wholesale Agricultural Produce Markets (Development & Regulations) Act, 2010. The purpose of promulgating the new law is to cover all the aspects of marketing system and to protect the interest of stakeholders. On behalf of Director General, Agriculture Extension Sindh, Hyderabad, also a statement has been filed that the Market Committee Karachi was constituted under the provisions of Section 8 of the said Act, 1939 and Rule (8) of Agricultural Produce Markets Rules, 1940. Both the statements are taken on record. To a question raised by the court that how much time the Government of Sindh will take to promulgate the new law, the Additional Secretary, Agriculture, Supply & Prices Department stated that since it has been decided to make the new law, it will take certain time to place a draft of the new law for vetting by the Law Department thereafter it will be placed before the Cabinet and Provincial Assembly for approval. When we asked him which law is under operation to control Market Committees and to constitute the Market Committee, he clearly stated that the present Market Committee has been constituted under the provisions of Agriculture Produce Markets Act, 1939 and the applicable rules of Agricultural Produce Markets Rules, 1940. At this juncture, the learned counsel for the petitioner pointed out Rule 8 of Agricultural Produce Markets Rules, 1940 which is reproduced as under:

“8. Constitution of a Market Committee.—(1) For the purpose of constituting a market committee, Government may require the Commissioner in the case of the Karachi Market Committee and the Deputy Commissioner in any other case to submit by the specified date separate panel of growers, consumers and persons specified in sub-section (3) of Section-8 and such panel shall contain the names at least equal to twice the number of the vacancies to be filled in each category;

(2) The panel in respect of growers and consumers shall be finalized in consultation with their respective associations, if any, and the representative of the Bureau of supply and prices;

(3) Government may after such inquiry as deemed fit select the required number of persons from the panel for appointment as members :

(4) Government may specify the date from which a market committee is to function and this date will be given wide publicity amongst the general public of the notified area concerned.”

2. Under Section 7 of the Agriculture Produce Markets Act, 1939, it is the responsibility of the Government to establish a market committee for every notified market area and issue notification accordingly,

whereas Section 8 of the same Act germane to constitution of a market committee which shall consist of nine or sixteen members as Minister for Agriculture may in each case determine.

3. The bone of contention as pleaded by the counsel for the petitioner is that the impugned notification dated 12.06.2019 was issued in violation of Rule 8 of Agricultural Produce Markets Rules, 1940 as in Sub-Rule (2) it is clearly expounded that the panel in respect of growers and consumers shall be finalized in consultation with the respective associations, if any, and the representative of the Bureau of Supply and Prices, whereas in Sub-Rule (3) it is further provided that the Government may after such inquiry as deemed fit select the required number of persons from the panel for appointment as members. The petitioner's counsel submits that they have enough representation of the traders and their association is also registered under the Societies Registration Act, 1860 by virtue of Certificate of Registration of Societies issued by the Provincial Assistant Registrar on 25.02.2019.

4. The learned counsel for the respondents No.4 to 20 argued that at the time of constituting the market committee, the present petitioners were under litigation with market committee and some adverse allegations have also been levelled against them and they also encroached upon some land; hence they were not required to be called for any consultation or joining market committee.

5. After hearing the arguments of the learned counsel for the petitioner, learned counsel for the respondents No.4 to 20 as well as the learned Addl. A.G. Sindh, we are of the view that in compliance of Sub-Rule (2) of Rule 8 of the Agricultural Produce Markets Rules, 1940, a panel in respect of growers and consumers was to be finalized in consultation with the respective associations and the representative of the Bureau of Supply and Prices. Apparently the petitioner is also a registered association of the traders and its registration is prior to the issuance of notification dated 12.06.2019; hence in all fairness at the time of making the inquiry for the selection of required number of persons as envisaged in Sub-Rule (3) the representative of the petitioner's association should have also been called for their point of view which has not been done in this case. The learned Additional A.G. Sindh as

well as the Additional Secretary, Agriculture, Supply & Prices Department, Government of Sindh both proposed that in order to resolve this controversy, the matter may be referred to the Secretary, Agriculture, Government of Sindh to call the petitioner's representative as well as the representative of respondents No.4 to 20 and after providing ample opportunity of hearing to them the matter may be decided whether at the time of issuing the impugned notification dated 12.06.2019 the petitioner's association was required to be consulted or they were already consulted in terms of Rule 8 of the Agricultural Produce Markets Rules, 1940 and thereafter pass appropriate orders. This exercise should be completed within a period of one month. Petition is disposed of accordingly alongwith listed applications. A copy of this order may be transmitted to the Secretary, Agriculture, Government of Sindh, Chief Secretary to Government of Sindh as well as the A.A.G. for compliance.

Judge

Judge

Asif