

**IN HIGH COURT OF SINDH, CIRCUIT COURT  
MIRPURKHAS**

**C.P No.D-63 of 2024**

[Haji Muhammad Umar Bughio v. Province of Sindh & Others]

**Before:**

**Mr. Justice Arbab Ali Hakro**

**Mr. Justice Riazat Ali Sahar**

Petitioners:	Haji Muhammad Umer Bughio and 2 others through Mr. Ghulam Nabi Meo Rajput, Advocate.
Respondents No.1to5:	Through Mr. Muhammad Sharif Solangi, Assistant A.G. Sindh along with Faisal Ali Soomro ADC-II, Mirpurkhas.
Respondents No.6&8to12:	Through Mr. Rao Faisal Ali, Advocate.
Respondent No.7:	Nil.
Dates of Hearing :	<b><u>07.05.2025</u></b>
Date of Decision :	<b><u>07.05.2025</u></b>

**JUDGMENT**

**RIAZAT ALI SAHAR J:** -Through this Judgment, we intend to dispose of captioned petition filed by the petitioner with prayers:-

01. *That this Honourable Court may be pleased to direct official respondents for initiating stern action against private respondents and other local/un-authorized black-marketing vendors for violating the terms and conditions as contained in Memorandum of Understandings*

*(MoU) signed between petitioners and private respondents.*

02. *That this honorable Court may be pleased to direct official respondents for implementation of rules and laws within Mirpurkhas Division as envisaged in Act of price Control and Prevention of Profiting and Hoarding Act, 1977, Sindh Essential Commodities, Price Control and Prevention of Profiting and Hoarding Act, 2005, and Price Control and Prevention of Profiting, and Hoarding Act, 2001.*
03. *That this Honorable Court may be also pleased to direct official respondents for producing/submitting reports regarding what measures/actions they took against black-marketing, illegal and unlawful trading of Fertilizers/Urea businessmen and vendors within District Mirpurkhas.*
04. *That any other relief(s) which this Honorable Court deem fit and proper please be awarded to the applicant.*

2. The petitioners have stated in their petition that they are prominent agriculturists affiliated with Sindh Abadgar Board, and alleged that private respondents are involved in black-marketing, overpricing, hoarding and illegal trading of fertilizers in Mirpurkhas under the cover of official respondents. On written complaints to the District Administration in January 2023, a raid was conducted on 05.09.2023 at Mirpurkhas Railway Station and rented godowns, leading to seizure of large quantities of illegally stored fertilizer sacks belonging to multiple dealers. They have further stated that later on, a Memorandum of Understanding (MoU) was executed between the parties, witnessed by official

respondents, wherein private respondents agreed to sell fertilizer at government control rates, provide daily updates on stocks and invoices and restrict sales to within Mirpurkhas District. However, petitioners have alleged that the private respondents failed to comply with the MoU and official respondents did not ensure enforcement or implementation of relevant laws, despite awareness of the continued illegal practices. According to the petitioners, legal notices were also issued by the petitioners, but no substantive action has followed. Hence, the instant petition has been filed seeking enforcement of the MoU and implementation of the statutory provisions governing price control and prevention of hoarding and profiteering in fertilizers.

3. Pursuant to the notice of this Court, respondent No.3 filed comments. Respondent Nos.6, 8, 9, 10, 11 & 12 also filed their preliminary/written objections.

4. Respondent No.4, in its comments, has stated that a Memorandum of Understanding (MoU) was signed on 25.09.2023 under the chairmanship of the then Assistant Commissioner, Mirpurkhas, between the Fertilizer Dealers Association and the Sindh Abadgar Board, Mirpurkhas. The MoU pertained to approximately 25,000 bags of Sona Urea (FFC) held at the railway station on 05.09.2023. Out of these, 10,600 bags belonging to District Umerkot and District Badin

had already been released earlier. Some of the urea bags were offloaded from the train before the seizure took place. The remaining urea bags were distributed among small growers under the supervision of the Chairman, Sindh Abadgar Board, in accordance with the terms and conditions of the MoU. The Deputy Commissioner appointed the Assistant Commissioner, Hussain Bux Mari, as the authorized officer and focal person of the district for controlling black marketing and ensuring the sale of urea at notified rates, in compliance with the directives of the Chief Secretary communicated via Zoom meeting shortly after the signing of the MoU. The undersigned was again appointed as the authorized officer on 03.01.2024 for the same purpose. In this capacity, he seized and sealed godowns/warehouses of various fertilizer agencies, issued notices to them at different times and imposed heavy fines totaling approximately one million rupees, which were deposited into the government treasury.

