



042-99211520

**DIRECTORATE GENERAL
INDUSTRIES, PRICES, WEIGHTS & MEASURES,
PUNJAB, POONCH HOUSE LAHORE.**

Dated Lahore, the 6th February, 2023.

ORDER

No. PPS/Haseeb Waqas/S.M/2023:- WHEREAS, the Industries (including sugar industry) in the Province are regulated under the Punjab Industries (Control on Establishment and Enlargement) Ordinance, 1963. As per Section 3 of the Ordinance ibid articulates that no person shall establish or cause to be established any industrial undertaking or enlarge or cause to be enlarged any existing industrial undertaking except with the previous permission in writing of Government. Section-4 of the Ordinance ibid postulates that where the establishment of a new industrial undertaking or enlargement of an existing industrial undertaking is likely to be commenced or has been commenced or has been completed in contravention of the provisions of this Ordinance, Government or the Director, after giving the person responsible therefore an opportunity of being heard, may by order require him— (i) to refrain from such establishment or enlargement; or (ii) to stop further construction and to remove the unauthorized undertaking or part thereof, and the person concerned shall comply with the order within such period as may be specified. Section-11 of the Ordinance ibid also empowers the Government to grant exemption to any industry or class of industry from all or any of the provisions of the Ordinance or the rules framed thereunder.

2. **AND WHEREAS,** for administration of the Ordinance ibid, the Punjab Government issued various notifications from 12.10.1986 to 30.09.2002 relaxing ban on establishment for various Districts from time to time. Thereafter, a new location policy dated 30.09.2002 was issued and was amended from time to time. The last amendment was made vide notification No. AEA-III 3-5/2003 (Vol-III) dated 06.12.2006 whereby no new Sugar Mill shall be setup and no enlargement in capacity of the existing Sugar Mills is allowed in the Province. This ban is still in vogue. Meanwhile M/s. Ittefaq Sugar Mills (from District Pakpattan to District Bahawalpur), M/s. Haseeb Waqas Sugar Mills (from District Nankana Sahib to District Muzaffargarh) and M/s. Chaudhary Sugar Mills (from District T.T. Singh to

District Rahimyar Khan) were shifted/relocated in the year 2015 in contravention of ban dated 06.12.2006. Various sugar mills filed Writ Petitions in the Lahore High Court against the illegal establishment of the above said sugar mills. Simultaneously, complaints were also submitted before the Secretary, ICI&SD Department against illegal shifting/relocation of the said sugar mills. These complaints were entrusted to the office of Director General, Industries, Prices, Weights & Measures (IPWM), Punjab for necessary action. Accordingly, show cause notices vide letter dated 22.05.2015 were served upon the above said sugar mills by the then Director General IPWM with the direction to refrain from establishment of the sugar mills forthwith and to explain within ten days as to why the order of removal of unauthorized construction work may not be issued/passed. Resultantly, the M/s. Ittefaq Sugar Mills filed a writ petition No.16543/2015 in the Lahore High Court, Lahore challenging the show cause notice dated 22.5.2015 on the grounds that they want to shift their unit and this shifting does not tantamount to setting up a new sugar mill or enlargement in the capacity of existing sugar mills.

4/ Meanwhile, the Government of the Punjab issued notification/re-location policy dated 04.12.2015 whereby the relocation of functional sugar mill from one place to another place was allowed under certain criteria as mentioned in the said policy. Consequently, various writ petitions were filed in the Lahore High Court Lahore against the above said Sugar Mills as well as relocation policy. All Writ Petitions were consolidated for placement before the Single Bench of Justice Ms. Ayesha A. Malik. The same were disposed of through consolidated judgment dated 10.10.2016. The operative part of the judgment is reproduced below:

"The facilitation of the Government has given the Respondent sugar mill the ability to circumvent the ban and establish sugar mills in areas where sugar mills prejudice and adversely affect the cotton crop. The relocation policy is therefore a tool established to grant personalized exemptions to the Respondent sugar mills to establish their sugar mills despite the ban. If at all any permission was to be granted, it had to be done prior to the construction of the sugar mills in the new location and any effort now to grant NOCs under the said policy for relocating would be a mockery of public trust, transparency and good governance. Therefore, the Respondents sugar mills are restrained from carrying out the business of sugar mills in their relocated premises.

