

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

Present:

Justice Muhammad Ali Mazhar
Justice Syed Hasan Azhar Rizvi
Justice Aqeel Ahmed Abbasi

Civil Petition No.551-K of 2022

Against the order dated 22.03.2022 passed
by High Court of Sindh, Karachi in
C.P.No.D-6020 of 2020

Market Committee Karachi

.....Petitioner

Versus

Amin Akbar Ali Dossa & others

...Respondents

For the Petitioner:

Mr. Yousuf Moulvi, ASC
Ms. Nahid Naz, AOR

For Respondent-1:

Mr. Altamash Faisal Arab, ASC

For Respondent-2:

Nemo.

For Respondent-3:

Mr. Sibtain Mehmood, Addl. AG Sindh
Mr. Ghaus Bux, SHO

Date of Hearing:

16.07.2025

Judgment

Muhammad Ali Mazhar, J. This Civil Petition is directed against the Order dated 22.03.2022 passed by High Court of Sindh, Karachi in C.P.No.D-6020 of 2020.

2. According to the narrative of the petitioner, the respondent No.1 is representing as dealer within the jurisdiction of notified market area while the respondent No.2 is engaged in the manufacturing process of Fishmeal which is used as chicken feed. It is further alleged that the product is covered in the Schedule vide Section 2 (a) of Agricultural Produce Market Act, 1939 (**AMPA 1939**) under the heading of Miscellaneous "Fish (fresh & dry)". The petitioner filed a complaint under Section 4 (2), 6 (1) read with Section 26 (1) of APMA 1939 & Rules 1940 before the Civil Judge & Judicial Magistrate, Karachi for taking cognizance against the alleged violation of law including the directions to the accused persons to obtain the license under Section 4 (2) of the APMA 1939 & Rules 1940 and also pay the License Fee. The petitioner also issued a demand notice on 21.09.2021 to the

respondent No.2 "Pak Fishmeal (Pvt.) Limited" but respondent No.1 as an agent challenged the aforesaid demand notice by dint of Constitution Petition No.D-6020 of 2020, whereby, demand notice dated 21.09.2020 was struck down on the ground that the produce/product in question did not fall within the purview of the Act/schedule.

3. The learned counsel for the petitioner argued that the power entrusted under Section 27 (2) of APMA 1939, the Government of Sindh has made Agricultural Produce Market Rules, 1940. It was further contended that Sindh Wholesale Agricultural Produce Market (Development & Regulation) Act 2010 (**2010 Act**) was promulgated to provide for development and regulation of competitive and transparent wholesale agricultural produce markets in the Province of Sindh. It was further averred that "Fish (Fresh & Dry)" is included in the Schedule of APMA, 1939 under the heading Miscellaneous, therefore, the findings recorded by learned High Court that Fishmeal is not included in the items listed in the Schedule of Agricultural produce is unfounded and the action of striking down the demand notice was not in accordance with law. It was further contended that Government of Sindh has so far not implemented the 2010 Act and statutory functions have not been transferred to the Market Companies by the market notified under the APMA 1939, therefore, the Government and the market committees are still operating and exercising all the powers as conferred under the APMA 1939.

4. The learned counsel for respondent No.1 argued that respondents No.1 and 2 are engaged in the business of producing/manufacturing fishmeal for the poultry and cattle consumption and not for human consumption. He drew our attention to Clause (a) of Section 2 of the schedule attached to the APMA 1939 and argued that in the miscellaneous portion of Clause (a), only 'Fish (Fresh and Dry)' is mentioned, which does not cover 'fishmeal', therefore, the learned High Court, after considering the entire facts of the case, rightly struck down the notice of demand.

5. Heard the arguments. The bone of contention before the learned High Court was whether fishmeal is included in the Schedule attached to APMA 1939 or not? The learned counsel for the petitioner articulated that as per Notification dated 07.02.2011, issued in

exercise of powers conferred by Section 27 of the Act of 1939, the item No. (xv) of the said Notification clarifies that fish includes fresh and dry. He further pointed out that though 2010 Act was promulgated which repealed APMA 1939 on expiry of three years of the commencement of the 2010 Act but still the old law/Act is in field till such time the statutory functions are transferred to market companies within the stipulated period as may be prescribed.

6. The APMA 1939 was promulgated to provide better regulation of the purchase and sale of agriculture produce in the province of West Pakistan and for that purpose to establish markets and make rules for their proper administration. According to the definition provided under clause (a) of Section 2, the Agricultural Produce is defined as under:-

"Agricultural Produce means agricultural or horticultural Produce, Livestock or poultry and products and by-products thereof, specified in the Schedule; provided that Government may, by notification in the official Gazette, add to or omit any agricultural produce or their by-products specified in the Schedule".

