

**IN THE SUPREME APPELLATE COURT GILGIT-BALTISTAN
GILGIT.**

(Original Jurisdiction)

Before:

Mr. Justice Rana Muhammad Arshad Khan, Chief Judge.
Mr. Justice Raja Jalal-ud-Din, Judge.
Mr. Justice Muzaffar Ali, Judge.

SMC. No. 03/2013

(Shortage of flour in Gilgit-Baltistan).

Present:

1. Mr. Asad Ullah Khan, Advocate General Gilgit-Baltistan.
2. Malik Shafqat Wali, Sr. Advocate alongwith Mr. Muhammad Issa Sr. Advocate, counsel for Mills Owners of Gilgit-Baltistan.
3. Mr. Lateef Shah Advocate, counsel for the Nan Bai Association.
4. Mr. Momin Jan, Director, Civil Supply and Transports, Gilgit-Baltistan.
5. Mr. Manzoor Ahmed Advocate, Legal Advisor, Food Department, Gilgit-Baltistan.
6. Mr. Shukoor Rahman, Deputy Secretary, Food Department, Gilgit-Baltistan.

Date of hearing : 08.05.2014.

Judgment

Raja Jalal-ud-Din, J: This petition for Suo Moto Notice originates from the office note dated 08.10.2013, prepared on the basis of publications in various Local Newspapers namely Daily “K-2”, Daily “Baad-e-Shimal”, Daily “Ausaf” and Daily “Mahasib” etc. wherein, it was reported that the public at large have been facing acute shortage of Flour for many days and the Flour Mills Owners had stopped grinding the wheat on account of various demands agitated by them which were required to be addressed by the Government of Gilgit-Baltistan. The inaction on the part of Government of Gilgit-Baltistan had led the situation to serious disaster culminating into deficiency of necessary food item in the area of City Gilgit. The situation further aggravated when the

Bakers (Tandories) also stopped the baking of bread (Roti). The people of the area were facing serious problem on account of shortage of flour.

2. The office incorporated the details of the problem being faced by the people at large in the office note dated 08.10.2013 and placed the same before the Hon'ble Chief Judge Gilgit-Baltistan. The cognizance in the matter was taken by this Court vide order dated 08.10.2013, in exercise of its power in Original Jurisdiction, as envisaged under Article 61 of Gilgit-Baltistan (Empowerment and Self Governance) Order, 2009.

The question of supply of staple food to the people of the area is undoubtedly a fundamental right of every citizen to have access to the food required for daily consumption. The lapse of obligatory duty on the part of the public functionaries of the Government of Gilgit-Baltistan, to solve the matter amicably, had provoked the public of the area which ultimately culminated into crises causing law and order situation.

Therefore, the court, being a court of equity and conscious could not put a restraint and could not be a distant spectator, resultantly, the court interfered into the matter in order to enforce the fundamental right of the people of Gilgit-Baltistan and directed the office to fix the matter before the bench on 09.10.2013. It was also directed to ensure presence of the Secretary, Food Department, Government of Gilgit-Baltistan as well as Director, Civil Supplies Gilgit-Baltistan.

3. In obedience of above order of the Court, the learned Advocate General Gilgit-Baltistan alongwith Wazir Ashfaq, Secretary Food Department, Government of Gilgit-Baltistan, Khursheed Ahmed, Deputy Director Food, Gilgit-Baltistan and Ghulam Rasool, Admin Officer/Acting Deputy Director Food, Government of Gilgit-Baltistan appeared before the court on 09.10.2013. The office was also directed to issue notice to

the President, Bakers Union (Naan Bayees) and dealers of Flour to appear before the court. The learned Advocate General Gilgit-Baltistan was asked to prepare and submit a report with regard to a questionnaire posed to him which reads as under:-

1. *What is the rate of 40 Kgs subsidized wheat in Gilgit City?*
2. *What is the amount of Quota given to the flour Mills?*
3. *At what rate the Flour Mills Supplied Flour/Atta to the Tandoors/Bakers?*
4. *What amount of Atta supplied to the bakers/Tandoors?*
5. *How much is charged for one roti/bread and how much is the weight of roti/bread?*
6. *Why has this crisis of Flour erupted in the City? Give the reasons.*
7. *Does any shopkeeper purchase wheat/flour from the down country, if yes, why? And what is the rate of that purchased Aata/Flour.*
8. *Why the guide lines of the Chief Court Gilgit-Baltistan and Supreme Appellate Court Gilgit-Baltistan are not being followed for the distribution of Aata/Flour and why rules/ToR have been framed for distribution of Aata/Flour?*
9. *What is the rule of sale points of Atta and why these sale points have been introduced?*
10. *Why it is necessary to execute an agreement with Mill owners? And what are the points which are not accepted by Mills Owners, write your suggestion with regard to the smooth distribution of Aata/Flour.*
11. *What is the system of transportation of the wheat from the down country?*
12. *Should the supply of wheat to the flour mills be stopped and the process of supply of Aata from down country be continued?"*

