JUDGMENT SHEET
ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

Writ Petition No.690 of 2026

Raja Tariq Mehmood and others

Versus

Chief Commissioner, Islamabad and others

Petitioners by:	Raja Muhammad Aleem Khan Abbasi and Mr. Abdul Razzaque, Advocates.
Respondents 1 to 6 by:	Malik Abdul Rehman, Advocate/Law Officer and Mr. Absar Salaheen and Ms. Janaan Gull, State Counsels along with Waheed Ahmed-SI.
Date of Hearing:	**24.06.2026.**

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INAAM AMEEN MINHAS, J.- Through the instant writ petition, the petitioners have prayed for quashing the proceedings initiated against them under sections 3 and 6 of the Foodstuffs (Control) Act 1958 **("The 1958 Act")** and sought a direction to the respondents to return the seized 800 bags of Atta (Flour) weighing 20 kg each and 135 bags of Maida/fine Atta 89 kg each to petitioner No.1 in their original quantity and quality or in the alternative, pay the equivalent market value/amount of the said goods.

2. Brief facts necessary for disposal of the instant writ petition are that petitioner No. 1 is a duly licensed flour mills, wholesale and retail dealer under the Foodgrains (Licensing Control) Order, 1957, authorized to purchase, sell, store and manufacture Foodgrains and value-added products. Petitioner No. 2 is the lawful owner of Nusrat Farooq Flour & General Mills, situated at Industrial Estate, Rawat, Rawalpindi, and is also operating under a valid license issued by the competent authority. Petitioners No.3 and 4 are the drivers of the trucks

carrying Atta and Maida belonging to petitioner No. 1. On 01.02.2026, petitioner No. 1 lawfully purchased 800 bags of Atta weighing 20 kilograms each and 135 bags of Maida weighing 89 kg each from petitioner No. 2, and the goods were duly supported by the relevant purchase receipts and gate passes. On 02.02.2026, the said goods were loaded onto two trucks for transportation from Rawat to Tehsil Taxila, District Rawalpindi, for onward supply to retailers. However, on 03.02.2026, at about 06:00 a.m, when the trucks reached Sangjani Toll Plaza on G.T. Road, the respondents intercepted the vehicles and detained petitioners No. 3 and 4, along with the loaded goods, despite the fact that the drivers informed the authorities that the products had been lawfully purchased and were being transported under valid licenses issued under the Foodgrains (Licensing Control) Order, 1957. Subsequently, on 04.02.2026, the respondents registered proceedings against the truck drivers/petitioners No.3 and 4 on the allegation that the goods were being transported without valid permission or license, thereby committing an offence u/s 3 and 6 of the 1958 Act.

3. The learned counsel for the petitioners contended that the respondents' actions are illegal, arbitrary, and without lawful authority; that the Government of Punjab, through its policy notification dated 22.04.2025, had already removed restrictions on inter-district and inter-provincial movement of wheat and flour; therefore, the interception and seizure of the petitioners' goods during transportation was contrary to the Government's own policy and without legal justification; that petitioners No.1 and 2 were carrying on a lawful business under valid licenses and that the transportation of Atta and Maida, supported by gate passes, cash memos, and purchase receipts, did not constitute any offence under the 1958 Act; that the respondents had no authority to seize the trucks or the goods being transported by the petitioners, particularly when the petitioners were acting in accordance with the applicable laws and licenses; that no notified officer was appointed under the law and similarly no notified tribunal was established to proceed with the matter under the 1958 Act, therefore the entire proceedings carried out by the respondents are without jurisdiction and

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in violation of statutory provisions of the said Act; and that the impugned actions have violated their constitutional rights to lawful trade, property, and equal treatment under the law, as guaranteed by the Constitution, and amount to an abuse of process, thereby rendering the entire proceedings unlawful and without jurisdiction.

