

ORDER SHEET  
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

C.P No.D-230 of 2016

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**DATE ORDER WITH SIGNATURE OF JUDGE**

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For orders on report of Additional Registrar.

**21.12.2017.**

Mr. Omer Salim Memon, Advocate for petitioner.

Mr. Allah Bachayo Soomro, A.A.G. alongwith respondents No.3 and 4.

This petition was disposed of vide order dated 01.03.2016 on the basis of a joint statement filed by the parties. This petition was primarily against the sealing of premises of the petitioner where allegedly expired and substandard pesticides were available carried out of respondent No.3,4 and 5, who belong to Agriculture and Police Department, during a raid conducted on 21.12.2015. However, in view of the joint statement warehouse was de-sealed on certain terms which include preparation of inventory of the stock, taking samples for testing purpose etc. And thereafter the products placed therein were sealed again. However, subsequently an application u/s 151 CPC was filed by the petitioner seeking permission to incinerate the expired products sealed at Hero Warehouse by the officials of the Agriculture on 05.03.2016 with further permission to export expired 'curacon' to have the same re-validated was disposed of vide order dated 04.10.2017 whereby Additional Registrar of this Court was appointed as commissioner with the mandate to take possession of sealed expired pesticides' consignment and again an inventory of the good available which shall be matched with the first inventory and thereafter the said pesticides' be incinerated without causing hazard to the environment. It appears that in compliance of the said order learned Additional Registrar of this Court submitted a report dated 12.10.2017 suggesting that the expired pesticides' may be taken to Bestway Cement Ltd. Chakwal Punjab be destroyed in presence of a Judicial Magistrate there. The copy of such report was supplied to the State Counsel for assistance and meanwhile respondents No.3 and 4 were directed to appear before the Court. Consequently, respondents No.3 and 4 have submitted a statement disclosing that some of the samples taken from the warehouse of the petitioner have been found substandard and thus they have already initiated a process for registration of F.I.R. against the petitioner and in this regard have written a letter to the police. It has been further revealed in the said statement that the material / pesticides' / fertilizer which have been declared substandard by two laboratories are case properties, which are to be

produced during the trial after registration of the F.I.R. It has also been suggested that the substandard property could be disposed of by the Sindh Environmental Protection Agency (SEPA) in safe way. Their statement further reflects that on the allegation that the petitioner was relabeling the expired pesticides' / fertilizer material in the warehouse, the raid was conducted there. This statement indicates that respondents No.3 and 4 have already made correspondence with the police department for registration of the F.I.R. for the allegations as stated above and the property which the petitioner is seeking restriction of is in fact the case property to be produced before the trial court. We, therefore, are of the view that the trial court would be competent to entertain the application of the petitioner seeking destruction / incineration of the substandard pesticides' / fertilizer / the case property. But, since it has been informed that yet no F.I.R. has been registered and thus the forum of the trial court is not yet available to the petitioner for the above said purpose, we would like to call the progress report from the SSP Hyderabad regarding the stage of correspondence made by the Agriculture Department for registration of the F.I.R. against the petitioner so that the forum of the trial court in case in the investigation the allegations are established against the petitioner is made available to them. Let a copy of this order be communicated to the learned A.A.G for compliance.

JUDGE

JUDGE

C.Ps No.D-968 and 1274 of 2012

ORDER SHEET  
IN THE HIGH COURT OF SINDH, CIRCUIT COURT,  
HYDERABAD

C.P No.D-968 of 2012

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**DATE      ORDER WITH SIGNATURE OF JUDGE**

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For Katcha Peshi.

**18.10.2017.**

Mr. Ahsan Gul Dahri, Advocate for the petitioners.

Mr. Allah Bachayo Soomro, A.A.G.

Petitioners are brothers inter-se and are residents of village Kariri Dahri (Haji Abdullah Dahri), Taluka Dour, District Shaheed Benazirabad. They are seeking appointments on lower grade posts in the Education Department on the ground that they have donated a plot admeasuring 10000/- sq. ft. for the construction of building of school in their village.

2. Learned Counsel for the petitioners has reiterated the said facts in his arguments and has stated that since the petitioners have donated the plot for building of the school, they are entitled to priority in the appointments on the lower grade posts in the said School.

3. On the other hand, learned A.A.G has opposed this petition and has relied upon the case of *Government of Sindh and others v. Loung Khan Rajper etc* (Civil Appeals Nos.19-K to 50-K of 2015).

4. We have considered the submissions of the parties and perused the material available on record.

5. The issue of appointments of the persons against donating the plot for schools has already been decided by the Honourable Supreme Court in Civil Appeals referred to above, and while discussing such appointments, the Honourable Supreme Court has referred to its earlier judgment in the

case of *Hameedullah and 9 others vs. Headmistress, Government Girls School, Chokara, District Karak and 5 others* (1997 SCMR 855), in which it has been held that the appointment is to be based on merits and if on merits the donor or his nominee is at par with other candidates only then preference can be given to him.

6. Although learned Counsel for the petitioners has urged before us that his case is distinguishable to the one already decided by the Honourable Supreme Court but he has not been able to specify the difference. He has not been able to show either that the petitioners have participated in the selection process for the posts they are seeking appointment on and were at par with the other candidates, but yet were refused appointments to appreciate his contention that the petitioners should have been given preference on the basis of their donating the plot for the school.

7. Therefore, we are of the view that this petition is devoid of merits and is dismissed accordingly alongwith listed application. However, the petitioners would still be at liberty to participate in the selection process for the appointment on the said posts and if they are found to be at par with the other candidates in all respects, they may be given preference.

JUDGE

JUDGE