4. On 13.11.2013, Learned Advocate General, Malik Shafqat Wali Sr. Advocate and Mr. Sharif Ahmed Advocate learned counsel for petitioners, Mr. Muhammand Issa, Sr. Advocate for NATCO, Mr. Manzoor Ahmed Advocate, Legal Advisor for Food Department, Wazir Ashfaq, Secretary Food Department, Gilgit-Baltistan Ikram Muhammad Director Civil Supply, Gilgit-Baltistan, Mr. Mustaqeem, President Mills

Association, Gilgit, Mr. Sudeer Jan, President, Atta Dealers Association, Gilgit and Mr. Mukhtar, General Secretary Bakers Union Association Gilgit were present in the Court. Mukhtar Ahmed, General Secretary, Bakers Union Association was asked to submit a report on the subject whereas, the requisite report, alongwith an annexure, on behalf of the Government of Gilgit-Baltistan was already submitted by the learned Advocate General Gilgit-Baltistan which reads as under: -

“WRITTEN STATEMENT ON BEHALF OF THE PROVINCIAL GOVERNMENT

Respectfully Sheweth;

This Hon 'ble Court has taken Suo Motu notice based on a news item published in various local newspapers, clippings of which are attached with the notice. On first date of hearing (09-10-2013) this Hon 'ble Court raised as many as twelve questions to the Provincial Government as well as the Food Department and required that these questions to be replied in detail through a written statement.

In view of the above direction of this Hon 'ble Court dated 09-10-2013, the following is submitted;

- That Government of Pakistan has allocated 1.5 million metric tons wheat quota on subsidized rates for the people of Gilgit-Baltistan.*
- 1. The Government is supplying flour in Gilgit city instead of wheat and the rate of 40 kg flour bag is fixed as Rs. 640/-*
- 2. That Seven hundred and sixty seven (767) bags of wheat (100 kg each) were supply to each flour mill on monthly basis.*
- 3. That before promulgation of new policy, the bakers/Tandoor owners used to purchase flour from the mill owners in black @ Rs. 1200/- to Rs. 1400/- per 40 kg bag and the named it as flour purchased from down country. During the recent crisis when the flour mill suspended grinding of wheat as a protest, the Bakers/Tandoor owners were left with no flour, resultantly there was a shortage of baked "Roti", which signifies the fact that the Bakers were not purchasing any flour from the down country rather they were getting flour from the black market in connivance with the mill owners and the dealers. As per the previous policy the Food Department was not supplying any flour to the Bakers/Tandoors. Now as per new policy, the Government has registered 97 Tandoors in Gilgit and 67 Skardu within the municipal areas and flour is being issued on subsidized rate of Rs. 700/- per 40 kg bag. Total quantity of 337 bags of 40 KG fine flour is being issued to Tandoors in Gilgit Municipal area and 100 bags of 40 KG fine flour in Skardu city on daily basis.*
- 4. As explained in the foregoing Para number 3.*
- 5. That as a result of the new policy, rate of one Roti weighing 125 grams is fixed at Rs. 5/=, while rate of one Rote/Nan weighing 260 grams is fixed at Rs. 10/=.*
- 6. That as per the previous policy, members of municipal committees/union councils/public representatives were given the assignment for distribution of wheat/flour in their respective areas. Later on, on the pressing public demand wheat/flour dealers were nominated. With the passage of time, the number of wheat/flour dealers increased beyond the actual requirement and black marketing of subsidized wheat/flour started. Some of the flour Mills were reportedly involved in black marketing, profiteering and produced fine Danedar flour in connivance with the wheat/flour dealers, and sold it to the Tandoor owners at higher rates.*
- 7. As explained in Para 3 supra.*