5. Respondent Nos. 6, 8, 9, 10, 11 and 12, in their comments, have stated that the instant petition is not maintainable under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, as the petitioners lack legal character and *locus standi* to file it. They alleged that the petition has been filed to blackmail and harass Urea shopkeepers/retailers, rather than for any legitimate grievance. These respondents also stated that the petitioners

belong to the ruling political party in Sindh and have exerted undue influence over the District Administration, misinterpreting the order dated 31.01.2024 to further their personal and political motives. Respondents No. 6 and 8 clarified that they are office bearers of the Fertilizer Dealers Association, Mirpurkhas, while Respondents No. 9 to 12 are not associated with the Association in any official capacity. They also challenged the legitimacy and functioning of the Sindh Abadgar Board, constituted in 1960, alleging that no elections have been held, despite the Board comprising 40 influential agriculturists. They questioned the fairness of the MoU implementation, stating that despite the involvement of numerous shopkeepers in fertilizer and pesticide sales, notices were selectively issued only to a few, including themselves, without lawful justification. The respondents admitted that the MoU required them to provide 9,000 bags of Urea to the Sindh Abadgar Board and confirmed that they have already supplied 8,730 bags to farmers nominated by the Board. However, they highlighted procedural violations, noting that one farmer obtained 480 bags without submitting the mandatory covering letter from the Board and that some farmers hoard Urea obtained at controlled rates to resell at higher market prices. They also claimed that farmers often acquire excessive quantities, sometimes over a thousand bags, when their actual requirement is only 100 bags, leading to artificial shortages

and black marketing. They denied selling Urea at inflated prices, asserting that fertilizer rates are nationally regulated. They clarified that there are three primary companies i.e. Engro, Fauji and Fatima Fertilizers and they are responsible for meeting market demand. Moreover, they noted that according to standard practice, Urea is to be sold only if the buyer also purchases NP/DAP fertilizer, but this condition is not observed by farmers referred by the Sindh Abadgar Board. Respondents have stated that they are obedient with the *Price Control and Prevention of Profiteering and Hoarding Act, 1977*, and the *Sindh Essential Commodities (Amendment) Act, 2023*. As per Clause 2 of the MoU, they asserted that any dispute must first be resolved through a meeting between representatives of the Sindh Abadgar Board and the Fertilizer Association, without invoking administrative intervention unless required. They also complained that the unjustified stoppage of freight trains caused them severe financial losses due to excess charges paid to Pakistan Railways. They reiterated that they sell fertilizers strictly at controlled rates, maintain transparent sales records and follow all district administration directives. In conclusion, they prayed for dismissal of the petition for being frivolous and legally untenable.

**6.** The petitioners filed a rejoinder to the objections submitted by Respondents No. 6 and 9 to 12. In their rejoinder,

the petitioners categorically denied the preliminary objections of the said respondents and maintained that they possess the requisite legal character and rights to file the instant petition, which is fully maintainable under the law. They refuted the allegations regarding the sale of Urea at excessive rates, terming them baseless, false and a misrepresentation intended to deflect from the respondents' own negligence. The petitioners contended that the MoU does not stipulate that 9,000 bags of fertilizer are to be provided to the private respondents by the Sindh Abadgar Board. Instead, under the MoU, the private respondents are obligated to furnish daily records of fertilizer sales to agriculturists/farmers, upload such data on the fertilizer Portal and also communicate the same to the Sindh Abadgar Board obligations which the private respondents have failed to fulfill. Regarding the respondents' assertion that Urea must be purchased together with DAP (phosphorus), the petitioners stated that no such legal requirement exists, nor any supporting documentation from relevant companies has been provided to substantiate this claim. The petitioners further alleged that the private respondents are in breach of the MoU and have repeatedly been warned by the District Administration for violating its terms. The petitioners pointed out that as per Clause 2 of the MoU, they served a legal notice upon the private respondents for non-compliance. However, instead of addressing their

breach, the respondents leveled frivolous, fabricated and baseless allegations against the petitioners. The petitioners emphasized that the rules and laws established by the Government of Pakistan, both federal and provincial, are binding on all stakeholders, including company dealers, businessmen, and shopkeepers. In last, the petitioners prayed that the preliminary and written objections submitted by the private respondents be disregarded, as they are based on misrepresentation and aimed at misleading the Court from the actual facts and issues in the case.

