

IN THE SUPREME COURT OF PAKISTAN

(Appellate Jurisdiction)

PRESENT:

MR. JUSTICE UMAR ATA BANDIAL

MR. JUSTICE SAJJAD ALI SHAH

MR. JUSTICE QAZI MUHAMMAD AMIN AHMED

CIVIL PETITIONS NOS. 4540 & 4541 OF 2021

(Against the order dated 3.8.2021 of the Lahore High Court,
Lahore passed in WP No.48537/21 & WP No.48555/21)

Federation of Pakistan thr. Secy.

M/o Industries & Production

and another

... Petitioners in both cases

Versus

Hamza Sugar Mills Ltd.

Rahim Yar Khan and others

... Respondents in CP.4540/21

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Hunza Sugar Mills Ltd., Lahore and others ... Respondents in CP.4541/21

For the Petitioner(s):

Ch. Aamir Rehman, Addl. A.G.

Mr. Asad Ali Bajwa, DAG

For Respondents Nos.1-8: Mr. Ali Sibtain Fazli, ASC

Ch. Akhtar Ali, AOR

(in CP-4541/21)

For Respondents Nos.1-8: Mr. Imtiaz Rashid Siddiqui, ASC

Mr. Shehryar Kasuri, ASC

Mr. Husnain Ibrahim Kazmi, ASC

(in CP-4540/21)

For Respondents Nos.5-6: Mr. Salman Akram Raja, ASC

(in CP-4540/21)

Date of hearing:

12.08.2021

ORDER

Umar Ata Bandial, J. Learned Additional Attorney General

has read to us from an order dated 07.04.2021 passed in Writ Petition

No.22977/2021. That order refers to meetings being conducted by the

Federal and Provincial Government authorities with the management of

sugar mills in the Province of Punjab for fixing the price of sugar. The

minutes of that meeting are reproduced in the said order. It appears that a pricing formula of sugar, ex factory and retail, based on the costs incurred by the sugar mills was settled with the government authorities. However, the latter fixed a different price of sugar on which stocks were to be released by sugar mills in the market. This intervention by the regulators was challenged in the said writ petition for being incompetent and without lawful authority. However, the Court ordered the requisite stock to be released for the month of Ramadan at the disputed price. The order also refers to an earlier proceedings pending in the High Court in Writ Petition No.3834 of 2020 wherein the question of *vires* of similar impugned action is already under consideration. Several writ petitions have since been filed by interests in the sugar industry. The order dated 03.08.2021 impugned before us is an interim order passed in a recent writ petition. That order is assailed by the Federal Government for having been passed on the first date of hearing without affording any opportunity of hearing to the government regulators whose notification dated 30.07.2021 fixing the policy sale price of sugar has been put in abeyance. A surety bond for the differential amount from the higher price charged by the respondent sugar mills has been ordered as security.

2. The Constitutional Courts of the country have a duty to resolve legal disputes coming before them in accordance with the Constitution and the law. In the discharge of their duties and functions, the Courts do not supervise pricing nor monitor profit and loss dealings by or between the stakeholders. In our view, the High Court has in the present case entered the uncertain territory of monitoring commercial and policy terms regulating the supply of an edible commodity in the market. This endeavour is far removed from its jurisdiction vested by Article 199

of the Constitution and is likely to involve technical details that are outside the realm of judicial adjudication. The common questions of law and jurisdiction raised in the petitions pending before the High Court are already noted for its determination in Writ Petition No.3834 of 2020. Notices under Order XXVII-A CPC have also been issued to the Law Officers of the Federation and the Province. The respondent private parties who are present before us are also ready to proceed with their cases. We consider that judicial consideration by the High Court ought to be devoted to resolving the legal dispute between the parties rather than the pricing mechanism regulating commercial and policy matters. Accordingly, the learned High Court shall make a serious effort to decide the legal issues arising for determination in this matter within a fortnight from the date of receipt of this order. If either party prolongs the proceedings on account of adjournments or otherwise they shall be subject to penalization, *inter alia*, by modification of the terms of the interim relief ordered below.

3. The impugned interim order dated 3.8.2021 protects the interest of the respondents mill-owners on the strength of a surety bond equal to the difference in price charged by them and the price fixed by the regulators on 30.07.2021. We do not consider that the surety bond constitutes sufficient security for the regulators. According to the impugned order, the Cane Commissioner is maintaining the records of production and sales of all sugar mills in the Province. He shall continue to do so and keep an account of the amount charged and collected by the sugar mills and the amount fixed by the regulators at the stage (ex-factory and/or retail) specified by the latter. The difference in the two amounts shall be deposited contemporaneously by each sugar mill with the Deputy

Registrar (Judicial) of the Lahore High Court, Lahore. Such deposits shall be made voluntarily but shall be subject to replenishment forthwith to the correct amount that is notified to the erring sugar mill by the Cane Commissioner. In case of dispute about the amount of the requisite deposit to be made during the pendency of the petition before the learned High Court, the amount fixed by the Cane Commissioner shall prevail. These petitions are converted into appeals and are disposed of in the terms mentioned above.

JUDGE

JUDGE

JUDGE

Islamabad, the
12th August, 2021
*M. Azhar Malik+ Irshad Hussain/**

NOT APPROVED FOR REPORTING.