8. *That the guidelines given by the Hon'able Chief Court vide judgment dated 24-03-2009 have been followed in strict sense to bring transparency in the distribution of wheat and flour to the general public. In order to give effect to the guidelines given by the Hon'ble Court, the Government has conducted various proceedings and finally the recent food policy has been drawn.*
9. *That the main purpose of establishment of sale points is to control black marketing and smuggling of flour, also to ensure supply of quality flour in accordance with health guidelines as provided by the World Health Organization (WHO). Since Pakistan is a signatory to the international conventions thus compliance of the same is obligatory upon the State. As explained in the foregoing paras the dealership system had resulted in corrupt practices like black marketing and smuggling of flour ultimately resulting in shortage of flour and also provision of low quality flour on high rates to the general public. All the above facts necessitated establishment of sale points. The bountiful results of the new policy have started coming.*
10. *That, in the past, due to non framing of rules of conduct, the flour mill owner was free to illegally change the quality of flour for their ulterior motives. The flour mill owners were reportedly producing banned items like fine/Danedar flour, Maida and Sooji etc from the subsidized wheat, and rest of the wheat was used to produce low quality flour for the consumption of general public. Moreover, the flour mill owners extracted choker in excess of the permissible quantity and the same was smuggled to the down country for heavy profit. Keeping in view the above facts the Government of Gilgit-Baltistan framed rules of conduct for the operation of flour mills in Gilgit-Baltistan but the mill owners refused to abide by the said rules. (Copy of the draft rules of conduct is annexed as annexure-A).*
11. *That the Government Gilgit-Baltistan has awarded the contract of carriage of wheat to M/S NATCO on notified approved rates by the competent authority. It is further submitted that regarding the question of transportation of wheat from down country, this Hon'ble Court has required the Government to submit report in another case and the same will be replied with details in the other case.*
12. *That the flour mills situated in Gilgit and Danyore sub Division have refused to grind wheat and supply flour in accordance with the rules of conduct and the Government of Gilgit-Baltistan is left with the Hobson's choice to grind wheat from flour mills in the down country till the time the flour mills of Gilgit-Baltistan undertake to abide the rules of conduct framed by the Government of Gilgit-Baltistan. It is, however submitted that at present there are twenty eight flour mills in Gilgit district, out of which twenty four (24) are functional while the remaining are non-functional. It is further submitted that the requirement of flour in Gilgit can be met with four to five flour mills. It is not possible for the Government to accommodate all flour mills in Gilgit district.*

In view of what has been discussed hereinabove, it is most respectfully prayed that the instant proceedings may be closed as the issued regarding shortage of flour in Gilgit has already been resolved.

Dated: 12-11-2013.

*Sd/-
Advocate General
Gilgit-Baltistan"*

5. The learned Advocate General also submitted the copy of draft Rules of Conduct for flour Mills for grinding of wheat and supply of flour to sale point as Annexure 'A', which reads as under: -

"The operation of Flour Mills in Gilgit-Baltistan for the purpose of grinding of wheat supplied by Civil Supply & Transport Department GB will be subject to the following rules of conduct:-

Clause-1-Difination:-

- (a) "The Directorate of Civil Supplies & Transport GB" shall mean, Director Civil Supplies & Transport GB.
- (b) "Flour Mills" shall means the firm/unit allowed to grind and supply flour to sale point(s) established by the civil Supply Department GB.
- (c) "Quality shall means the formula of bran extraction (50%) as decided by the Civil Supply & Transport Department Gilgit-Baltistan based on public demand from time to time.

