

ORDER SHEET
THE HIGH COURT OF SINDH AT KARACHI

C.P No.D-3721 of 2024.

Date: Order with signature(s) of the Judge(s)

**Before: Salahuddin Panhwar &
Amjad Ali Sahito, JJ**

Priority.

1. For Hearing on Misc. No.16195/2024.
2. For Hearing of Main Case.

02nd September, 2024.

Mr. Sameer Tayebaly advocate for the petitioner.

M/s. Waleed Khanzada and Qamar Abbas Abbasi advocates for KW&SC.

Mr. Rajesh Kumar advocate for Sindh Food Authority.

Mr. Muhammad Vawda & Dr. Shahab Imam advocates / amicus.

Mr. Muhammad Qasim, DAG.

M/s. Hassan Akbar and Shahryer Mehar, AAG.

Syed Mohsin Hussain Shah, AAG/Focal Person to Chief Secretary Sindh.

Mr. Suhail Ahmed Qureshi, Secretary Health, Sindh.

Mr. Jam Khan Shoro, Chairman/Minister Food, Sindh Food Authority.

Mr. Muzammil Hussain, D.G, Sindh Food Authority.

SALAHUDDIN PANHWAR, J. Pursuant to the order dated 16.08.2024, Respondent No.1, 2 & 3 have filed their para-wise comments, same are taken on record and copies whereof are provided to the learned counsel for the Petitioner. Similarly, in compliance of the same order, learned AAG has submitted approval of SNEs, with regard to the seventeen water testing laboratories for different districts of the province, same are also taken on record.

2. Learned counsel for the Petitioner, has contended that Petitioner obtained permission from Bin Qasim Town and is extracting water to purify the same. According to counsel, as per law, KW&SC has no jurisdiction to take action against the Petitioner.

3. It has come on record that the Petitioner is registered with Sindh Food Authority. Chairman and Director General, Sindh Food Authority are

present, and contend that food is provisional subject and potable water also falls in the category of food. They have taken action against various companies, including foreign companies and they have found such water, (claimed as mineral water), not fit for human consumption. Further, they undertake that they will launch campaign against all the companies in the whole of province and will ensure that in the name of mineral water, the companies shall not be permitted to breach the trust of consumers and shall provide purified potable water; they shall also examine the standard of plastic bottles provided by companies and in case same are substandard and regulation shall be cancelled with coercive action[s].

4. Director General, Sindh Food Authority, contends that around four hundred bottled / mineral water companies are registered with the authority. Whereas, it has also come on record that around eight hundred companies are registered with the federal government's concerned department. Volume of the companies registered by the Province of Sindh and Federation shows smoke on the screen and same is not appealable to a prudent mind that hundred companies can be checked by two laboratories.

5. At this juncture, learned Amicus Mr. Muhammad Vawda referred water treaty, wherein our country is also signatory. According to Mr. Vawda, there shall be legislation on bottled/mineral water, but unfortunately despite of treaty specific law is not in field regulating the subject. When confronted regarding this treaty with learned Advocate General, Sindh, he undertakes that he will pursue the matter and work on subject legislation, as per WHO standards will be made by Province of Sindh.

6. Under these circumstances, we hereby direct, the Sindh Food Authority and the Federal Authority dealing with the subject, to re-examine all the licenses issued by notifying a special committee, consisting upon senior officials relating to the subject under scrutiny, to physically visit the plants of those companies, and shall ensure that water testing is being carried out, according to the values and standards as set by the WHO. In this connection, it is important to refer the scale which provides standard/value of water testing by WHO/FDA/purified mineral water:

