

District Narowal  
IN THE COURT OF MR. TARIQ MEHMOOD IQBAL KHAN, DISTRICT &  
SESSIONS JUDGE /PRESIDING OFFICER, DISTRICT CONSUMER COURT,  
SIALKOT / NAROWAL.

(Case No. 10/2007)

(Date of institution. 19-10-2007)

(Date of Decision. 01-12-2007)

**Re: - State through Authority DCO, Narowal.**

(Complainant)

**VS**

- 1- Malik Abdul Majeed S/O Akbar Ali age 37 years, Malik by Caste R/O Shakoo Chack Tehsil & P.S. Shakar-Garh, District Narowal.
- 2- Eftikhar Ahmad S/O Abdul Rasheed age 43 years
- 3- Nafees Ahmad S/O Eftikhar Ahmad age 18 years, both Ansari by Caste R/O Nagrota Insarian Tehsil & P.S. Shakar-Garh District Narowal.

(Respondents)

**ORDER**

1. This Order arises out of the reference sent by Authority (DCO), Narowal, as per terms of Sec 23(4), of "The Punjab Consumer Protection Act, 2005".

2. Brief facts of the matter in hand are that on **13-06-2007**, a raid headed by Dr. Abdul Hafeez DDO (H), Shakar-Garh, alongwith other Officials of Revenue and health department, was conducted at the premises of respondent Abdul Majeed and respondent Eftekhar etc, as a result of which not only Cr. Cases No. 233/07 & 234/07, at Police Station Shakar Garh, were registered against them respectively in pursuance of the written complaint of DDO (H) but also case properties mentioned therein were recovered and were taken into possession by the Police. According to complaint the local made beverage was not only fake, fictitious, defective, harmful and unsafe for the human life but also if used the human life will be at sake, hence, this reference.

3. It is pertinent to mention that above mentioned reference was sent against only respondent Abdul Majeed, whereas, while pursuing the entire record, as per report of DDO (R), Shakar-Garh, it was depicted that the other respondents were also raided but their names were omitted, as a result of which, they were also summoned in the case to face the allegations.

4. Although while submitting separate written replies to the allegations, at the very outset, all of the respondents had denied the allegations but afterwards they made frank and unequivocal admissions to the allegations, according to which they both openly disclosed that in pursuance of the raid by DDO (H), Shakar-Garh and other Revenue staff, they were caught red-handed while manufacturing, low standard soda bottles at their homes, however, on the basis of permit issued by T.M.A, and reports of Bacteriologist, Lahore. They both also disclosed that it was a common water obtained from water tanks, supplied by T.M.A, in which contamination of polluted material can not be ruled out. They further disclosed that Cr. Cases against them and co-respondent Nafees S/O respondent Iftikhar were registered during which filled bottles, bottling Machine, Gas Cylinders, Tankies, Pedestal fan and empties were recovered which were taken into possession by Police. They both raised no objection on the

(Page.....1/4)

**State VS Abdul Majeed etc. (Case No.10/2007)**

confiscation and auction of case property, recovered at their instance, even, Abdul Majeed respondent had requested to cancel the super-Dari of case property, allowed in his favour, while adding that the deficiency of 132 bottles will be made-up within seven days, while handing over the same to Police Officer, in attendance. According to Iftekhar, his son Nafees, had no separate job and was working under him, as associate and had requested the Court to take lenient view, in their favour.

5- In view of the statements recorded by both respondents, Dr. Abdul Hafeez DDO (H), was asked to appear in the witness box and to make his statement in support of allegations, who frankly conceded that the contamination of polluted articles in the common water supplied by T.M.A, Narowal, to the inhabitants of the area is not ruled out, likewise, possibility cannot be ruled out that this water is harmful and unsafe for the human life. In both cases he had admitted that only common water was sent for laboratory test, whereas, after preparation of soda bottles, it was never sent and is never sent for laboratory test and it cannot be said that after preparation of soda water such water becomes more harmful and unsafe for the human life.

6- Both parties heard.