Clause-II-Terms and Conditions:-

1. The Flour Mills will produce single quality of flour (by extracting 5% choker only) as per requirement of Civil Supply Department based on public demand from time to time. In case of violation by any flour mill management, heavy fine will be imposed against the said Mill.
2. The Flour Mill will not produce any banned brand item from the subsidized wheat and will ensure to remove all pipes through which banned items care be produced until and unless the Civil Supply Department has allowed in writing in specified cases.
3. If any flour mill found in production of any banned brand item i.e. danedar, Maida, Soji etc that mill will be sealed permanently and NOC will be cancelled.
4. any Flour Mill if found involved in the smuggling of wheat, wheat, wheat in shape of pieces and wheat flour to down country will be sealed permanently besides cancellation of its NOC.
5. Transportations of wheat from Civil Supply Depot to Flour Mill and transportation of flour Mill to Sale points will be the responsibility of the Flour Mills.
6. The existing ex-mil rate of flour amounting to Rs. 548/- per Kg bag will be applicable till revision of rates if deemed necessary. The Flour Mill will supply flour to each sale point specified to it @ Rs. 18/- per 40 Kg sack (transportation charges plus loading/unloading at both the ends).
7. The Flour Mill shall be responsible for delivery of flour at specified sale post(s) on schedule date and time in case of non delivery of flour due to damage, misappropriation or any other reason, cost thereof will be recovered at landed rate of wheat from flour mill besides taking action under criminal law.
8. Wheat quota will be issued to each flour mill on pre deposit basis.
9. Payment of cost of flour, grinding charges and transportation charges will be made to flour mills through crossed cheque on weekly basis on submission of bill/claim by the Mill duly verified by the concerned CSO and in-charge of sale point. Flour Mill has no right to claim any interest on investment in grinding when payment is delayed by the Civil Supply Department GB.
10. In the event of failure of flour mill to carry out grinding or supply of flour, the Civil Supply Department Gilgit-Baltistan shall have power to discontinue supply of wheat to such flour mill.
11. There will be no legal right of any flour mill as such to claim wheat quota equal to any other mill in GB.
12. Civil Supply Department reserves the right to inspect any flour mill through any officer(s)/official(s) to check the quality, weight of flour or for any other purpose.
13. In case of any technical fault in the machinery of flour mill, information shall be brought into the notice of concerned CSO immediately, so that alternate arrangements could be made for uninterrupted supply of flour.
14. The Civil Supply Department will ensure full weight of wheat as per approved quantity of each mill.
15. The flour mill management will not go on strike against government policies framed time to time.
16. The flour mill management is not allowed to purchase any subsidized wheat through any illegal sources.
17. The flour mill management will ensure to grind the subsidized wheat during office hours.
18. All flour mills are bound to comply all above terms and conditions otherwise no quota will be issued to the said mill.

DIRECTOR
CIVIL SUPPLIES & TRANSPORT
GILGIT-BALTISTAN"

6. The learned counsel of the respective parties have been seeking adjournment on one pretext or the other. The case was accordingly adjourned on the dates i.e. 18.11.2013, 13.03.2014, 24.03.2014, 08.04.2014, 29.04.2014 and 05.05.2014. Meanwhile, the requisite reports sought from Flour Mills Owners and Bakers Union Association (Naan Bhai Association) were submitted which, for convenience, are reproduced hereunder.

7. The report submitted on behalf of Flour Mills Owners reads as under: -

- “The Mill owners are submitting the para wise comments to the questions raised by this august Court and replied to it by the AG Gilgit-Baltistan.*
1. *That Mill owners are ready to provide 40 Kg flour bag at the rate of Rs. 620/- instead of Rs. 640/= as past practice. More over Mill owners under takes to supply Flour at the sale points at the above mentioned rates and are also ready to provide at the rate of Rs. 570/= at Mill point.*
 2. *That the para 2 of the reply is correct and the Mill owners are ready to accept the said Quota.*
 3. *That the para No. 3 of the reply is incorrect, wrong and baseless. The Mill owners have never supplied any Flour to baker/Tandoor owners. If the Flour dealers have supplied any flour to baker/Tandoor owners, the Mill owners are not responsible for that. It is the duty of civil Supply Department to check and control the Flour dealers from smuggling or black marketing.*
 4. *That as explain in para No. 3, so need not explain further.*
 5. *That para No. 5 of reply needs no comments, as the Mill owners are not aware of weight and rate of roti which the owners of tandoors are selling to General public.*
 6. *That para No. 6 of reply to the extent of Mill owners is wrong, baseless, incorrect and against the facts. The Mill owners have never indulged either black marketing or smuggling of Flour to anybody nor have they produced maida, fine daneddar flour.*
 7. *That the para No. 7 of reply needs no comments.*
 8. *That para 8 of reply to the extent of Direction and guide line given by the apex Courts of Gilgit-Baltistan are followed by Mill owner in its letter and spirit.*
 9. *That the Mill owners have no objections about the establishment of sale points, as the mill owners are producing quality Flour and Supplying the same at the rate fixed by the Food Department i.e Rs. 640/= per 40 KG bag.*
 10. *That the para No. 10 of reply to the extent of Mill owners is wrong and baseless, the Mill owners are neither producing any kind of fine danedar Flour, maida and quantity of choker as fixed by the food Department. As for rules and conduct regarding the rules and quality of flour according to the rules of world Health Organization (WHO) are concerned Mill Owners have no objection and ready to follow them.*
 11. *That the para No. 11 of reply is not related to the Mill owners.*
 12. *That the para No. 12 of reply is wrong and incorrect Detail reply is given in para No. 10 supra.*

It is therefore, requested the Flour Mills may kindly be provided the fixed quota of wheat as past practice.