4. On the other side, the learned Law Officer, ICT and the learned State Counsels contended that the instant writ petition, seeking quashing of Qalandra proceedings initiated u/s 3 and 6 of the 1958 Act, is not maintainable as the impugned actions were administrative actions lawfully performed by the Food Department, ICT, in exercise of its statutory powers; that the petitioners have an adequate alternate remedy under the relevant legal framework and, therefore, the constitutional jurisdiction of this Court under Article 199 of the Constitution cannot be invoked; that no fundamental right of the petitioners has been violated and that administrative actions under the Act do not create enforceable constitutional rights; that on 03.02.2026, officials of the Food Department, ICT, during routine checking at Sangjani Toll Plaza, intercepted trucks carrying large quantities of Atta and Maida allegedly being transported from ICT to Hattar, Khyber Pakhtunkhwa, and during inspection, the drivers failed to produce the required permits, licenses and supporting documents; that the Food Department officials were legally empowered u/s 3 and 6 of the 1958 Act and the relevant control orders to regulate the movement and distribution of essential commodities to prevent hoarding, black marketing, and artificial shortages, therefore, the goods were seized, and Qalandra proceedings were initiated before the competent Magistrate in accordance with the law; that the truck drivers admitted during the preliminary inquiry that they were transporting flour and Maida from ICT towards Hattar without the necessary permissions, and since the proceedings are already pending before the competent Court, any interference by this Court would amount to premature adjudication; that the notification issued by the Government of Punjab regarding free movement of wheat was applicable only within Punjab and had no application to Islamabad Capital Territory, where separate regulatory measures were in force

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under the 1958 Act and that all actions were taken lawfully, in the public interest and strictly in accordance with the applicable legal framework.

5. I have heard the arguments of the learned counsel for the parties and gone through the record.

6. The respondents have raised a preliminary objection regarding the maintainability of the present writ petition on the ground that the petitioners have challenged administrative actions taken by the District Food Controller under the relevant statutory provisions, and that an effective alternative remedy is available under the applicable law. Since the issue of maintainability goes to the root of the matter, it is appropriate to decide this question before examining the merits of the case.

7. The petitioners have challenged the proceedings initiated by the respondents against petitioners No.3 and 4 u/s 3 and 6 of the 1958 Act. The main grievance of the petitioners is that the respondents exercised powers without lawful authority, acted in violation of the statute's mandatory provisions, failed to follow the prescribed procedure, and imposed a fine without having lawful jurisdiction. The petitioners have also alleged that the impugned proceedings were conducted in complete disregard of the principles of due process and fair trial guaranteed under Article 10-A of the Constitution and that every citizen has a constitutional right to be treated strictly in accordance with law and that any action taken by a public authority without lawful jurisdiction is liable to be struck down.

8. In the present case, the challenge is not merely to the correctness of the administrative actions but to the very jurisdiction and legal authority of the respondents to initiate and conclude the impugned proceedings. The petitioners have specifically alleged that the respondents acted beyond the powers conferred upon them by law, thereby violating their constitutional, legal and fundamental rights. It is a settled principle that where an action is alleged to be without

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jurisdiction, taken in violation of mandatory statutory provisions, or infringes fundamental rights, the existence of an alternative statutory remedy does not by itself bar the constitutional jurisdiction of this Court under Article 199 of the Constitution. In such circumstances, the constitutional jurisdiction of the High Court can validly be invoked to examine the legality of the impugned action. The preliminary objection raised by the respondents is, therefore, without merit and is hereby rejected.

9. A careful examination of the record reveals that on 03.02.2026, the officials of the Food Department, ICT intercepted two trucks at Sangjani Toll Plaza (Check Post), carrying 745 bags of wheat flour (Atta) and 110 bags of Maida, on the grounds that the illegal transportation of wheat and Maida was being carried out without the required permit or permission under the 1958 Act. Consequently, proceedings were initiated u/s 3 and 6 of the said Act, and the matter was reported to Police Station Sangjani. Thereafter, a complaint/Qalandra was submitted against truck drivers/respondents No.3 and 4 by the District Food Controller, ICT, before the learned Magistrate, Saddar Circle, Islamabad, for trial u/s 3 and 6 of the said Act.

