JUDGMENT SHEET

IN THE ISLAMABAD HIGH COURT, ISLAMABAD

W.P. NO. 3767 OF 2025

M/S NASIR TRADING COMPANY

VS

FEDERATION OF PAKISTAN THROUGH SECRETARY PLANT PROTECTION QUARANTINE MINISTRY FO NATIONAL FOOD & RESEARCH PAKISTAN, ISLAMABAD AND ANOTHER

Petitioner by	**:**	**Barrister Qaim Ali Chohan, Advocate.**
Respondents by	**:**	**Raja Zamir ud Din Ahmed, A.A.G.** **Ms. Huma Nazir Kayani, Entomologist for Respondent No. 2.**
Date of hearing	**:**	**23.10.2025**

MUHAMMAD AZAM KHAN, J.

1. The Petitioner has preferred the instant Petition under Article 199 of the Constitution seeking primarily to have the Court declare the order dated 05-09-2025 **("Impugned Confiscation Order")** as illegal and without authority, and to subsequently quash it. The Petitioner further seeks a mandatory direction for the Respondents to issue the necessary Biosecurity Clearance for its imported consignments, arguing that it has already complied with the required remedial measures and is therefore entitled to clearance under the relevant rules. Additionally, the Petitioner requests an injunction to prevent any coercive action against its goods during the litigation, along with an award of costs and any other relief the court deems appropriate.

2. The brief facts of the case, as per the contents of the Petition, are that the Petitioner imported consignments of Red Oaks and Pine Logs from the United States, which were pre-inspected and certified as pest-free by the US Department of Agriculture. Upon arrival in Pakistan, an inspection by Respondent No. 2's officer alleged pest infestation, leading to a lab report that identified insects but crucially failed to determine their status as regulated quarantine pests. The Petitioner duly complied with the subsequent order to fumigate the entire consignment within the prescribed 24-hour period. However, on the same day the

fumigation was completed, the Respondents issued the Impugned Confiscation Order for the confiscation and destruction of the goods, an action which the Petitioner contends is illegal, *mala fide*, and without legal basis since the mandatory remedial measures had been successfully undertaken.

3. The learned counsel for the Petitioner contended that the Impugned Confiscation Order is patently illegal as it was issued despite the Petitioner having fully complied with the lawful remedial measures of fumigation, and the foundational laboratory report was fundamentally defective as it identified insects but crucially failed to classify them as regulated quarantine pests or conduct the mandatory Pest Risk Analysis required by Rule 10 of the Pakistan Plant Quarantine Rules, 2019 and international standards. He argued that the Respondents' actions are a blatant violation of the Plant Quarantine Act and Rules, the terms of the import permit which allowed for onshore treatment, and the binding Phytosanitary Certificate from the US authorities, while also constituting a *mala fide* and arbitrary exercise of power that infringes upon the Petitioner's fundamental rights to trade and equality under Articles 18, 4, and 25 of the Constitution.

4. The learned Assistant Attorney General, on behalf of the Respondents, contended that the instant Petition is not maintainable before this Court due to a fundamental lack of territorial jurisdiction. He argued that the core relief sought by the Petitioner, the setting aside of the Impugned Confiscation Order and the direction to issue a Biosecurity Clearance, is exclusively against Respondent No. 2, whose office and all impugned actions have taken place in Karachi. The Petitioner has made no substantive allegations against Respondent No. 1, the Federation of Pakistan, which has been impleaded as a formal party solely in a colourable attempt to invoke the jurisdiction of this Court. The cause of action, encompassing the inspection, testing, and the passing of the challenged order, arose entirely in Karachi, and no part of it occurred within the territorial jurisdiction of this Court. Therefore, he prayed that the Petition be dismissed outright on this preliminary ground of being territorially incompetent.

5. I have heard learned counsel for the parties and perused the available record with their able assistance.

6. The foremost question that falls for consideration is whether this Court possesses the territorial jurisdiction to adjudicate upon the present Constitutional Petition.

7. The gravamen of the Petitioner's grievance stems from the Impugned Confiscation Order, passed by the authorized officer of Respondent No. 2, which mandated the confiscation and destruction of the imported consignments. A plain reading of the said order, annexed, unequivocally reveals that it was issued from and signed by the authority situated in Karachi. The entire chain of events, from the physical inspection of the consignments at the Karachi port, the drawing of samples, the issuance of the remedial directive, to the final confiscation order, transpired exclusively within the territorial limits of Karachi. The Petitioner itself lodged its application for clearance with the office of Respondent No. 2 in Karachi. Consequently, the cause of action, in its entirety, arose within the jurisdiction of the High Court of Sindh.

8. The Petitioner, in an attempt to bridge this jurisdictional gap, has impleaded Respondent No. 1, the Federation of Pakistan. However, a scrutiny of the Petition reveals a conspicuous absence of any substantive allegations, overt acts, or specific pleadings of *mala fide* against the Federation. It is manifest that Respondent No. 1 has been made a party merely as a proforma Respondent, a tactic that cannot be permitted to confer jurisdiction upon this Court when the root of the dispute and the party against whom the primary relief is sought are squarely located elsewhere.

9. This legal position is firmly settled by our jurisprudence. The case of *M/s Sethi and Sethi Sons through Humayun Khan versus Federation of Pakistan through Secretary, Ministry of Finance, Islamabad and others* (**2012 PTD 1869**) is directly on point and dispositive of the issue. In that case, the Lahore High Court laid down the principle that the mere impleading of the Federation, without any specific allegations or cause of action against it, is insufficient to invoke the jurisdiction of a court when the real dispute and the effective authority reside in a different province.

> *"20. Persons performing functions in connection with the Province or Local Authority have a clearly demarcated territorial jurisdiction and pose little challenge for the purposes of applying the test of territorial jurisdiction*

under Article 199 of the Constitution as the corresponding High Court in the Province assumes territorial jurisdiction."

10. The rationale underpinning this principle is to prevent the abuse of the judicial process and to ensure that constitutional petitions are adjudicated by the High Court within whose territory the aggrieved person resides or the cause of action substantially arises. In the present case, applying the law enunciated in *M/s Sethi and Sethi Sons (supra)*, the inclusion of the Federation is a colourable device that does not vest this Court with jurisdiction. The Petitioner's recourse, if any, lies before the competent Court in Karachi, where Respondent No. 2 is located and where the entire cause of action has crystallized.

11. In light of the foregoing, this Court refrains from commenting on the merits of the substantive legal arguments raised by the Petitioner regarding the validity of the Impugned Confiscation Order. The Petition is **dismissed** solely on the ground of territorial incompetence.

(MUHAMMAD AZAM KHAN)
JUDGE

Approved for reporting
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