

## IN THE HIGH COURT OF SINDH AT KARACHI

Present:  
Mr. Justice Muhammad Shafi Siddiqui, CJ  
Mr. Justice Omar Sial

**C.P. No. D – 4500 of 2020**

**M/s. Be Energy Limited** ..... **Petitioner**

Versus

**Federation of Pakistan  
& others** ..... **Respondents**

Mr. Zahid Kabeer, Advocate for Petitioner.  
Mr. Khaleeq Ahmed, Deputy Attorney General for Respondent No.1.  
Mr. Farmanullah, Advocate for Respondent No.2.  
Mr. Jawwad Dero, Additional Advocate General for Respondent No.4.

Date of hearing : 12.09.2024

Date of judgment : 12.09.2024

### **JUDGMENT**

**Omar Sial, J.**: The petitioner is engaged in oil marketing in Pakistan and operates by the name Be Energy Limited. Admittedly, the Oil & Gas Regulatory Authority (OGRA) regulates the petitioner's business. On 19.11.2019, OGRA sent a letter to several oil marketing companies, including the petitioner. OGRA informed the companies that they were in breach of OGRA restrictions to the extent that they were continuously establishing new outlets without seeking the requisite permissions and that if after 31.12.2019, any company did not have adequate storage facilities but had still established an outlet, the new outlets would have to be removed (**the impugned letter**). The petitioner is aggrieved by this letter and has therefore invoked the constitutional jurisdiction of this Court.

2. We asked the learned counsel what objection he had to the impugned letter, as neither the petitioner had been discriminated against nor was the restriction of such a nature that any of the petitioner's fundamental rights had been

violated. Learned counsel preferred to stay silent and replied that his client had instructed him not to proceed with the case today, even though this is a four-year-old petition. We are saddened to see the approach taken by the learned counsel. If any party is not interested in arguing their case when it comes up for hearing in the already inundated courts, perhaps the counsel should have been instructed to withdraw the case rather than continue to delay adjudication intentionally. We have shown judicial restraint in not imposing costs on the petitioner.

3. Learned counsel has been unable to show us that OGRA has violated any law, rule, or regulation in imposing the restriction through the impugned letter. Nor has it been demonstrated that the OGRA was not entitled to issue the directives. Similarly, no argument has been forthcoming to show prima facie that OGRA directives were patently illegal or wanted in jurisdiction. Further, neither has the oil marketing license issued to the petitioner been produced nor argued that the impugned letter breaches any license condition. A Division Bench of this Court in **Hascal Petroleum Limited vs Federation of Pakistan (2015 YLR 600)** faced with a similar situation has held that *“If it is shown by the petitioners that the impugned orders/actions have been made in violation of any rule/procedure/law, then the petitions would be maintainable, however, if it is shown by the respondents that the actions/orders assailed in the petitions were taken strictly by the rule/law/procedure, then the petitions could be dismissed as not maintainable.”*

4. Learned counsel has made no argument or submission to explain why the petitioner has not availed the remedies provided in section 12 (Appeal) of the Oil & Gas Regulatory Authority Ordinance, 2002. No plea has been raised that the remedy provided under the law is inadequate or not efficacious.

5. The petitioner has prayed that this Court declare all Federal Government decisions in 2015 concerning minimum storage capacities unconstitutional or illegal. Yet, learned

counsel has not been able to explain why the petitioner waited five years before agitating its grievance. Laches remained unexplained.

6. Given the above, we have no option but to dismiss the petition.

JUDGE

CHIEF JUSTICE