7. The learned counsel for the petitioners has contended that the instant raises questions involving enforcement of public duties by state functionaries in accordance with the law, as such, it is maintainable under Article 199 of the Constitution. He contended that the petitioners, being members of the Sindh Abadgar Board, have the requisite legal character to seek enforcement of statutory provisions and the MoU, which was executed with official endorsement. Counsel contended that despite repeated complaints and legal notices, the private respondents continue to hoard, overprice and illegally trade Urea, thereby violating the Price Control and Prevention of Profiteering and Hoarding laws. He emphasized that the MoU was a binding agreement and the official respondents are under a legal obligation to ensure compliance. The learned counsel further contended that



the actions of the private respondents are detrimental to the interests of small growers, leading to artificial shortages and increased costs of production, thereby affecting food security. He prayed for appropriate directions to ensure implementation of the laws and MoU and to initiate action against defaulting dealers.

8. On the other hand, the learned Assistant Advocate General Sindh has contended that the district administration took several concrete steps to curb black marketing and ensure compliance with the MoU. He has contended that the Assistant Commissioner, as focal person, regularly conducted raids, sealed godowns, and imposed heavy fines on violators. He also contended that the administration acted in accordance with the directives issued by the Chief Secretary and under the relevant laws. He has further contended that the petitioners have already been accommodated through distribution of seized Urea stock and administrative oversight is ongoing. Therefore, the petition does not warrant further intervention by this Court.

9. Learned counsel for the respondents No. 6, 7 to 12 contended that the petition is not maintainable under Article 199 as it involves disputed questions of fact and the petitioners lack *locus standi*. He has contended that the petitioners are misusing the platform of Sindh Abadgar Board to harass fertilizer traders and manipulate the market. He argued that

the MoU requires amicable resolution through bilateral meetings before invoking official intervention, which the petitioners ignored. Counsel further contended that the respondents have already fulfilled most of their obligations by distributing thousands of bags to the farmers and maintaining transparent records. He pointed out that misuse by farmers, such as hoarding and acquiring excessive quantities, contributes to market distortion, for which traders cannot be held responsible. He denied all allegations of black marketing or overpricing and prayed for dismissal of the petition.

10. We have heard the learned counsel for the petitioners, the learned Assistant Advocate General Sindh as well as learned counsel for respondents No. 6, 7 to 12 and carefully examined the record available on file.

11. On meticulous examination of the record and after considering the respective submissions of the learned counsel for the parties, it appears that the grievance raised by the petitioners is not illogical. The petitioners, as members of the Sindh Abadgar Board, possess legitimate standing to invoke this Court's jurisdiction under Article 199. Their petition, alleging systemic black-marketing of fertilizers harming agricultural communities, transcends personal interest and aligns with the jurisprudence of PIL, which permits relaxed locus standi for matters affecting public

welfare. Judicial precedents, including *Moulvi Iqbal Haider v. Capital Development Authority and others* (PLD 2006 Supreme Court 394) and *Javed Ibrahim Paracha v. Federation of Pakistan and others* (PLD 2004 Supreme Court 482), underscore that citizens acting *pro bono publico* may seek redressal for violations of collective rights, provided their intent is genuine and grounded in communal harm. Here, the petitioners' role in advocating for equitable fertilizer distribution-a necessity for food security-establishes their 'sufficient interest' under Article 199, particularly when state inaction exacerbates public detriment. The objections to their standing are overruled, as the petition squarely addresses enforcement of statutory duties and contractual obligations under the MoU, warranting judicial intervention to safeguard broader public interests.

12. The record substantiates that a **Memorandum of Understanding (MoU)** was indeed executed between the private respondents and the Sindh Abadgar Board on 25.09.2023, under the official supervision of the then Assistant Commissioner. It laid out specific obligations upon the private fertilizer dealers, including:

- Selling the seized and stored fertilizer (Sona Urea) strictly at **government notified/control rates**;

- Providing **daily reporting** of stocks and sales via **Portal access and reports** to both the District Administration and the Sindh Abadgar Board;
- **Restricting sales to Mirpurkhas District** only; and
- **Submission of trade invoices and stock records** for verification.

13. Despite these mutually agreed terms, the record reflects that private respondents have partially defaulted on their commitments. They neither consistently uploaded the required stock and sales data nor adhered fully to the controlled rate sales within the district, as confirmed by various **orders passed by the Assistant Commissioner Mirpurkhas in his capacity as Special Magistrate** (available in the case file along with the comments of respondent No.4), whereby fines were imposed under the **Price Control and Prevention of Profiteering and Hoarding Act, 1977(“Act, 1977”)**. As regards, allegations blaming procedural faults or farmer misuse against the petitioners, it does not absolve them of statutory and contractual obligations. They were bound under law and the MoU to prevent misuse by maintaining controlled sales, proper records and full transparency in coordination with the authorities. Furthermore, as per the terms of the MoU, any dispute arising between the parties was to be resolved initially through a meeting between representatives of the Sindh

Abadgar Board and the Fertilizer Association, without resorting to administrative intervention unless deemed necessary. However, the respondents have failed to place on record any material or correspondence demonstrating that such a meeting was convened or efforts were made to resolve the dispute amicably, thereby failing to discharge the burden of proving that no violation of the MoU occurred on their part.

