

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

C. P. No. D-3814 of 2020

(Zeeshan Younus Vs. Province of Sindh & others)

DATE	ORDER WITH SIGNATURE OF JUDGE(S).
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Present:
Mr. Justice Muhammad Shafi Siddiqui
Justice Mrs. Rashida Asad

Priority

1. For orders on office objections.
2. For orders on Misc. No.1610/2024 (R-50).
3. For hearing of Misc. No.22881/2020 (O-1, R-10).
4. For hearing of Misc. No.15971/2020 (Stay).
5. For hearing of main case.

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20.06.2024

Ms. Shazia Hanjrah, Advocate for the petitioner.
Mr. Zubair Ahmed Abro, Advocate for respondent No.7.
Mr. Sandeep Malani, A.A.G. Sindh.

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Muhammad Shafi Siddiqui, J.- This petition impugns a notification of 27.11.2018 whereby, purportedly, a notification or a permission to extract limestone from an area of “200 acres” near Goth Ghogharo District Thatta and Jamshoro was cancelled / declined.

2. The brief facts of the case are that on or about 02.07.2009 a permission / license to extract limestone was granted to the petitioner for a period of two years, over an area of 200 acres from the land described above, which was extended by another notification in March 2011. Petitioner has not demonstrated if any of the earlier notification and / or its extension for any period for extraction of limestone was a transparent process followed by public notices. The notification of March 2011 renewed the permission for another five years, apparently that ended

somewhere in March 2016 yet the petitioner continued to occupy the land described above.

3. In 2018, a notification was issued whereby alleged permission to extract limestone was declined as the authority refused to renew the mining permit of the limestone over the said area and the petitioner continued to occupy the same since 2009 uptill date.

4. We have heard the learned counsel for the petitioner and perused the record. There is no record produced if it was a transparent process of awarding the permit to extract limestone. It is the primary consideration of the petitioner that a notice ought to have been followed after a conclusion of notification of March 2011 which extended the permission / license of five years. The notification described the period to be ending in January 2016. On the pretext of an application / obligation for the extension of license / permit, the petitioner continued to occupy the land. We are not inclined to agree that since they have been depositing the challan / fee, on their own, this would give them a right to occupy the land. The amount of fee was being deposited without the permission of the authority concerned. No sooner the renewed license expired somewhere in March 2016, the status of the petitioner could only be seen as that of a trespasser under the Easement Act as permission alone does not bestow any right under the law. This license / permit could have been cancelled even during its subsistence. The petitioner has presented the case for which this Court cannot exercise discretion in their favour as they continued to occupy and enjoy the land as being a trespasser for the extraction of the limestone. Their original occupation over the land is also not shown to be transparent which calls for a detailed

enquiry of officers concerned responsible for such affairs, which we order accordingly. This being the situation, the petition merits no consideration. The concerned ministry shall take immediate steps to retrieve the land from the trespasser / petitioner and to submit a report in one week's time. The enquiry may be followed. The petition stands disposed of in the above terms alongwith listed applications.

JUDGE

JUDGE

Asif