10. The petitioners have challenged the entire proceedings initiated by the respondent's department (Food Department, ICT) on the ground that petitioner No. 2 is the lawful owner and operator of the flour mills namely Nusrat Farooq Flour & General Mills, situated at Rawat Industrial Estate, Rawalpindi, and is carrying on its business under a valid license duly issued by the competent authority under the relevant food laws. The petitioners have asserted that on 01.02.2026, petitioner No. 1 lawfully purchased 800 bags of Atta, each weighing 20 kilograms, along with 135 bags of Maida each weighing 89 kg, from petitioner No. 2, and that the transaction was duly supported by a cash memo and gate pass issued by the flour mill at the time of sale. It has further been stated that petitioner No. 2 is holding a valid Food Grains License bearing No. 3196/Rwp/18, whereas petitioner No. 1 is also the

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holder of Food Grains License No. 3270/Rwp/21, both issued by the District Food Controller, Rawalpindi. According to the petitioners, the purchase, sale and transportation of the flour and Maida were undertaken strictly in accordance with the terms and conditions of their respective licenses and in compliance with the applicable legal framework. The petitioners maintain that no provision of the1958 Act or the rules framed thereunder, was violated by them and, therefore, the officials of the Food Department, ICT, lacked lawful authority and jurisdiction to stop the vehicles, seize the goods, or initiate proceedings against them under the said law. It is their specific case that the impugned proceedings were neither initiated by any notified officer nor conducted before a notified tribunal, as required under the 1958 Act. Consequently, according to the petitioners, the entire exercise undertaken by the respondents is without lawful authority, *coram non judice*, and in clear violation of the statutory provisions governing the field.

11. Before examining the factual controversy involved in the present case, it is necessary to first consider the relevant provisions of the 1958 Act, which govern the initiation and conduct of proceedings under the said law. A plain reading of Section 2(c) of the Act shows that a "notified order" means an order, which has been duly published in the official gazette. Furthermore, Section 3 of the Act authorizes the Government, through such notified orders, to regulate or prohibit the keeping, storage, movement, transportation, supply, distribution, disposal, acquisition or use of foodstuffs with the object of ensuring their equitable distribution and availability at fair prices to the public. Sub-section (2) of Section 3 further provides various conditions and matters, enumerated from clauses (a) to (i), which may be incorporated in such notified orders issued by the Government. Likewise, Section 4 empowers the Government to delegate and assign its powers to any officer or authority subordinate to it, but such delegation may be made only by a notification published in the official gazette. Similarly, Sections 9-A, 9-B, 9-C, and 9-D of the 1958 Act provide for the establishment of tribunals, define their powers and functions, and

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provide the right of appeal against their decisions. Such tribunals must be established through a notification issued by the Government in the official gazette. A careful examination of the 1958 Act clearly demonstrates that the legislature intentionally refrained from conferring unrestricted or direct statutory powers upon government officials in matters relating to foodstuffs. Instead, it introduced a structured legal mechanism based upon the concepts of notified orders, notified officers and notified tribunals. These statutory safeguards were incorporated to maintain checks and balances, ensure transparency in the exercise of powers, and prevent arbitrary action or misuse of authority by officials acting under the Act. Therefore, the requirement of notification in the official gazette is not merely a procedural formality but a substantive legal safeguard specifically incorporated by the legislature to regulate the exercise of powers under the Act and to ensure that proceedings are initiated and conducted strictly in accordance with the law.

12. The record reveals that in the complaint/Qalandra submitted by the officials of the Food Department, ICT, it was specifically alleged that the truck carrying the wheat flour and Maida was travelling from Layyah to Taxila. However, while filing their para-wise comments before this Court, the respondents introduced an entirely different version of facts by asserting that during the inquiry, the drivers of the truck themselves admitted that they had transported the wheat flour and Maida from Islamabad Capital Territory towards Hattar, Khyber Pakhtunkhwa, without possessing the required documents or permissions. This Court observes that both stands taken by the respondents department are materially inconsistent and cannot stand together. If the goods were allegedly being transported from Layyah to Taxila, the question of their movement from ICT to Hattar does not arise. Likewise, if the transportation was allegedly from ICT to Hattar, the version mentioned in the complaint/Qalandra loses its foundation. Such contradictory and mutually destructive pleas create serious doubt regarding the authenticity and credibility of the case set up by the respondents. It is a settled principle that where a party takes inconsistent positions on material facts, the evidentiary value of its case

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is substantially weakened. Therefore, these material contradictions in the stances of the Food Department, ICT strike at the very root of the proceedings and seriously undermine the respondents' case.