Mill Owners through Counsel

-sd-

1. Mohammad Issa Senior Advocate SAC, GB.

-sd-

2. Malik Shafqat Wali Senior Advocate SAC, GB”

8. The report submitted on behalf of Bakers Union Association

(Naan Bhai Association) reads as under: -

“Comments/report on behalf of respondent No. 10 are submitted as under: -

1. *Question NO. 1 is not related to the respondent No. 10.*
2. *Question No. 2 is no related to the respondent No. 10.*
3. *For question No.3 it is submitted that flour Mills have been supplying quota of Atta to backers at the rate of 760/- per bag.*
4. *For question No. 4 it is submitted that 2/3 bags of fine Dana Dar Atta have been supplied to backers per day.*
5. *The market price of Rote is R. 10/- per Rote which is less then the cost that the Tandories are investing due to high price of fuel/wood and other misc. charges.*
6. *Not within jurisdiction of respondent No. 10.*
7. *Not know to respondent No. 10.*
9. *The role of sale point is in accordance need of consumers.*
10. *Not related to the present respondent.*
11. *Not related to the answering respondent.*
12. *Not related.*

Dated the 22th March, 2014

Respondent No. 10 through counsel

-sd-

Latif Shah Advocate”

9. It is pertinent to mention here that these reports are being incorporated in the judgment as the same pertain to the questionnaire framed by the bench vide order dated 09.10.2013.

10. Today, i.e 08.05.2014, learned Advocate General Gilgit-

Baltistan as well as learned counsel representing the parties of the case are present in the court.

11. The learned Advocate General submitted that the Government of Gilgit-Baltistan, in order to streamline the supply of flour, formulated a policy to regulate the conduct of the Mills owners for grinding of wheat and supply of flour to the sale points established by the Food Department Gilgit-Baltistan. He added further that earlier, the Flour was being supplied to the consumers by the Local Mills Owners through a system introduced as dealership system while establishing a mode of distribution of flour but the same was found to be a failure by the department. It could not cope with the needs of the people and caused a serious crises of shortage of flour in the area, therefore, the Government of Gilgit-Baltistan abolished the dealership system for supply of flour to the consumer and introduced a new system by establishing Sale Points.

The department has appointed its own personnel to run the system in consonance with the health guidelines given by the World Health Organization (WHO). He submitted further that on account of establishment of sale points, the element of corruption in the supply of wheat and flour has also come to an end. Some individuals are making efforts to create an artificial crises in the City Gilgit as there is no factual shortage whatsoever, in any area outside the limits of City Giglit, where the supply is being carried out as per new policy formulated by the Department. He added further that on refusal of the Mills owners to grind the wheat as per new policy framed by the Food Department, the department opted to get the wheat ground from down country (Islamabad) on a very competitive rate to keep the supply of flour in Gilgit City intact. He agitated further that the grinding of wheat from Islamabad is of better quality. The main reason for the hue and cry of the Mills Owners is that the mills owners purportedly smuggle the "Chowker" extracted from wheat to down country and this illegal gain has now been curbed by getting the wheat grinded from Islamabad. He added further that there is no hard and fast rule with the Government of Gilgit-Baltistan for regularization of the affairs of the flour Mills. He submitted, on instructions from the Director Food Gilgit-Baltistan, that no flour quota was fixed for Bakers (Tandories) but after the carriage of flour from Islamabad to this area, the department is supplying flour to the registered Bakers who are more than a hundred in number.

