JUDGMENT SHEET.
IN THE ISLAMABAD HIGH COURT, ISLAMABAD.
JUDICIAL DEPARTMENT.

W.P. No. 2878/2025

M/s R.A. Impex Importers & Exporters

Versus

Federation of Pakistan, etc.

Petitioner by: M/s Shafqat Mehmood Chohan and Wasi Ullah Khan Surrani, Advocates.

Respondents by: Mr. Sarfraz Rauf, AAG.
Mr. Shahanshah Shamil Paracha, Advocate, along with Ali Imran, Senior Engineer for respondent No.2.
Ms. Ambreen Moeen, Advocate, along with Shumail Cheema, Legal Consultant for the applicant.
Mr. Muhammad Hassan, Deputy Director (P&D), DPP, M/o NFS&R.
Ms. Huma Nazir Kiyani, Entomologist, DPP, M/o NFS&R.

Date of Hearing: 15.09.2025.

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KHADIM HUSSAIN SOOMRO, J: Through this writ petition, the petitioner has impugned the report issued by the Pakistan Council of Scientific and Industrial Research (PCSIR) and seeks direction to the respondents for fresh sampling of the consignment imported from Indonesia vide Bill of Lading No. MOLBLWKHI2308012, dated 27.08.2023.

2. The brief facts of the instant petition are that the petitioner imported a consignment of Betel Nuts falling under HS Code

0802.8000, originating from Indonesia, vide Bill of Lading No. MOLBLWKHI2308012 dated 27.08.2023, comprising 338 bags. Prior to shipment, the consignment was inspected, supervised, and tested by a recognized and accredited laboratory in Indonesia in accordance with the applicable rules and procedures. The laboratory report confirmed that the Aflatoxin levels in the consignment were within permissible limits as prescribed for food products, and on that basis, the Ministry of Health, Republic of Indonesia, issued a Health Certificate declaring the goods fit for human consumption. In Pakistan, the regulation of Aflatoxin levels in food products, including dried fruits and nuts, falls under the jurisdiction of the Pakistan Standards and Quality Control Authority (PSQCA), which has fixed the maximum tolerable limit (MTL) for total Aflatoxins at 20 nanograms per gram (ng/g) in food articles. Upon arrival of the consignment in Pakistan, it was subjected to testing by the Pakistan Council of Scientific & Industrial Research (PCSIR) Laboratories Complex, Lahore. The PCSIR test report indicated that the Aflatoxin content exceeded the prescribed limit under the relevant laws.

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3. The petitioner disputed the correctness of this report, alleging that the testing process was mishandled and that the results were unreliable, particularly in view of the contradictory findings from the Indonesian laboratory. The petitioner thereafter approached Respondent No.1 seeking re-testing or re-sampling of the

consignment through an independent third-party laboratory, specifically the PSQCA, which is recognized for such testing. However, the request for re-testing was refused by Respondent No.1 through Respondent No.2, allegedly without lawful authority.

4. The petitioner contends that the refusal to allow re-testing amounts to a violation of its fundamental rights, is contrary to the principles of natural justice, and has caused serious financial loss and damage to its business. The petitioner asserts that under the applicable customs and plant protection laws, re-testing or re-sampling is a recognized procedure for determining the true quality and status of imported goods. Aggrieved by the said refusal and the disputed test report, the petitioner has approached this Court seeking directions for independent re-testing of the consignment to ascertain the accurate Aflatoxin levels and to protect its lawful business interests in accordance with law.

5. Learned counsel for the petitioner contends that prior to shipment, the subject consignment was duly inspected, supervised, and tested by a recognized and accredited laboratory in Indonesia, strictly in accordance with the applicable statutory rules and prescribed procedures, and that the laboratory report unequivocally certified that the Aflatoxin levels were within the permissible limits prescribed for food products. It is further submitted that upon arrival of the consignment in Pakistan, the same was tested by the Pakistan

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Council of Scientific and Industrial Research Laboratories Complex, Lahore, whose report alleged that the Aflatoxin content exceeded the statutory threshold under the relevant legal regime. Learned counsel, however, seriously disputes the correctness, reliability, and legal sanctity of the said report, asserting that the testing process was mishandled and vitiated by procedural irregularities, particularly when viewed in juxtaposition with the contradictory findings of the accredited Indonesian laboratory. It is further argued that the petitioner, in order to resolve the controversy and to ensure a fair and transparent determination, approached respondent No.1 with a request for re-testing or re-sampling of the consignment through an independent third-party laboratory, namely the Pakistan Standards and Quality Control Authority, which is duly recognized for such purposes, but the said request was arbitrarily declined. Learned counsel submits that, being aggrieved by the refusal of respondent No.1 and the disputed test report, the petitioner has been constrained to invoke the constitutional jurisdiction of this Court, seeking appropriate directions for independent re-testing of the consignment so as to ascertain the true Aflatoxin levels and to safeguard its lawful commercial interests in accordance with law. Lastly, the counsel submits that the instant petition is hit by the doctrine of resjudicata.

