

**IN THE SUPREME COURT OF PAKISTAN**  
(Appellate Jurisdiction)

**PRESENT:**

Mr. Justice Umar Ata Bandial  
Mr. Justice Faisal Arab  
Mr. Justice Ijaz ul Ahsan

**CIVIL PETITIONS NOS. 1195-1197 & 1322 OF 2019**

(On appeal from the judgment/order dated 28.02.2019 passed by Lahore High Court, Lahore in CMA No.2 of 2019 in W.P. No. 11903 of 2019)

Water & Sanitation Agency,  
Lahore through its M.D.

... **Petitioner(s)**

**VERSUS**

Lottee Akhtar Beverages (Pvt) Ltd.  
Lahore & others

... **Respondent(s)**  
*in CP.1195 of 2019*

Sheezan International Ltd.

... **Respondent(s)**  
*in CP.1196 of 2019*

Coca Cola Beverages Pakistan Ltd.

... **Respondent(s)**  
*in CP.1197 of 2019*

Nestle Pakistan Ltd.

... **Respondent(s)**  
*in CP.1322 of 2019*

For the petitioner(s) : Mian Irfan Akram, ASC.

For the respondent(s) : Mr. Munawar-ul-Islam, ASC.  
Mr. Farooq Amjad Mir, ASC.

For Govt. of Punjab : Mr. Qasim Ali Chauhan, Addl. AG.  
Ch. Faisal Fareed, Addl. AG.

Date of hearing : 23.05.2019.

**ORDER**

We have heard the learned counsel for the parties and have perused the impugned order dated 28.02.2019 passed by a learned Single Bench of the Lahore High Court. This order takes cognizance of the water tariff levied vide notification dated 18.01.2019 issued under Sections 28 and 29 of the LDA Act, 1975 ("**LDA Notification**"). It is noteworthy that the impugned order is

passed after perusal of our order dated 06.12.2018 made in SMC No.26 of 2018. For ensuring water security for the people our order dated 06.12.2018, *inter alia*, directs the Provincial Governments to cause notifications by the competent authorities to be issued for the charge and collection of water tariff at the rate of Rs.1/- per litre from industrial units drawing piped or ground water used in the production of bottled water or beverages. The same order of the Court establishes an Implementation Bench of this Court for ensuring compliance with the aforesaid and other directions given in that order for the conservation of the water resource of the country.

2. The LDA notification dated 18.01.2019 levies a water tariff in the purported compliance of the directions contained in our order dated 06.12.2018. The private respondents are aggrieved by the tariff charged under the LDA notification. However, instead of bringing their objections before the Implementation Bench, the respondents chose to file a Writ Petitions before the learned Lahore High Court to express their misgivings. By the impugned order dated 28.02.2019 the learned High Court suspended the LDA notification. We consider that any flaws or deficiencies in the steps taken by the Provincial Governments for the enforcement of this Court's directions are to be highlighted in the proceedings of SMC No.26 of 2018 before the Implementation Bench of this Court. By entertaining and adjudicating such a challenge to the LDA notification, the learned High Court has surprisingly and to our disappointment assumed jurisdiction over a *lis* that is *sub judice* before this Court. Such course of action clearly offends the settled norms of judicial propriety and comity, which is disapproved.

3. The order of the Implementation Bench of the Court dated 07.03.2019 as an interim measure directs that:

“... the billing system for immediate implementation and collection shall throughout the country proceed on the basis of the total production figure of retained and sold quantities of beverages or bottled water as stated in the sales tax record of the concerned units.”

4. Notwithstanding the said relief granted upon the reservations expressed by water and beverage bottlers, the private respondents simultaneously resorted a parallel remedy before the learned High Court. Such an endeavour indicates an attempt to undermine judicial process by sidestepping the express directions given by the Court. This course is invalid for inviting conflicting opinions and bypassing the hierarchy of judicial *fora*. We contemplated initiating appropriate action against the respondents but for now have decided to exercise judicial restraint. The learned counsel for the petitioner-WASA informs that a separate account has been established to collect water tariff that is deposited by the private respondents. However, due to the impugned order dated 28.02.2019 hardly any funds have been credited to the said account. He has assured that according to the directions of this Court the amounts credited to such account shall be applied solely for conservation and development of water resources projects.

5. In the above background, notices are accepted by counsel for the represented respondents. Issue notice to the other respondents. It is ordered that in the meanwhile:

- i) Billing of the water tariff by the petitioner at the industrial units of the respondents shall be based upon the production figures of bottled water and/or aerated beverages reported in the sales tax record. Certified copies of the said record shall be provided by the private respondents to the petitioner for assigning billed amounts on or before May 31, 2019. Bills shall be prepared and delivered by June 04, 2019. The billed amount calculated at the rate of Rs.1 per litre (based on the aforesaid production figures of bottled water and/or aerated beverages) shall be paid on or before June 12, 2019. In case of non-payment on or before the said date the petitioners shall take appropriate action, strictly in accordance with law.
- ii) Pursuant to the order of the Implementation Bench of this Court dated 06.12.2018 the Government of Punjab shall take immediate steps to develop a mechanism and provide machinery for collection of water tariff at the rate and manner prescribed by the Provincial Government/Court uniformly from all units of the bottled water and beverage industry throughout the Province; likewise for units of other industries in the Province after issuance of notices.
- iii) Any objections, suggestions or solutions in respect of charge and collection of water tariff from the private respondents and other industrial units utilizing water as a major component of their industrial processes shall be filed before this Court and no other judicial forum.

- iv) The impugned interim injunctive order dated 28.02.2019 is hereby suspended and the proceedings in the pending Writ Petitions before the learned High Court in which such orders have been passed are stayed.

Adjourned. To come up for further hearing after Eid-ul-Fitr.

JUDGE

JUDGE

Islamabad,  
23.05.2019.  
*Irshad Hussain /\**

JUDGE