14. Section 3 of the said Act empowers the government and its notified officers to regulate prices, control movement and sale of essential commodities and take necessary action to ensure fair distribution. **Chemical fertilizers**, including Urea, are explicitly listed as “**essential commodities**” under Schedule Part I of the Act, 1977. Moreover, **Section 7** of the Act imposes penal consequences on any person or dealer who violates price regulations or hoards essential commodities.

15. Considering the entire material available on record, we are of the view that official respondents, particularly the **Deputy Commissioner**, being head of the District Administration as well as **Authorized Officer(s)**, are under a legal duty to ensure not only **strict enforcement of the MoU** but also the **effective application of the Price Control Act, 1977** and the **Sindh Essential Commodities (Price Control and Prevention of Profiteering and Hoarding) Amendment Act, 2023**. They are required to adhere to their

statutory duties in accordance with law and to ensure that, in future, no violation of the applicable statutory provisions occurs.

**16.** For what has been discussed above, the instant petition is **disposed of** with the following directions:-

**A.** The **Deputy Commissioner, Mirpurkhas**, being the District head and supervisory authority under the MoU and relevant laws, is directed to:

**1. Ensure complete implementation of the MoU dated 25.09.2023,** particularly regarding:

- (i) Sales at **notified/control rates** only;
- (ii) No diversion of fertilizer stocks outside Mirpurkhas District;
- (iii) Mandatory **daily reporting** of sales, invoices and stock positions on the **Fertilizer Portal** and to the Sindh Abadgar Board.

**2. Appoint a Monitoring Committee,** comprising:

- (i) A senior officer from the Revenue Department;
- (ii) A representative of Sindh Abadgar Board;
- (iii) An independent agriculturist (nominated with the mutual consent of the Deputy Commissioner and Sindh Abadgar Board);to **oversee daily compliance**, verify records and ensure fairness in fertilizer distribution.

**3. Direct the Assistant Commissioner** (as Authorized Officer under Section 11 of the Act of 1977) to:

- (i) Conduct **random inspections and audits** of fertilizer godowns and outlets;
  - (ii) Take immediate action under **Sections 7 and 8** of the Act of 1977 against any instance of hoarding, overpricing, or misreporting;
  - (iii) Maintain **transparent records of penalties imposed and enforcement actions**.
- B.** The **private respondents/dealers** are hereby cautioned that any future violation of the MoU or relevant laws shall lead to penal proceedings, including **confiscation of stock and forfeiture orders** as per **Section 7(2)** of the Act of 1977.
- C.** Furthermore, it is imperative that the Chief Secretary Sindh and Secretary Agriculture, Government of Sindh, in consultation with the Divisional Commissioners and Deputy Commissioners across the Province, devise and implement a comprehensive and uniform mechanism to ensure province-wide enforcement of the Price Control and Prevention of Profiteering and Hoarding Act, 1977 and the Sindh Essential Commodities (Price Control and Prevention of Profiteering and Hoarding) (Amendment) Act, 2023. Effective monitoring cells shall be constituted at divisional and district levels comprising representatives from the Agriculture Department, Revenue Department, District Administration, and independent growers' associations, tasked with conducting regular inspections, audits of fertilizer stocks, and ensuring sale at notified rates without hoarding or black-marketing. Clear compliance protocols should be framed within four (04) weeks from receipt of this order, ensuring transparency,

accountability, and deterrence against malpractice. Failure on the part of any concerned officer, official, or respondent to implement or comply with these directions shall expose such person(s) to appropriate legal consequences, including but not limited to:

- Initiation of penal action under the relevant statutory provisions,
- Departmental disciplinary proceedings,
- Imposition of fines as provided under the applicable laws, and
- Proceedings for contempt of court under Article 204 of the Constitution of the Islamic Republic of Pakistan, 1973, and the Contempt of Court Ordinance, 2003.

For the avoidance of doubt, any willful or deliberate non-compliance with the orders of this Court shall be treated as civil and/or criminal contempt and the defaulting officer(s) or respondent(s) shall be proceeded against accordingly. The Chief Secretary Sindh is further directed to file a comprehensive compliance report, detailing the steps taken and outcomes achieved, within two (02) months from the date of this order, through the Additional Registrar of this Court. The report shall specifically address the implementation status of each direction and identify any impediments or instances of non-compliance, along with the remedial actions taken.

Let a copy of this order be communicated to the Chief Secretary and Secretary Agriculture, Government of Sindh for information and compliance.

**JUDGE**

**JUDGE**