6. The Learned counsel for the respondent, controverting the submissions advanced on behalf of the petitioner, submits that the

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consignment in question, upon its arrival in Pakistan, was subjected to sampling and testing strictly in accordance with the governing statutory framework, prescribed protocols, and internationally accepted scientific standards by the Pakistan Council of Scientific and Industrial Research Laboratories and found Aflatoxcine level above the prescribed limits. Learned counsel further argues that the reliance placed by the petitioner on the pre-shipment laboratory report issued by a foreign laboratory cannot override or supersede the findings of the competent domestic authority mandated under Pakistani law to ensure public health and food safety within the territorial jurisdiction of Pakistan. It is submitted that pre-shipment inspection reports are, at best, facilitative in nature and do not curtail the statutory powers of the respondent authorities to conduct independent testing upon import. It is finally contended that no violation of any statutory provision or fundamental right has been demonstrated, and that the petitioner, having failed to establish mala fide, procedural illegality, or jurisdictional defect, is not entitled to the discretionary relief sought. Consequently, learned counsel prays that the petition be dismissed for want of merit. That prior to the instant petition, the petitioner had filed C.P No. D-5465/2023 before the Honourable High Court of Sindh, Karachi, which was dismissed.

7. I have heard the learned counsel for the parties and perused the material available on the record.

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8. Before adverting to the merits of the case, it would be appropriate to briefly examine the statutory framework governing the subject matter of the present dispute. Section 3 is the substantive and controlling provision of the Act. It vests the Federal Government with the primary authority to prohibit, restrict, or regulate the import of plants, plant products, and pests which are likely to cause infection or harm to crops or plant life. This section empowers the Government to act preventively, even before any actual damage occurs, on the basis of likelihood or risk. It also authorizes the imposition of conditions such as inspection, examination, certification of non-infection, treatment, detention, confiscation, or destruction of infected articles. Section 5 operates as an enforcement and compliance mechanism flowing directly from Section 3. While Section 3 declares prohibitions or conditions, Section 5 ensures their practical implementation at ports, airports, railway stations, and other transit points. It places a statutory obligation on carriers, booking agents, and persons responsible for transportation not to receive, forward, or carry goods whose import is prohibited or whose prescribed conditions have not been fulfilled. Thus, Section 5 translates the policy and regulatory decisions taken under Section 3 into mandatory duties at the operational level, ensuring that prohibited or conditional goods do not enter the country through logistical or transport channels. Section 10, by contrast, is purely enabling and procedural in nature. It does not itself impose prohibitions or duties,

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but authorizes the Federal Government to frame detailed rules for carrying out the purposes of the Act. Through this provision, the Government is empowered to prescribe the manner of inspection, examination, treatment, certification, documentation, and fees. Section 10, therefore, supplies the legal foundation for subordinate legislation, such as the Pakistan Plant Quarantine Rules, 2019, which provide the technical and procedural details absent from the main Act. Precisely, Section 3 lays down the substantive regulatory power, Section 5 ensures enforcement and compliance with that power, and Section 10 enables the creation of a detailed procedural framework to operationalize both. Read together, these provisions demonstrate that the Act is designed as a preventive regulatory statute, where policy decisions are taken under Section 3, enforced through Section 5, and implemented in detail through rules made under Section 10.

9. Reverting to the merits of the case, the core relief sought by the petitioner in this petition is re-testing- re-sampling of the bettle nuts. The Pakistan Plant Quarantine Act, 1976, is a brief and enabling statute that primarily empowers the Federal Government to regulate or prohibit the import of plants, plant products, or regulated articles in order to prevent the introduction and spread of pests and diseases. The Act itself does not contain any express or specific provision dealing with re-testing or re-sampling of imported consignments.

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10. In legal and regulatory practice, Codex standards carry substantial persuasive value. They are widely adopted or relied upon by national regulatory authorities, including those in Pakistan, such as the Pakistan Standards and Quality Control Authority [PSQCA], Pakistan Council of Scientific and Industrial Research [PCSIR], and provincial food authorities. Moreover, Codex standards are expressly recognized under the World Trade Organization's Agreement on the Application of Sanitary and Phytosanitary Measures [SPS Agreement] as international reference benchmarks for food safety and trade disputes, thereby serving as an authoritative basis for determining permissible contaminant limits, assessing food safety compliance, and guiding administrative as well as judicial decision-making in matters concerning import, export, and protection of public health.

