

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

Suit No.2008 of 2022
along with
Suits Nos.-2291, -2292, -2299, -2300, -2315, -2316 of 2022
and 29 & 30 of 2023

DATE	ORDER WITH SIGNATURE OF JUDGE(S).
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Dated 17.02.2023

Mr. Ayan Mustafa Memon, Advocate for the plaintiffs.
Mr. Mr. Sandeep Malano, Assistant Advocate General Sindh.
Mr. Mushtaque Ahmed, D.G Coal Mines Development.

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Mr. Sandeep Malano, Assistant Advocate General Sindh files statement along with orders of the Appellate Authority passed in Appeals Nos.01 to 09 of 2023, preferred by the plaintiffs.

The grievance of the plaintiffs in these suits is a notification issued by Directorate of Coal Mines Development, Government of Sindh whereby the plaintiffs disclosed to have failed to develop/ utilize area/land subject to the coal mining permit which was granted and to take measures to improve socio-economic conditions of the area including appropriate training programs to develop skills amongst the local residents thereby helping local community, residing in the vicinity of coal mining area. It is disclosed in the notification that the licensees/ plaintiffs have violated the terms and conditions of the mining permit and in consequence whereof show cause notices were issued and the matter was placed before Coal Mines Committee for necessary action.

The Committee constituted under Section 4 of the Sindh Coal Act, 2012 and notified by the Services General Administration & Coordination Department, Government of Sindh, as provided under the Sindh Coal Mining Concession Rules, 2020, considered the

progress and decided, after hearing, to retrieve the undeveloped area in their possession for further utilization of the coal field area.

After hearing, the Coal Mines Committee considering the remaining term, allowed an area equivalent to the annual performance of the company till expiry of the permit.

Aggrieved of it, these permit holders/licensees attempted to exhaust two remedies that is, one by filing Appeals before the Appellate Authority and the other by invoking the original jurisdiction of this Court.

The questions as raised by the directorate as well as under consideration before the Appellate Authority, were not answered/satisfied by the plaintiffs and in consequence whereof the matters were concluded in view of the notification impugned in these proceedings as well decision of the Appellate Authority.

There cannot be parallel trial of same questions before two forums under doctrine of election. Once the questions raised by directorate and passed through appellate forum which decides the issues after hearing the appeal of plaintiffs, who opt to prefer an appeal, this original jurisdiction cannot be exhausted, not even as an Appellate authority against the decision of two forums including Appellate Authority created under the Sindh Coal Act, 2012 and the relevant Rules.

Though Mr. Ayan, learned counsel has refuted the observations and allegations made in the notification as well as by the Appellate Authority, but this is not the forum to agitate such grievance. I am, thus of the view that once the appellate authority has decided after considering the grounds disclosed in the notification, there cannot be, yet another trial of same issues and consequently this Court will

not sit on the judgment of the Appellate Authority as second Appellate Authority, while exercising original jurisdiction.

In view of the above, proceedings have been taken to its logical end by the Appellate Authority and if the plaintiffs are so aggrieved of it, they may have a recourse if available to them under the law referred above, however, not the original jurisdiction of this Court. Since the copies of the decision of the Appellate Authority have been provided to Mr. Ayan today in Court room, Assistant Advocate General, Mr. Sandeep Malano has conceded that they may exhaust any appellate remedy, if available to them under the law, within seven [07] days and the authority would not take any coercive or adverse action till such time only, which would either expire on the 7th day from the date of this order or on an earlier date when any such appellate remedy available with them is invoked, whichever is earlier. Order accordingly. All the aforementioned suits are dismissed.

Office to place copy of this order in all above connected matters.

JUDGE

Ayaz Gul