

ORDER SHEET**IN THE LAHORE HIGH COURT, LAHORE
JUDICIAL DEPARTMENT**

Writ Petition No.19674 of 2016

*Public Interest Law Association of
Pakistan**Federation of Pakistan etc.*

<i>S.No.of order / Proceedings</i>	<i>Date of order /Proceedings</i>	<i>Order with signatures of Judge, and that of parties or counsel, where necessary.</i>
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28.03.2018

Mr. Ahmad Rafay Alam, Advocate for the Petitioner.
 Ms. Sadia Malik, Assistant Attorney General, Punjab.
 Mr. Ashfaq Ahmed Kharal, AAG Punjab.
 Mr. Muhammad Shakeel Taj, Advocate for the applicant under Order 1 Rule 10 CPC.

Through this petition, the Petitioner has challenged National Biosafety Committee ("NBC") established by the Respondent No.1, Ministry of Climate Change under Pakistan Biosafety Rules, 2005 (the "Rules 2005") to be non-functional after 18th Amendment in the Constitution of Islamic Republic of Pakistan, 1973 (the "Constitution"). He submits that as per the Punjab Rules of Business, 2011 (Schedules 1 and 2), the Respondent No.4, Secretary Environment Protection Department is to administer the adopted Pakistan Environment Protection Act, 1997 (Amended in 2012). He submits that Environment Protection Department adopted the Punjab Biosafety Rules, 2014 (the "Rules 2014"), therefore, Federal Ministry of Climate Change through the NBC can only implement its law in Islamabad Capital Territory or any other area specified from time to time. He argued that

the Rules 2004 and the Rules 2014 were made in implementing the Cartagena Protocol on Biosafety (the "Protocol") which Pakistan signed and ratified because it had ratified Convention on Biological Diversity (the "Convention") in 1992. The Convention is already listed in Schedule-1 read with Section 31 of the Punjab Environmental Protection Act, 1997 (the "Act") therefore, Section 31 of the Act lies with Provincial or Federal Government to make rules for implementing international environment agreements specified in the Schedule of the Act. He contends that the Rules can be made to implement such international obligations by the State under the doctrine of International law of Delegated Legislation or Dualism. He submits that when the Respondent No.2 made decision to implement the rules by giving licenses to genetically modified organism, the Writ Petition No.11290 of 2014 was filed on 12.05.2014 which was disposed of in presence of relevant stakeholders with assurance that until proper constitutional or legislative amendment is brought about vesting the Federal Government with power to issue these license, no license shall be issued. He states that aforesaid order was challenged by the Respondent No.1 through I.C.A.No.586 of 2014 which was set-aside and then the case was remanded to learned Single Bench.

2. Learned law officers present in Court will ensure submission of report and parawise comments on behalf of the Respondents with the stance whether the Federal Government, after 18th Amendment, can implement the Rules 2005 or the Provincial Government can implement

the same under the Rules, 2014. The Director General EPA shall appear in person alongwith record.

3. Since it is a public interest matter and due to implementation of the Rules, which will have adverse affects to the environment because they did not protect the risk assessment, risk mitigation and assessment to environmental harm to the crop and agriculture in Punjab.

4. With permission of the Court, learned counsel for Petitioner has incorporated Secretary Agriculture, Govt. of Punjab as the Respondent No.6 with red ink.

5. Relist on 25.04.2018.


(JAWAD HASSAN)
JUDGE

Usman