12. On the other hand, the learned counsel for the Mills Owners state that a direction was issued to the Mill Owners by the Food Department, Government of Gilgit-Baltistan to the effect that the Mills Owners must supply the flour to the sale points on fixed rates but the

wheat was being supplied to the Mills Owners on higher rates. On account of this, the Mills Owners could not cope with the rates fixed for the supply of flour as instructed. The learned counsel further submits that the present shortage of supply of flour is occasioned on account of non supply of the wheat to the Mill Owners by the government as the government has started grinding the wheat from Islamabad Mills and providing the flour to the consumers in the area at the rate of Rs. 640 per 40 Kg, whereas, the Mills Owners of the Area of Gilgit-Baltistan were continuously supplying the flour at the rate of Rs. 620 per 40 Kg. If the flour is being carried from Islamabad and supplied to the consumers at the rate of Rs. 640 per 40 Kg, it costs the consumer extra Rs. 20 per 40 Kg than the rate of flour being supplied by the Flour Mills in the area. The learned Counsel submits further that if it is calculated in its true sense, the flour supplied from Islamabad after grinding can only be supplied on higher rates. The department should have not indulged in such activities in which the consumer would be the loser nor should it be the intention of the Department.

13. The learned counsel for the Bakers Association has submitted that on supply of the flour from the sale points the cost over charges, i.e. the cost of fire wood, rent of shop and other ancillary expenditures, will keep the rate of the bread (roti) on the higher side, if the flour is supplied in a manner as mentioned above. He submits further that the government department is required to keep all these facts in view while deciding the weight and rate of the Bread (Roti) in order to avoid any inconvenience to the consumers or for that matter any conflict between the Food Department and the Bakers Association.

14. We have heard the learned counsel of all the concerned parties at full length and have also given anxious consideration to the contentions raised by the learned counsel and have examined the record very minutely with their able assistance.

15. In a nutshell, the matter in hand is that the area of Gilgit-Baltistan has a special status, therefore, the Government of Pakistan have been supplying the wheat on subsidy, funded by the Federal Government of Pakistan, in order to extend the benefit to the people of Gilgit-Baltistan. The wheat transported from Base Godown Islamabad to Gilgit-Baltistan and thereafter, it was supplied to Mills Owners for its grinding as per policy formulated by the Food Department and after grinding of wheat, while converting into the shape of flour. The Flour Mills were bounded down to supply the bags of flour at Distribution Points through dealership system and the same was sold to the consumer. Later on, the Food Department had held that this system is not satisfactory and the concerned authorities formulated the policy afresh and established the sale points for distribution instead of dealership system. The examination of the record reveals that the establishment of system of Sale Points was seriously opposed by the Flour Mills Owners and in this view of the matter, the Food Department opted to supply the wheat from base godowns Islamabad to the Flour Mills at Islamabad for grinding and avoiding any hindrance in supply of flour to the people at large of this area but strangely the Bakers Association has refused to accept this system of establishment of Sale Points and refused to bake the Bread (Roti). This has caused a shortage of flour in the area and the crises had erupted on account of non availability of flour in the area.

16. We have taken into consideration the proposal and suggestions advanced by the parties with regard to the fixation of the price of flour and the minute examination transpires that the rate of 40 Kg bag of Flour is fixed at the rate of Rs. 620/- per 40 Kg Bag for the consumer, whereas, the same is lifted by the Food Department from the Flour Mills at the rate of Rs. 548/- per Bag, whereupon, Rs. 18 per 40 Kg bag are added in the shape of transport charges and Rs. 23 per 40 Kg bag are further added on account of expenses incurred on salaries of 53 employees including Salesmen and Supervisors appointed at Eighty Four Sale Points established by the Food Department within the area of Gilgit City, for the convenience of the people. Then an amount of Rs. 11/- is further added per 40 Kg bag on account of rent of Eighty Four shops taken on rent at the rate of Rs. 350/- per shop per month. It is abundantly clear that rate of flour which comes at the disposal of Food Department of Gilgit-Baltistan is Rs. 548 per 40 Kg Bag and the same is being supplied to the public in general at the Rate of Rs. 620/- per 40 Kg bag, which is very high and tantamount to an escalation of about Rs. 75/- per 40 Kg Bag from the original price statedly on account of various expenditures.

17. Gilgit-Baltistan is a special territory and has a special status therefore, the Government of Pakistan bears a heavy burden on account of subsidy on wheat for the benefit of the general public in the area which amounts to the tune of almost Six Thousands Million Rupees. This subsidy is not provided for the benefit of an individual or a group of individuals to enable them to mint the money at the cost of public inconvenience and loss of public exchequer but the same is for the benefit of poor public of the area, who should have been the real

beneficiaries of this concession extended by the Government of Pakistan. The wisdom behind it is that the advantage must reach till the end who is the consumer and no favour may be given to the black mailers or mafias of the area. The quality, price control and distribution of wheat falls within the domain of Food Department of Government of Gilgit-Baltistan and the Food Department is under legal obligation to avoid crisis and maintain the smooth supply of Flour to the people, for which they can be held responsible. Same is the case with regard to the fixation of price of Bread (Roti), this matter may also be looked into and is required to be decided by the Food Department keeping in view the maximum benefit of the public in general.