13. On the other hand, the petitioners placed on record the relevant licenses, permissions, purchase receipts, cash memos, and gate passes issued by Nusrat Farooq Flour & General Mills, situated at Industrial Estate, Rawat, showing the complete details of the quantity of wheat flour and Maida purchased, their price and the lawful movement of the goods. Significantly, these documents and their genuineness were never specifically denied or disputed by the respondents department in its para-wise comments. Instead of rebutting the documentary evidence produced by the petitioners, the respondents sought to justify their actions by relying on Notification No. 1(19)-Law/2024 dated 24.09.2024, issued u/s 32, Cr.P.C read with the notification of the Justice Division dated 31.12.1980. However, a bare reading of the said notification shows that it merely conferred powers upon Magistrates of the First Class for the limited purpose of price checking duties and inspections. The said notification was neither issued under the 1958 Act, nor does it have any connection with the seizure, transportation or movement of foodstuffs under the said Act. The respondents further relied upon Notification No. 16-11/Home/2025 dated 01.09.2025 issued by the Office of the Chief Commissioner, Islamabad, u/s 3 of the 1958 Act, which was applicable only within the territorial limits of Islamabad Capital Territory. Along with the said notification, the respondents also produced an office order dated 12.09.2025, whereby nine (9) officials with their names were assigned special duties to monitor the movement and transportation of goods for a specific period, commencing on 13.09.2025 and ending on 18.09.2025. The record, however, clearly shows that the said office order was temporary in nature, remained effective only for the specified period and was neither renewed nor extended after 18.09.2025. The proceedings in the present matter were admittedly initiated on 03.02.2026, long after the expiry of the said office order. Furthermore, the proceedings were not initiated by any of the officials named in the office order dated 12.09.2025. It is also

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noteworthy that the said office order was merely circulated to the Additional District Magistrate, Islamabad, and was never published in the official gazette, as required by law to acquire the status of a valid notification. It is a settled principle of law that a notification which is not published in the official gazette has no legal force or binding effect, and any declaration or conferment of powers becomes effective only from the date of its publication in the official gazette and not from any earlier date. Therefore, the documents relied upon by the respondents neither establish their authority under the 1958 Act, nor cure the jurisdictional defect in the proceedings initiated against the petitioners. Consequently, the action taken by the respondents department appears to have been undertaken without lawful authority and in disregard of the statutory requirements prescribed under the Act. Reliance is placed upon ***Government of the Punjab, Food Department through Secretary Food and another vs. United Sugar Mills Limited***, **(2008 SCMR 1148)**.

14. Section 9-A of the 1958 Act makes it clear that the jurisdiction to try and adjudicate offences punishable under the said Act vests exclusively in a tribunal duly constituted by the Government and notified through publication in the official gazette. During the course of proceedings, when the learned counsel for the respondents was specifically asked by the Court to point out any such notified tribunal functioning under the Act, the response was in the negative, and no notification establishing such a tribunal was produced before the Court. This position leads to the inevitable conclusion that the proceedings initiated u/s 3 and 6 of the 1958 Act are presently pending before the learned Magistrate Saddar, Islamabad, who has neither been notified as a tribunal under the Act nor vested with jurisdiction to entertain or adjudicate matters arising thereunder. It is a settled principle of law that jurisdiction cannot be assumed by implication, convenience or consent of the parties, but must flow directly from the statute creating such authority. In the absence of an express conferment of jurisdiction by law, no court, tribunal or authority can lawfully exercise powers in a matter entrusted by the legislature to another forum. Therefore, in the

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absence of a duly notified tribunal u/s 9-A of the Act and in the absence of any statutory authority empowering the learned Magistrate Saddar, Islamabad, to proceed with the matter, the proceedings pending before the said Court suffer from an inherent lack of jurisdiction and are, therefore, without lawful authority and of no legal effect in the eye of law.