11. No doubt the consignment has a certificate; however, the presence of such a certificate does not curtail or oust the statutory powers of the authorized officers in Pakistan to inspect, examine, sample, test, detain, treat, or take regulatory action against the consignment upon arrival. The local quarantine authorities retain full discretion to verify the actual phytosanitary status of the goods in accordance with domestic law, applicable rules, and prescribed standards, irrespective of the contents of the foreign certificate. In practical and legal terms, therefore, a foreign phytosanitary certificate

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has evidentiary and facilitative value, but it is not determinative. Where inspection or laboratory analysis conducted in Pakistan reveals non-compliance, contamination, or presence of regulated pests or toxins, the authorities are legally justified in disregarding the foreign certificate and proceeding in accordance with the Act and the Pakistan Plant Quarantine Rules, 2019.

12. Now referring to the merits of the case, it is evident from the laboratory report issued by the Institute of Plant Protection, Muhammad Nawaz Sharif University of Agriculture, Multan, dated 08.11.2023, that the Aflatoxin level detected in the subject consignment was recorded at 51.3 ppb, which is manifestly in excess of the prescribed statutory limits. According to a research paper titled "Aflatoxin contamination and recommendations to improve its control" published in a Netherlands-based journal, namely World Mycotoxin Journal, the permissible levels of aflatoxin for human consumption are 4 ppb. Nevertheless, some countries even allow for aflatoxin levels as high as 20 ppb to be permissible (reference made to U.S Food & Drug Administration, Compliance Policy Guide Section 638.100). Coming back to the case at hand, upon re-sampling, the samples were transmitted to another accredited laboratory for independent analysis, whereupon the subsequent test report again confirmed that the Aflatoxin content in the consignment exceeded the permissible threshold. These consistent and corroborative findings

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leave no room for doubt that the consignment fails to meet the mandatory food safety standards prescribed under the relevant legal framework. Once again, the petitioner has filed the instant petition after a lapse of about two years, seeking re-sampling and re-testing from a laboratory.

13. According to the research paper titled "*Aflatoxins: A Global Concern for Food Safety, Human Health and Their Management*" authored by Sang G Kan et al., aflatoxin is defined as a group of naturally occurring mycotoxins produced by certain fungal species, principally *Aspergillus flavus* and *Aspergillus parasiticus*, which commonly contaminate food commodities such as nuts, cereals, and dried fruits under conditions of heat and humidity. Another authoritative medical research paper titled "Research progress in toxicological effects and mechanism of aflatoxin B1 toxin" authored by Congcong Li et al., describes aflatoxin, particularly aflatoxin B1, as a highly toxic and potent hepatotoxic substance, recognized as a well-established human carcinogen, capable of causing acute hepatic failure as well as chronic liver injury, cirrhosis, and hepatocellular carcinoma. The text further emphasizes that contamination of food with aflatoxins constitutes a serious public health hazard, thereby justifying the imposition of strict permissible limits and regulatory control under food safety laws.

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14. In view of the serious public health implications associated with aflatoxin contamination, this Court deems it appropriate to observe that the testing of betel nuts and other dry fruits must invariably be conducted through duly accredited and statutorily recognized laboratories, strictly in accordance with the prescribed sampling and testing protocols. Such commodities are highly susceptible to fungal contamination, and any lapse in scientific rigor, accreditation, or procedural compliance in laboratory analysis may lead to unreliable results, thereby either endangering consumer health or causing unwarranted prejudice to lawful commercial activity. Testing through accredited laboratories ensures technical competence, standardized methodology, traceability of samples, and integrity of results, which are essential for fair regulatory enforcement and judicial confidence. Moreover, reliance upon accredited laboratories minimizes the risk of contradictory reports, enhances transparency in administrative decision-making, and upholds the principles of due process. For these reasons, it is directed that the testing of betel nuts and other dry fruits, particularly for aflatoxin levels, shall be carried out only by accredited laboratories recognized under the relevant food safety and regulatory framework, so as to ensure accuracy, consistency, and protection of public health in accordance with law.

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15. Turning to another important aspect of the instant petition is that prior to the institution of the present proceedings, the petitioner had approached the Honourable High Court of Sindh, Principal Seat at Karachi, by filing Constitutional Petition No. C.P.D. 5465/2023, concerning an identical consignment of betel nuts falling under HS Code 0802.8000, originating from Indonesia, covered through Bill of Lading No. MOLBLWKHI2308012 dated 27.08.2023, consisting of 338 bags. Pursuant to the directions issued by the Honourable High Court of Sindh, Principal Seat at Karachi, fresh sampling was conducted from the petitioner's imported consignment, whereafter the samples were duly sealed and transmitted to the Institute of Plant Protection, Muhammad Nawaz Sharif University of Agriculture, Multan, for re-testing. Upon completion of the said process, the laboratory report was placed on record, which unequivocally reflected that the Aflatoxin level in the betel nuts exceeded the prescribed statutory limits. Consequently, the said constitutional petition was dismissed vide order dated 22.01.2024. It is further evident that while filing the instant petition, the petitioner has conspicuously failed to disclose the institution and dismissal of the earlier constitutional petition on the same subject matter, involving the same consignment and raising identical questions of fact and law. Such deliberate concealment of a material fact strikes at the root of the petitioner's bona fides. In these circumstances, the present petition is clearly barred by the doctrine of res judicata, as the

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controversy stands finally adjudicated between the parties by a competent constitutional court, and no fresh cause of action has been shown to warrant re-agitation of the same issue before this Court.