According to the "Schedule" attached to the APMA 1939 pursuant to clause (a) of Section 2, certain genera of "Agricultural Produces" are equated as under:

"Cereals

Wheat, Maida, Suji, Dalya, Barley, Paddy, Rice, Husk, Maize, Maizecobs (green and dry), Jowar, Bajra-Atta and Starch.

Fibers:

Cotton unginned (Phutty), Lint (Cotton) and Jute fibre.

Sugar:

Sugarcane, Sugarcane-juice, Gur, Shakkar, Molasses, Sugar desi and refined.

Oil Seeds:

Cotton seed, linseed, Sarsoon, Tays, Taramire, Til, Palm, Soyabean, Sun-flower, Ground nut, Caster, Coconut, their oils and oil cakes.

Pulses:

Mung, Masoor, Mash Matter Moth, Gram, Beans, Arthar, Gowar and others, whole and split.

Fodders:

Senji, Lucern, Berseem, Bajra, Jawar other than Bajradry, Maize, Paddy Straw (Palal), Barley, Wheat, Jawi, Swank, Oats and Ajwan, (green and dry) and the seeds.

Fruits and Vegetables:

All kinds of fruits (fresh and dry), dates fresh, date dry and chohara.

Condiments:

Chillies, Coriander, Fennel (Saunf), Garlic (green and dry) and other.

Tobacco:

Tobacco-leaves, tobacco crude.

Mehndi:

Leaves and Powder.

Livestock and Poultry:

Goats, Sheep and Cow (Milch or draught), Buffaloes, Camels, and horses.

Livestock products:

Beef, Mutton, Hides and skin (dry and wet).

Miscellaneous:

Fish (Fresh and Dry)."

7. If we look into juxtaposition, 2010 Act (Sindh Wholesale Agricultural Produce Markets (Development and Regulation) Act, 2010), the farsightedness of legislation enlightens that this law was enacted in the Province of Sindh to enhance competition and efficiency by enabling the establishment of private sector wholesale agricultural produce markets, promoting private sector investment to develop the agricultural marketing system, and allowing effective regulation for more competitive, transparent, modern and efficient wholesale agricultural produce markets in the Province of Sindh and for the matters connected therewith or ancillary thereto. According to this law, the definition of "agricultural produce" is also provided under clause (a) of Section 2 of the 2010 Act as under:-

"(a) "agricultural produce" includes all agricultural or horticultural produce, livestock or poultry, fish or seafood and products and by-products thereof, all of which are capable of human consumption, for sale or purchase in wholesale market within a boundary;

8. The expression "livestock" predominantly applies to domesticated terrestrial/land-dwelling animals that are raised to provide a wide-ranging collection of goods and services such as traction, meat, milk, eggs, hides, fibres and feathers. It encompasses the utilization of all livestock commodities and common sense of stock infers the supply for future use which includes the distribution, production system and estimated consumption and production. Whereas Fishmeal is a valuable ingredient in agriculture, primarily used as a high-protein feed supplement in animal and aquaculture production. It also serves as a beneficial soil amendment and organic fertilizer, enhancing plant growth and soil fertility. Fishmeal is a rich source of protein, containing essential amino acids and other vital nutrients, making it

a premium ingredient in animal feed. Supplementing animal diets with fishmeal can improve the growth rates, enhances reproductive performance (e.g., increased fertility and milk production in dairy cows), and is better for overall health. Fishmeal is commonly used in poultry and cattle feed, as well as in aquaculture for fish and shrimp. It is derived from by-products of the fishing industry, contributing to more sustainable practices by utilizing what would otherwise be waste. It is an excellent source of nitrogen, phosphorus, and other micronutrients, making it a valuable organic fertilizer. Ref: https://www.google.com/search?sca_esv=a08d6d057dc98366&rlz=1C1GGRV_enPK754PK766&q=Uses+of+fish+meal+in+agriculture&sa=X&ved=2ahUKEwiczPijicuOAxVKSaQEHbJulmYQ1QJ6BAhnEAE&biw=1280&bih=579&dpr=1.5