7- After having heard both sides and meticulously examined the record, it is evident, that water used in the manufacturing local made Beverages by Abdul Majeed and Eftikhar, is common, supplied by TMA, Narowal and contamination of polluted material/articles therein can not be ruled out. For the sake of arguments, even, if believed that laboratory test was processed but according to the statements of respondents and DDO (H), Shakar-Garh, laboratory test report is not believed and is kept out of consideration. Which supplement to it, it is also crystal clear that after mixation of chemical formula in the common water, lab test report was not sought, nor ingredients of formula nor any warranty regarding non- injury to health were ever disclosed or mentioned on the bottles; and thus, it can be safely held that disputed local made Beverages, manufactured by respondents, Abdul Majeed and Eftikhar, is defective manufacturing and is unsafe and harmful for human life, hence, the allegations against respondents Iftekhar and Abdul Majeed except Nafees, who is son and associate of his father under Sec 5, 7, 8, 9 and 11 read with sec 28 of "The Punjab Consumer Protection Act, 2005", stand proved and established and hence, both Abdul Majeed and Iftekhar are, hereby, imposed with fine in sum of Rs. 40,000/- (Rupees Forty Thousand only), each, depositable in the State treasury and in failure of payment of fines by them, each of them will undergo for Four Months S.I. Each of them is directed to deposit his fine, within period of seven days, till 08-12-2007, (as requested by them), positively subject to furnishing of their affidavits/guarantee bonds each before this Court, which are so placed. The case property i.e. 1-Gas Cylinder, 1-bottling Machine, 1 tanke, 5 Dallas of empty bottles alongwith filled bottles and others, as described in road certificate placed by Police Officer, in attendance, in case FIR, No. 233/07, dated 13-06-2007, registered at P.S Shakar-Garh, Offence under Sec 420, 467, 227 and 272, PPC at the instance of Iftekhar, lying in Malkhana of P.S and other case property recovered and produced at the instance of respondent Abdul Majeed (On Super-Dari), in case FIR, No.234/07, Offences under Sec 420, 467, 227 and 272 PPC, i.e. 2-bottling Machines, 1-water tank, 1-padestal fan, 1- Gas Cylinder and 24- Dallas of empty bottles, (Out of which 108 bottles have been produced, whereas, remaining 132 bottles have been committed to be delivered to the Police Officer, in attendance under acknowledgment receipt before 08-12-2007), stand confiscated and will be put to auction by Authority (DCO), Narowal, after decision of Cr. Cases by the Courts of competent jurisdiction, as well as, after the expiry of period of appeal and revision, if so filed. The Super-Dari order allowed in favour of respondent Abdul Majeed, shall stand annulled/cancelled, however, respondent Abdul Majeed will submit an application for cancellation of Super-Dari before

**State VS Abdul Majeed etc. (Case No.10/2007)**

competent Court in the light of his statement and this order. Office is bound to intimate this order to the concerned Court, through learned District & Sessions judge, concerned. After the auction of aforesaid case property, the Authority (DCO), Narowal, will be bound to deposit the auction amount in the State treasury under intimidation to this Court. A copy of this order alongwith necessary papers will be also sent to Authority DCO, Narowal for compliance, whereas, Authority (DCO), Narowal, will also proceed for the recalling and wastage of such harmful, defective, unsafe and injurious beverages to the human life, from the local markets and will ban the manufacturing, sale and supply of such beverages in the market for its consumption. Registrar will also submit a report about deposit/non deposit of fines by respondents, on or after **08-12-2007**.

8- Before parting with the order, this Court is mindful to observe that it is not disputed that since long excavating of water from beneath the earth of the territory of Pakistan, has become so polluted that it is undrinkable, unless and until it is well treated but as manifest from the record of this case, the common water was used in the manufacturing of the local beverages in Narowal or Sialkot District and thus, a lawful inference can be drawn that it is unsafe, defective, harmful and injurious for the human life. It has already been observed by this Court in various cases that no active step has been taken by the Provincial or local Governments to curb down the manufacturing of this harmful and injurious beverages, even, strangely enough that bacteriologist of government labs are reporting the fitness of common water as drinkable without recording the percentage of the elements therein, particularly, when manufacturers have not taken any step for obtaining any report of bacteriologist after the preparation of beverages nor local Government agencies had taken any initiative thereof. It is not deniable that after mixing of the chemicals in the common water its complexion and fitness is damaged and this inaction of the local Government agencies encouraged the malpractice of manufacturing of local beverages, thus, Government of the Punjab is asked to direct the local Government agencies to control the situation for the safety of human life and that Government labs be also advised to take strict care of.