S.	WHO	FDA	Pakistan	Pakistan (Minieral Water)
1.	Microbiological <ul style="list-style-type: none"> E. coli fecal coliforms Total Coliform faecal streptococci Pseudomonas aeruginosa 	Microbiological <ul style="list-style-type: none"> E. coli Total Coliform 	Microbiological <ul style="list-style-type: none"> E. coli Total Coliform Fecal enterococci/streptococci Pseudomonas aeruginosa 	Microbiological <ul style="list-style-type: none"> Total Coliform Thermotolerant/Fecal Coliform E. coli Fecal enterococci/streptococci
2.	Chemical <ul style="list-style-type: none"> Lead Arsenic Nitrates Mercury Cadmium Fluoride Potassium Sodium Boron 	Inorganic chemicals <ul style="list-style-type: none"> Fluoride Arsenic Antimony Barium Beryllium Cadmium Chromium Copper Cyanide Lead Mercury Nickel Nitrate Nitrite Total Nitrate and Nitrite Selenium Thallium Volatile Organic Chemicals <ul style="list-style-type: none"> Benzene (71-43-2) Carbon tetrachloride (56-23-5) o- Dichlorobenzene (95- 50-1) p- Dichlorobenzene (106- 46-7) 1,2-Dichloroethane (107- 06-2) 1,1-Dichloroethylene (75-35-4) cis-1,2-Dichloroethylene (156-59-2) trans-1,2-Dichloroethylene (156- 60-5) Dichloromethane (75-09- 2) 1,2-Dichloropropane (78- 87-5) Ethylbenzene (100-41-4) Monochlorobenzene (108-90-7) Styrene (100-42-5) Tetrachloroethylene (127-18-4) Toluene (108-88-3) 1,2,4-Trichlorobenzene (120-82-1) 	<u>Chemical</u> <ul style="list-style-type: none"> Nitrite Potassium Sodium Magnesium Calcium Arsenic (Optional) Fluoride (Optional) 	Chemical (table I) <ul style="list-style-type: none"> Nitrite Sodium Potassium Magnesium Calcium Chemical (table II) <ul style="list-style-type: none"> Antimony Arsenic Barium Borate Cadmium Chromium Copper Cyanide Fluoride Lead Mercury Nickel Nitrate Selenium Boron

7. Perusal of above existing laws reflects **that even Arsenic and Fluoride are optional which is shocking as arsenic causes cancer.**

It is expected that Federal Government and Province of Sindh shall legislate law in view of standards and guideline, as provided by the World Health Organization and water treaty including FDA and federal regulations [US Food and Drug Administration].

8. Besides, it has come on record that in the name of mineral water available in the market, there is no distinction whether that it spring water or sub-soil water. It is pertinent to mention that spring water can be considered as mineral water and rest of water is to be considered as bottled water. Accordingly, all companies are required to mention on every brand and highlight the same that the same are bottled water and mineral [spring] water. At this juncture, learned DAG seeks time to file comments with regard to the controversy, whether the subject issue is related to the Federal government or it is the Provincial subject, on this very issue, we will hear the parties on the next date.

8. Regarding the approval of SNEs of seventeen laboratories, Public Health Engineering, Department, shall submit dates of projects and completion of buildings, purchase of equipment and approval of SNEs which is six months back. Complete breakup in the given formation shall be filled by Public Health and Engineering Department. Whereas Health Secretary, Sindh, is also directed to file complete breakup of all dialysis machines purchased by Sindh Government on different fora and shall also submit the report about approval of their SNEs, and whether qualified and trained paramedical staff is appointed, who are competent enough to make those dialysis machines completely functional/operational. At this juncture Secretary Health contends, that SIUT is working and doing the needful for the general public. Needless to mention that the Government cannot be exempted, while citing the efforts of Dr. Adeeb Rizvi for establishing SIUT at Karachi and Sukkur, with the help of Government of Sindh, however, report as required through this order shall also clarify specifically, regarding the dialysis machines which are available throughout the province in various Taluka and District hospitals, whether same are having sufficient SNEs and properly trained staff.

9. At this juncture, judicial propriety demands that Additional Chief Secretary, Local Government shall direct all Chairman, Union Council Town Committee Council[s] Corporation, that they shall not permit any company for extracting water, unless they are authorized by Food Department and Karachi Water and Sewerage Corporation. At this juncture, it is important, that in the Province of Sindh KW&SC is existing, having domain for issuance of licenses and for checking/testing subsoil water, whereas, rest of the province of Sindh, does not benefit, due to non-application of applicable KW&SC laws and regulations. Accordingly, Law Secretary and Chief Secretary Sindh shall examine the same by forming a committee and shall ensure same nature of legislation as of KW&SC, in the whole of Sindh or widen the scope and applicability of KW&SC Act, to have been made applicable in the whole of Sindh.

10. Furthermore, the Chief Secretary, Sindh, shall ensure that from now onwards, every project which is being routed and initiated through Planning & Development Department, whether such project is related to Health, Education and any other department, the operational cost of SNEs for running each of such project must be approved, prior to submission of PC-4 (project completion report), otherwise such PC-4 would be considered deficient.

To come up on **03.10.2024, to be taken up at 11:00 a.m.** Attendance of Chairperson / Minister Food, Sindh Food Authority is dispensed with. Interim order passed earlier to continue till the next date of hearing.

JUDGE

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