18. We, before dilating upon the matter further, want to refer to a Judgment of the Chief Court Gilgit-Baltistan wherein, a similar matter had been decided on 24.03.2009 in the case of Rakaposhi Flour Mills and others v. Provincial Government and others in which the Chief Court had provided guidelines for the Food Department to avoid such crisis in the area. This judgment of the Chief Court is very exhaustive on the subject and the department should had kept these guidelines in mind while dealing with the matter in question. The relevant findings of the Chief Court are reproduced, for convenience, as under: -

“1. The right of 30% quota of wheat by the mill owners on the basis of the resolution of the NALC is also perused. The same has its ambiguities and is not a clear cut directive whereby the claim of the petitioners can be given full weight. The contention of the mill owners that they have invested huge amount for the establishment of the mills and that the government is morally obliged to give them considerable percentage of wheat to grind is also considered. It is seen that the NOCs for the construction of the mills have been sanctioned by the department of Industries Northern Areas. The Director of Industries N.As was called was called and inquired about the procedure of the sanction of the NOCs. It has noticed that there was no proper procedure adopted in the sanction of NOCs for the construction of mills. A simple application was entertained without any consultation with the Provincial Government or the Deputy Commissioner. The mills were not established or sanctioned on need basis and without any scrutiny. It is also noticed that certain mills have been constructed on the NOCs obtained from the Provincial Government. The claim of the mill owners for the percentage of wheat quota of the basis of merit regarding the

financial investment does not carry any weight. The establishment of mills is a private investment venture at the risk and cost of the owner. The establishment of a private venture does not create a right for the claim of recommendations of a certain percentage of wheat to the mill owners out of the total quota of wheat allocated but the same cannot be considered because the mill owners have taken undue advantage of supplying Atta/Flour to the general public enhanced rates. The Government of Pakistan is providing a huge subsidy by supplying grain to the people of Northern Areas at the rate of Rs. 8.50/- per KG which is sold to the general public in the form of Atta at the rate approximately Rs. 15/- per KG or more. The mill owners have acted as middle men at the cost of the general public. Hence the crux of this issue is that **THE MILL OWNERS ARE NOT ENTITLED TO THE QUOTA AS A RIGHT**. If in certain areas comprising of huge towns where the general public have no time to carry around wheat for grinding then if the representatives of the people like the member of the N.A. Council, the District Council member, Municipal Committee and the Union Council unanimously recommends that the whole or some portion of the wheat allocated to that particular area may be provided to be grind by the flour mill then this quantity may be done so keeping in mind the covering population/ proportion to the mills established in the said areas.

The mill owners have repeatedly remanded their wheat quota is being reduced due to malafide intentions. It is found that no special quota from Govt. of Pakistan for the mill owners is approved and transported to Northern Areas. If there had been such a situation then it could termed as a malafide on the part of the Provincial Government hence no right accrues to the mill owners for the claim of quota.

2. BAN IS IMPOSED ON THE FURTHER CONSTRUCTION OF FLOUR MILLS IN THE NORTHERN AREAS. If NOCs have been issued to the different venture and who have not established the same then the said NOCs are cancelled and no further mills will be established and further NOCs by the Provincial Government. Or the Department of Industries Northern Areas will be issued. If half work done on the construction of mills has taken place then the said may complete their work. If it is absolutely necessary that an area is in dire need of a flour mill then the Department of Industries in consultation, approval and recommendations of Deputy Commissioner, the elected representatives and the final approval and the NOCs of the Chief Secretary may be obtained.

3. CHOWKER WILL NOT TO BE TRANSPORTED TO DOWN COUNTRY IN FUTURE. This court had previously accommodated the request for transportation of chowker to down country on the ground that the consumption of chowker in Northern Areas was very little and the extracted chowker was a burden on the mills whereby financial loses would incur. Keeping in view the said contention the mills were allowed to carry the same to down country. But the said concession was misused and misutilized by some of the petitioners. Grain in form or chowker was transported to down country in bulks which were apprehended at different times. The said practice created an acute shortage of flour and huge uproar by the public. This act of the flour mills also established a negative impact against the flour mills. In future no chowker will be transported to down country and chowker extracted will be carried out by the Civil Supply Department from the mills and sold in the local market at a nominal price. It is also informed that the flour mills at Skardu are selling chowker Rs. 3 per KG in the local market which seems to be very nominal. The same procedure if adopted at Gilgit can be very beneficial. No transportation of chowker to down country after the circulation of this order is allowed. All the previous orders regarding transportation of chowker to down country are set aside.