9. Consistent with Section 21 of the 2010 Act, the APMA 1939 was to repeal on expiry of three years of the commencement of 2010 Act with the rider that the Government shall continue to exercise all the powers under the APMA 1939 to ensure that the statutory functions are performed by the notified markets until the same are transferred to market companies within the stipulated period as may be prescribed. Whereas Section 22 of the same Act brings to light an overriding clause that provisions of the Act shall have effect notwithstanding anything to the contrary contained in any other law for the time being in force. While Section 24, provides that Government shall ensure that the notified markets are transferred to the market companies within the stipulated time as may be prescribed. No lawful justification or rational has been presented by the learned counsel for the petitioner as to why 2010 Act was not implemented despite lapse/expiry of moratorium period of three years and why notified markets have not been transferred to the market companies within the stipulated timeframe. It is quite astonishing that the Sindh Wholesale Agricultural Produce Markets (Development and Regulation) Act was enacted in 2010 with only three years moratorium period. Now, it is the year 2025, but it is still unimplemented by the Government of Sindh without any justification. However, in the present context, the dispute is only confined to a product "fishmeal". In APMA 1939, definition of agricultural produce the item "Fish" was not included but provided in the Schedule under the nomenclature of "Miscellaneous" as Fish (Fresh and Dry). The learned counsel for the petitioner also referred to a Notification dated 07.02.2011, issued pursuant to Section 27 of APMA 1939 (Powers to make Rules) whereby, certain amendments were made. Even in this Notification at Item No.

(xv) only "Fish (Fresh & Dry) Rs.1.00 per 50 Kgs" is mentioned. While in the definition of agriculture produce provided under 2010 Act, it includes such agricultural produce or horticultural produce, livestock or poultry, fish or seafood and products and by-products which are capable of human consumption for sale or purchase in wholesale market within a boundary, which in our view, contemporaneously interprets that the items/products, not capable of human consumption cannot be treated or considered agriculture produce within the definition of agriculture produce. So far as the insertion of any item in the Schedule, appended pursuant to clause (a) of Section 2, either in AMPA 1939 or 2010 Act it shall have no legal sanctity if the same is found contrary or beyond the scope of the definition of agriculture produce or other provisions of law. Where the law takes notice of a specific situation and formulates a provision accordingly, then the legislative intent is not only be respected across the board but it should also be given full effect.

10. All the more so, the miscellaneous entry of Schedule only depicts the item "Fish (Fresh and Dry)" which otherwise does not include the fishmeal in its literal sense that implies a product or substance not intended for human consumption. The legislative provisions are meant to be implemented according to its letter and spirit. The letter of law denotes and insinuates the verbatim phraseology whereas the spirit of law interprets the primary objective for which the law was enacted. To comply with the letter of the law means to abide by the ordinary dictate and while going along with the spirit of the law, the intention of the legislature needs to be mulled over why the law was enacted. The axiom "*litera legis*" is a Latin term which connotes "the letter of the law." The spirit of the law is a fundamental rule that lay emphasis on social and ethical values shielded by the letter of the law. The literal rule of interpretation of the Constitution and statutes, also known as the golden rule of interpretation, is that the words and phrases used therein should be read by keeping in view their plain meaning. The primary aim of the Courts must be to pay attention to the objectives of the statute, and then proceed with an interpretation that lends support thereto in essence adopting the purposive rule of interpretation. The rule of purposive interpretation of statutes lay down the keystone of the purposive rule of interpretation, that, if the literal interpretation of any provision of law is not acceptable or leads to absurdity, then such provision may be interpreted in line with the

object and purpose which the legislature had in mind while enacting the law. According to Maxwell on the Interpretation of Statutes (12th ed.), at page 228, where the language of a statute, in its ordinary meaning and grammatical construction, leads to a manifest contradiction of the apparent purpose of the enactment, or to some inconvenience or absurdity, hardship or injustice, which can hardly have been intended, a construction may be put upon it which modifies the meaning of the words, and even the structure of the sentence. While Bennion on Statutory Interpretation (4th ed.), at page 810, describes that a purposive construction of an enactment is one which gives effect to the legislative purpose by: (a) following the literal meaning of the enactment where that meaning is in accordance with the legislative purpose or (b) applying a strained meaning where the literal meaning is not in accordance with the legislative purpose.

11. We have considered the rival contentions of the learned counsel for the parties, the relevant material on the record and the relevant laws and find that the findings recorded by the learned High Court are cogent and based on the relevant provisions of the law. No factual, legal or jurisdictional error in the impugned order has been highlighted which may furnish basis, justification or ground for our interference.

12. As a result of above discussion, this Civil Petition is dismissed and leave to appeal is refused.

Judge

Judge

Judge

Karachi
16th July, 2025
Mudassar
Approved for reporting