In view of the aforesaid, all these writ petitions are allowed to the extent of the relocation policy issued by the Government of Punjab which is not permitted under the law and is therefore

struck down. However, these petitions are dismissed to the extent of clause 2(b) of the Second Impugned Notification which merely forms a committee to assess the impact of the transportation of sugarcane from the bordering districts of the Punjab to other provinces to determine loss of sugar cess being premature and not sustainable at this stage. The Government should take necessary legal action against the Respondent sugar mills pursuant to the show cause notices issued to the Respondent sugar mills on account of their establishing new sugar mills without seeking the prior permission from the competent authority required under the law."

3. **AND WHEREAS**, accordingly, the then Director General (IPWM) Punjab directed the above said Sugar Mills vide order dated 28.04.2017 to remove the machinery within a period of 30 days positively otherwise legal action shall be initiated against the illegal establishment of the sugar mill. The above said sugar mills filed appeal against the removal order dated 28.04.2017 passed by the then Director General (IPWM) Punjab before the Government of Punjab. The appeals were heard by the committee comprising of Additional Chief Secretary, Secretary Food and Secretary, ICI&SD Departments constituted by the Chief Secretary, Punjab. The appeal was dismissed by the committee with the direction to remove the establishment of sugar mill within 30 days from the receipt of the order. Later on, the above said Sugar Mills filed intra court appeal (ICA No. 1489/2016) against the consolidated judgment dated 10.10.2016 passed by the Learned Single Bench in Writ Petition No. 37/2016, but the same was dismissed. The said sugar mill filed a Civil Appeal in the Supreme Court of Pakistan which was also dismissed on 19.09.2018 with the direction to the said sugar mills to remove installation/equipment/machinery from the present location and install the same at the original location of the sugar mills. Thereafter, the said sugar mills filed a review petition in the Supreme Court of Pakistan which was also dismissed on 26.02.2019.

4. **AND WHEREAS**, now, an amendment in section-11 of the Ordinance *ibid* has been introduced by the Punjab Government to regularize the contravention of any provisions of the Ordinance *ibid* made by the duly established Sugar Mills till the date of Amendment Act 2022.

5. **AND WHEEREAS** in furtherance of this amendment, Government of the Punjab vide order dated 25.11.2022 constituted a committee with following TORs.

- a) to scrutinize applications received for regularization of illegal enlargement;
- b) to give hearing to the sugar mill(s) applying for regularization of illegal enlargement; and
- c) assessment of requital amount to be imposed on sugar mills which shall not be less than Rs. 10 million / 1,000 TCD.

The decision of the Committee shall be final”.

In pursuance of the above said Notification, a meeting of the hearing committee was held and it was decided by the hearing committee that a Technical Sub-Committee be constituted who shall inspect the Sugar Mills and furnish recommendations to the Committee to proceed further in the matter. Meanwhile, M/s. Haseeb Waqas Sugar Mills Ltd. District Muzaffargarh filed application before the Director General (IPWM) Punjab for regularization of relocated industrial unit under section-11 of the Punjab Industries (Control on Establishment and Enlargement) (Amendment) Act, 2022. Resultantly, a summary was moved by the office of the Secretary ICI&SD Department on 26.01.2023 that the cases of three sugar mills namely M/s. Ittefaq Sugar Mills Ltd. District Bahawalpur, M/s. Haseeb Waqas Sugar Mills, District Muzaffargarh and M/s. Chaudhary Sugar Mills, District Rahim Yar Khan, may be placed before the Cabinet for the consideration to place the matter before the hearing committee for hearing and decision on merit. The same was forwarded to the Law & Parliamentary Affairs Department who advised that due to subsequent amendment in the Ordinance, now the government is empowered to regularize contravention of any of the provisions of the Ordinance *ibid*.