15. Upon a careful examination of the record, it also stands established that the wheat flour and Maida in question were lawfully purchased by petitioner No. 1 from petitioner No.2 "Nusrat Farooq Flour & General Mills", situated at Block No. 14, 15/1, Road NS-1, Industrial Estate, Rawat, Rawalpindi. The material on record further shows that the goods were being transported from the Industrial Area, Rawat, Rawalpindi to Taxila, both of which fall within the territorial limits of District Rawalpindi. The petitioners were carrying the goods under valid Food Grains Licenses bearing No. 3196/Rwp/18 and No.3270/Rwp/21, duly issued by the District Food Controller, Rawalpindi, and no material has been placed before this Court to suggest that either of these licenses had expired, been suspended, or cancelled by the competent authority. Furthermore, the respondents have failed to produce any notification, order or directive issued by the Government of Punjab imposing any restriction or ban on the transportation, movement or sale of wheat flour and Maida within the territorial jurisdiction of District Rawalpindi at the relevant time. On the contrary, the respondents have relied upon the notification dated 01.09.2025 issued by the Chief Commissioner, Islamabad, under the 1958 Act, which, by its very terms, applies only to the Islamabad Capital Territory and cannot be extended beyond its territorial limits. The authority of the Chief Commissioner, Islamabad, is confined to ICT and does not extend to the Province of Punjab or to District Rawalpindi. Therefore, in the absence of any applicable prohibition, restriction or valid notification governing the transportation of foodstuffs within District Rawalpindi, the action taken by the respondents u/s 3 and 6 of the 1958 Act, lacks territorial as well as statutory jurisdiction. Consequently, the proceedings initiated against

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the petitioners are without lawful authority and cannot be sustained in the eye of the law.

16. The proceedings initiated by the respondents are also contrary to the protection guaranteed under Article 151 of the Constitution, which is reproduced as under:-

> *"151. (1) Subject to clause (2), trade, commerce and intercourse throughout Pakistan shall be free.*
>
> *(2) [Majlis-e-Shoora (Parliament)] may by law impose such restrictions on the freedom of trade, commerce or inter-course between one Province and another or within any part of Pakistan as may be required in the public interest.*
>
> *(3) A Provincial Assembly or a Provincial Government shall not have power to-*
>
> *(a) make any law, or take any executive action, prohibiting or restricting the entry into, or the export from, the Province of goods of any class or description, or*
>
> *(b) impose a tax which, as between goods manufactured or produced in the Province and similar goods not so manufactured or produced, discriminates in favour of the former goods or which, in the case goods manufactured or produced outside the Province discriminates between goods manufactured or produced in any area in Pakistan and similar goods manufactured or produced in any other area in Pakistan."*

17. In light of the above constitutional provisions, which ensure that trade, commerce and movement of goods throughout Pakistan shall remain free and unrestricted. The Constitution permits restrictions on such freedom only through legislation enacted by Parliament and only where such restrictions are required in the public interest. Furthermore, neither a Provincial Government nor a Provincial Assembly has the authority to impose restrictions on the entry, movement or transportation of goods from one province to another, nor can they discriminate between goods produced in different parts of Pakistan. Therefore, any executive action or proceedings that hinder the lawful transportation, trade or movement of goods without express legal

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authority may amount to an infringement of the constitutional guarantee of free trade and commerce provided under Article 151 of the Constitution.

18. In view of the foregoing discussion, the instant writ petition is **allowed** and the proceedings initiated against the driver/respondents No.3 and 4 u/s 3 and 6 of the 1958 Act, 1958 are **quashed**. Consequently, the respondents are directed to release the goods to petitioner No.1 forthwith.

(INAAM AMEEN MINHAS)
JUDGE

Announced in open Court on 03.07.2026.

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APPROVED FOR REPORTING

R.Anjam.

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