4. The main problem which is confronted by the general public is the distribution of Atta from the flour mills to the general public is faulty. Certain agents have been given the privileged to carry the Atta from the flour mills to the certain localities established within the city. In this regard the recommendations of the Provincial Government were asked who undertook to thrash out the matter to established a fool proof method to supply Atta at a fixed reasonable price. This court also given thought to the matter and recommends that the Civil Supply Department will supervise the distribution of Atta/Flour through their authorized dealers who will gather the Atta/Flour from the flour mills and sell it to the general public at established fixed points with a nominal profit to the dealer

*keeping in view the distance of the depot from the flour mill. **IF THE DEPOT HOLDER SELLS THE ATT/FLOUR ABOVE THE RATE FIXED BY THE CIVIL SUPPLY DEPARTMENT NORTHERN AREAS OR ANY OF THE ASSISTANT CIVIL SUPPLY INSPECTORS SELLS WHEAT ABOVE THE FIXED PRICE THEN THE CIVIL SUPPLY OFFICER OF THE RESPECTIVE AREA WILL BE HELD RESPONSIBLE. THIS METHOD SEEMS TO BE THE ONLY LOGICAL WAY BY WHICH THE DEALER AS WELL AS THE CIVIL SUPPLY DEPARTMENT CAN BE HELD RESPONSIBLE.***

19. The crux of the matter is that the Government of Gilgit-Baltistan, keeping in view the public benefit and convenience, should frame the rules on the subject in a manner that nobody should be in a commanding position to blackmail the general public/consumer for a privilege granted by the Government of Pakistan in the shape of subsidy. The only beneficiary of this concession must be the public in general for whom it is granted and no one including the Government of Gilgit-Baltistan, the Flour Mill Owners or the Bakers Association may be advantaged of such a special concession at any cost. We, therefore, feel that the above named parties are directly or indirectly responsible for the inconvenience and trouble caused to the public in general which culminated into shortage of Flour in the area.

20. In view of what has been discussed above, we issue the following directions in addition to the observation made in the judgment of the Chief Court supra to the concerned quarter to avoid such situation in future: -

- i. That the Food Department Gilgit is directed to retain and distribute a certain amount of wheat/grain to general public so that the consumer can avail opportunity of having it grinded at the place of his own choice which will save the individual from payment of extra charges which have been discussed above.

- ii. It is the sole domain of Price Control & Regulating Authority Gilgit-Baltistan in collaboration with Civil Administration to fix the rate of Flour (Atta) to be given to the consumer at the sale points established at various places in the Gilgit City by the Civil Supply Department, Government of Gilgit-Baltistan.
- iii. That Price Control & Regulating Authority Gilgit-Baltistan should fix the rate of the Bread (Roti) and the weight of the same. The rate should be logical and practicable.
- iv. The Price Control & Regulating Authority Gilgit-Baltistan should also fix the rate of wheat per 40 KG to be grinded by the flour mills.
- v. It is not the privilege of the mill owners to impose their own demands and rates of grinding without adhering to the directives of the Price Control & Regulating Authority Gilgit-Baltistan and the said authority should also keep in mind the genuine requirements of the mill owner.
- vi. The Food Inspectors should visit each and every baker to check the weight of the bread (Roti). If found below weight, than the license of the Baker (tandoori) shall be cancelled immediately.
- vii. If the mill owners deliberately and without any cogent reason try to create temporarily shortage of flour (Atta) in the City Gilgit by way of strike or by adopting any other method, the Food Department is at liberty to provide the flour to general public/consumer by an alternate arrangement and necessary steps would be taken on priority basis.

viii. If any other matter relating to the issue of supply of flour to the consumer arises, the Food Department, Government of Gilgit-Baltistan would be at liberty to adhere to the guidelines given in the Judgment of the Chief Court supra.

21. This Suo Moto Case No. 03/2013 stands disposed of in the above terms.

Chief Judge

Judge

Judge