6. **AND WHEREAS** on receipt of the above said advice from the Law & Parliamentary Affairs Department, the matter was referred to the Cabinet. The Cabinet approved that the cases of above three sugar mills may be placed before the Hearing Committee for hearing under section 11 of the Amended Act 2022.


7. **AND WHEREAS** in Pursuance of Cabinet decision and in the light of advice of the Law & Parliamentary Affairs Department, the technical sub-committee was directed to visit the above said sugar mills and submit its recommendations. On receipt of recommendations, a meeting of the hearing committee was convened on 03.02.2023 under the convenorship of Director General, IPWM, Punjab. It is evident that M/s. Haseeb Waqas Sugar Mills was duly established at District Nankana Sahib

which was shifted to District Muzaffargarh in the year 2015. It was declared illegal by the DG IPWM. Similarly, the Honourable Lahore High Court, Lahore also declared the shifting of said sugar mills illegal vide judgement dated 10.10.2016 which remained upheld up to August Supreme Court of Pakistan. Further, the advice of Law & Parliamentary Affairs Department is reproduced as under:

"It is pertinent to mention that the shifting of units by these 03 sugar mills was declared illegal by the Honorable Lahore High Court and the said decision attained finality on the judicial side when the Honorable Supreme Court of Pakistan upheld the same vide its judgment dated 13.09.2018. However, subsequent amendment in the Ordinance ibid has changed the situation as, now, Government is empowered to regularize contravention of any of the provisions of the Ordinance ibid."

Amendment in Section-11 of Punjab Industries (Control on Establishment and Enlargement) Ordinance, 1963 ibid is as under:

SECTION-11(1) "The Government may, by notification in the official Gazette, exempt an industrial undertaking or class of industrial undertakings duly established under this Ordinance from all or any of the provisions of this Ordinance or the rules, and may regularize contravention of any of the provisions of this Ordinance committed till commencement of the Punjab Industries (Control on Establishment and Enlargement) (Amendment) Act 2022, subject to payment of such requitals as the Government may determine."


 ***(2) An industrial undertaking or class of industrial undertakings duly established under this Ordinance may apply to the Director for purposes of Subsection (1) within six months of commencement of the Punjab Industries (Control on Establishment and Enlargement) (Amendment) Act 2022.***

Now after hearing of all concerned, perusal of record, the hearing committee made decision on 03.02.2023, which is extended below:

"The Haseeb Waqas Sugar Mills is regularized at the location of Ali Pur, Tehsil Jatoi, District Muzaffargarh. As NOC of the Sugar Mills is not available to determine the initial sanctioned crushing capacity and in the absence of it, the crushing capacity of the Haseeb Waqas sugar mills is considered as zero. Now the crushing capacity of is regularized to the maximum upper limit of 14000 TCD within the same premises subject to submission of 140

million as requital amount and the fulfillment of all legal / codal formalities."

8. **AND NOW THEREFORE**, keeping in view the advice of the Law & Parliamentary Affairs Department, the decision/approval of the Punjab Cabinet, recommendation of the technical sub committee and the decision of the hearing committee, M/s Haseeb Waqas Sugar Mills is hereby regularized under section-11(1) and (2) of the Punjab Industries (Control on Establishment and Enlargement) Ordinance 1963 amended in 2022, with the maximum upper limit capacity of 14000 TCD subject to the submission of Rs. 140.00 million as requital amount.


**DIRECTOR GENERAL
INDUSTRIES, PRICES, WEIGHS & MEASURES
PUNJAB.**

C.C to:

1. The Chief Secretary Punjab.
2. The Principal Secretary to Chief Minister, Punjab
3. The Secretary to Government of the Punjab, Finance Department
4. The Secretary to Government of the Punjab, ICI&SD Department
5. The Secretary to Government of the Punjab, Food Department
6. The Secretary to Government of the Punjab, Agriculture Department
7. The Cane Commissioner, Punjab
8. The Deputy Commissioner concerned
9. The Assistant Commissioner concerned
10. The District Officer concerned.
11. M/s. Haseeb Waqas Sugar Mills.