9- It is also evident from the record of this case that the respondents were manufacturing local made beverages in their premises or at their home regarding which no certificate was ever obtained, as to whether these premises were located in healthy and hygienic atmosphere, likewise, as to whether the products prepared therein or the personnels working therein are healthy, disease free and were inhabitants of healthy and safe vicinity, even, no yard stick of periodic medical checkup is ever fixed, which is mandatorily formulated by the Department of Health of the Province.

10- While further dilating and evaluating the area of protection of consumers rights, it is well known that United Nations Organization had laid down guide lines in this respect since 1977, whereas, America, in early nineties, India in 1986 and Japan in 1968 but in Pakistan this step was initially introduced in 2005, in the Province of Punjab, however, no serious steps were formulated by the legislative limb of state, in respect of the following issues;

- i) To prevent goods and services from causing danger to life and to the property of the people in their consumer lives. The State should establish necessary standards for the prevention of danger and take the necessary measures to maintain them.  
So that consumers may not suffer a disadvantage in their dealing with business, the State should take the necessary measures to ensure observance of correct weights and measures concerning goods and services

**State VS Abdul Majeed etc. (Case No.10/2007)**

- ii) To contribute to the rationalization of consumer life, the State should establish proper standards concerning goods and services and take the necessary measures to popularize them.
- iii) The State should take the necessary measures to regulate activities that unreasonably restrict fair and free competition concerning such as price of goods and services. With regard to price of goods and services that are particularly important to the consumption life of the people and that also require State-level decision, approval or other measures in those forms, the State should endeavor to take the influence on consumers fully into consideration in its executing the above policies.
- iv) So that consumers can live sound and self-reliant consumption lives, the State should take the necessary measures to improve the quality of education concerning consumer life as well as, to promote the edification of consumers by, for example, spreading knowledge and providing information concerning goods and services, and spreading knowledge concerning the life aspiration of individual consumers.
- v) To ensure the effects of administrative measures concerning the protection of consumers, the State should take the necessary measures to establish facilities for conducting tests and checks, as well as, making public the results of them according to the need.
- vi) The State and local government should, when taking measures concerning the protection of consumers, endeavor to establish an administrative organization from an overall point of view and to improve administrative management.
- vii) The State should take the necessary measures to encourage consumers in establishing sound and self-reliant organizational activities for stabilizing and improving consumer life.

which need consideration by the Punjab Govt. through Chief Secretary, Punjab, who is expected to lay appropriate directions to the Govt. agencies in the Punjab to take care of abovementioned factors to ensure the protection to consumers rights, for healthy and sound life.

11. It is pertinent to mention that these issues have been borrowed from comparative study of law of Japan 1968, and thus while concluding the discussion, it is, advisable that Government should make every possible endeavour to improve and manage the protection of consumers rights, while inculcating education among the Consumers through conduction of Seminars and Workshops etc, at important places, whereas, it be propagated by means of Print and Electronic Media, in order to create awareness about the consumer rights of getting safe, healthy, harmless and qualitative commodities of daily use, inclusive food articles. A copy of this order be sent to Chief Secretary, Province of Punjab, Lahore and Secretary Industries, Department Punjab, Lahore, for appropriate action. File be consigned to the record room.

Announced:  
Dated: 01-12-2007.

Presiding Officer  
District Consumer Court  
Sialkot/Narowal.

**Certificate:**

Certified that this order comprises of four pages and each page is dictated, read over, corrected and signed by me.

Announced:  
Dated: 01-12-2007.

Presiding Officer  
District Consumer Court  
Sialkot/Narowal.