16. Article 199 of the Constitution confers constitutional jurisdiction upon the High Court; however, the exercise of such jurisdiction is not immune from the application of settled legal doctrines. The principle of res judicata is fully applicable to constitutional petitions filed under Article 199 of the Constitution. Where an issue raised in a subsequent constitutional petition has already been directly and substantially in issue in an earlier constitutional petition, and the same has been finally adjudicated upon by a competent court, such issue is no longer open to contest, whether on questions of fact or of law. The doctrine operates to bar re-litigation of the same controversy between the same parties, thereby preventing multiplicity of proceedings and abuse of the judicial process. A party cannot be vexed twice in the same jurisdiction over an identical cause, and for this reason, the principle of res judicata has consistently been recognized as one of universal applicability, extending equally to proceedings under constitutional jurisdiction. There are numerous authoritative pronouncements of the Honourable Supreme Court which have consistently held that the doctrine of res judicata squarely applies to proceedings under constitutional jurisdiction. In the case of Mirza Muhammad Yaqub v.

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The Chief Settlement Commissioner, Lahore and another (PLD 1965 SC 254), the Honourable Supreme Court categorically observed that a petitioner is not entitled to adopt different pleas at different stages so as to file more than one writ petition on the same factual matrix, and that where any further grievance subsists, the proper course would be to seek review, if maintainable. It was unequivocally held that the general principle of res judicata is applicable to writ jurisdiction as well. Similarly, in Muhammad Saleemullah and others v. Additional District Judge, Gujranwala and others (PLD 2005 SC 511), the Honourable Supreme Court reaffirmed the settled legal position that judgments rendered by superior courts in constitutional jurisdiction, whether on questions of law or fact, carry binding force, and the parties are not permitted to reopen settled issues either directly or indirectly. The Court further clarified that, for attracting the bar of res judicata, it must be established that the dispute was previously adjudicated upon in a proper manner and conclusively decided. A decision on a question of law based on settled principles, or a decision on a question of fact founded upon proved facts and legal evidence, would operate as res judicata; however, a decision on a disputed question of fact rendered without evidence would not preclude subsequent judicial determination. The Honourable Supreme Court thus concluded that the doctrine of res judicata cannot be invoked unless the earlier adjudication was on merits and attained finality.

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17. In Ghulam Akbar Lang v. Dewan Ashiq Hussain Bukhari and others (2012 SCMR 366), the Honourable Supreme Court further expounded the doctrine by holding that where a finding on a particular issue has already been recorded by the High Court in earlier constitutional proceedings, and such finding has not been overturned by the Supreme Court, a subsequent petition raising the same issue would be barred not only by res judicata but also by the principle of constructive res judicata. The Court further observed that, in such circumstances, the bona fides of the petitioner could be examined to cumulative and meticulous examination of the aforesaid precedents leads to the inescapable conclusion that the principle of res judicata is fully applicable to writ petitions. Once an issue has been directly and substantially raised in an earlier constitutional petition and has been finally adjudicated upon by a competent court, the same issue cannot be reopened or re-agitated in a subsequent writ petition, whether on questions of law or of fact. It is a commanding proposition of law that a party cannot be vexed twice in the same jurisdiction on the same cause, which clearly establishes that the doctrine of res judicata is a principle of universal applicability, extending with equal force to proceedings under Article 199 of the Constitution, preventing a party from being vexed twice over the same controversy.

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18. In view of the foregoing discussion, the material available on record, and the settled legal position, this Court finds no merit in the instant petition. The issue raised herein has already been conclusively adjudicated by a competent constitutional court; the laboratory reports obtained from accredited institutions consistently establish that the aflatoxin level in the subject consignment exceeds the prescribed statutory limits; and no illegality, arbitrariness, mala fide, or violation of any statutory provision or fundamental right has been demonstrated so as to warrant interference in constitutional jurisdiction. Moreover, the petitioner has failed to approach this Court with clean hands by concealing material facts, thereby disentitling itself to any discretionary relief. Accordingly, the instant petition is dismissed, along with all pending applications, with no order as to costs.

(KHADIM HUSSAIN SOOMRO)
JUDGE

Announced in open Court on 15.12.2025.

JUDGE

Approved for reporting

Zahid

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