

ORDER SHEET
**IN THE HIGH COURT OF SINDH,
CIRCUIT COURT HYDERABAD**

CP No. D- 1817 & 3343 of 2016

DATED **ORDER WITH SIGNATURE OF JUDGE**

23.08.2017

Mr.KanjimalMeghwar, advocate for petitioner in CP No. D- 1817 of 2016

M/s. Jaleel Ahmed Memon&KhadimHussainSoomro, advocate for petitioner in CP No. D- 3343 of 2016.

Mr.Pervaiz Tariq Tagar, Advocate for respondent Nos. 2, 5 7, 9, 11 and 13 in CP No. D- 3343 of 2016

Mr. Allah BachayoSoomro, Addl.A.G. along with Faisal Ahmed Chief Program Manager, Shakeel Ahmed Shaikh, Addl. Director (PD&F) School Education Department Government of Sindh &Mushtaq Ahmed Shahani Director Bureau of Curriculum, Jamshoro.

In pursuance of order dated 14.12.2016, Mr.Shakeel Ahmed Shaikh, Addl. Director (PD&F) School Education Department Government of Sindh &Mushtaq Ahmed Shahani Director Bureau of Curriculum, Jamshoro are present whereas none from college side is present which *too* without any intimation. The present submit compliance report along with bundle of documents which is taken on record.

On query with regard to implementation of instructions, contained in the order dated 14.12.2016, the officers present, are not in a position to properly submit any *reply* thereto, however, Mr. Faisal Ahmed Chief Program Manager, contends that Accreditation Board is constituted on 22nd November, 2016 in pursuance of judgment of Apex Court in a case of Suomoto with regard to miserable conditions reported in 2014 SCMR 396, however, for nomination of Chairman, Secretary has floated a Summary to the Chief Minister, and according to them, Minister of Education Department would be the Chairman of that committee. Here, a direct referral to para-11 of the order dated 14.12.2016, passed in CP No.1817/2016, being relevant, is made hereunder:

“11. With regard to Accreditation council, Secretary Education contends that has been established by way of Notification dated 21st November, 2016 and they have submitted names and its Chairman that is (paragraph-9 of letter **dated 29.11.2016**), hence it is expected that very soon Chairman, Accreditation Council would be in compliance of paragraph number 174 of judgment passed by apex Court reported as 2014 SCMR 396”.

Needless to add that an *undertaking* in Court is not a mere formality but always carries sanctity hence a *deviation* thereto *normally* cannot be accepted. Reference may be made in this regard to case of *Farzana Rasool & 3 others v. Dr. Muhammad Bashir & others* 2011 SCMR 1361 wherein it is observed as:

“34. Undertaking given by a party in the Court of law has to be given sanctity because on one hand there is a legal estoppel and on the other moral and ethical against it....

Thus, *present* stands which *too* after lapse of more than eight (8) months is not worth appreciating. It be added that since it was already observed that a person of high repute shall be appointed as Chairman Academic Council and that system must run on permanent basis as per the guidelines, already provided by the Apex Court in *supra* case. This exercise shall be completed within five days with compliance report.

Further, as per report, from each district there would be two representatives of Accreditation Board. Needless to mention that scope of Accreditation Board is very wide and object whereof reform at gross root level is and cater the difficulties in education, therefore, it would be proper that on each district level there must be subordinate board / committee including Deputy Commissioner and other stake holders. When confronted, Mr. Allah Bachayo Soomro, Addl.A.G, undertakes that such necessary amendment would be made and there shall be separate offices thereby assuring easy access to the aggrieved persons and public as well employees for redressal of their grievance; the Chairman would be appointed preferably within three days and such notification would be issued..

He contends that in pursuance of order of this Court out of 290 Higher Secondary Schools in whole Sindh 114 Schools have been declared as Campus whereas 176 Higher Secondary Schools are to be handed over to the college and they have conveyed such intimation to the college side but they have not received the possession / control. In addition he contends that in pursuance of order of this Court, 30 new colleges are to be established and same are approved in current budget as well SNE is approved, however, list of those colleges and the term of its completion not available with him. Such though had been an *obligation* of the State but since every positive *gesture* even if *late* is always required to be

appreciated hence same is taken with appreciation. However, it is expected that every single direction of this Court as well of apex Court shall be given its due *weight* i.e. **'implementation'** particularly if same relates to an *issue* of education which *otherwise* is guaranteed by Article 9 and 25-A of Constitution.

According to Chief Secretary Colleges and Schools Primary Schools are 41000 in whole Sindh and drop out ratio for the post of primary schools is very huge. Having laid the foundation (*primary education*) and then leaving the *foundation* to be encroached upon by encroachers (*evils of society*) is never worth appreciating nor could be said to have satisfied the purpose of laying *foundation*, therefore, we feel that number of Higher Secondary Schools is not *comparatively* enough. Accordingly, Secretary Education and Secretary Colleges shall come forward with reasonable recommendation with regard to increase in number of High and Higher Secondary Schools in whole Sindh.

Further Mr.Shakeel Ahmed, Additional Director Schools contends that there are newly constructed building but same are not handed over to the Education Department, however, he is not in a position to mention the details. None can understand the reasons of delay in handing over a *complete* thing particularly when same is meant to be handed over. The delay of every single day may always be taken as a ground by quarter concerned for not opening (discharging his duties) the same for the purpose it was structured. Accordingly Chief Engineer, working in Education Department, shall submit report with regard to those building with complete breakup showing number of buildings and the period that when the same would be completed as well reason why those have not been delivered to the Education Department despite completion of their *part*.

It is further contended that with help of Federal Government, there is scheme of establishing Science Labs in every Taluka at least one in Girls High School and one in Boys High School. As per direction in the first phase, Sindh Government was required to establish I.T Lab hence the attempt to avoid or *least* delay such compliance under plea of Federal Policy *prima facie* is not helpful to the Education Department. They shall ensure that I.T Labs are established within two months and directions, *already* given, would not require any other hammering thereto because an order will only find its *lust* satisfied through implementation thereof. This time it is expected that department shall not come forward with any *such* excuses rather shall come forward with a *proud* head to have honoured the lawful order. At this juncture Director Schools contends that there scheme is under revision and same would be approved by the concerned department. Accordingly Secretary Education shall ensure that such Summary is floated with regard to I.T Labs in every High School and colleges in first phase on priority basis and then in

middle. Needless to mention that on the basis of technical formalities compliance to a *bounden* obligation rather duty shall not thwart and quarter concerned shall accelerate the process.

With regard to Girls Degree College Khipro and Boys and Girls Degree Colleges at Pithoro, Additional Director contends that he has heard that such summary is prepared by the secretary colleges. The *official*, representing a department in Court, is always expected to have come prepared therefore, contention of *hearing* of summary is not worth appreciating. It is accordingly expected that *next* time there shall *always* be a better statement. However, Secretary Colleges shall submit report personally with regard to steps taken by him and comply with such paragraph of the order.

With regard to miserable condition of School Buildings it was pointed out by the Chief Secretary Education that Deputy Commissioners by virtue of their posts are the Project Directors and this is their responsibility to ensure that whether in the buildings there are boundary walls; drinking water and wash room or *otherwise*?but none from such side has come forward to submit report. Accordingly Chief Secretary Sindh shall call report(s) from all the Deputy Commissioners as well shall issue direction by providing all required budget to the Deputy Commissioners with an *assured* supervision that all functional schools in primary as well in Higher Secondary Schools and colleges have basic facilities, not limited to labs in good condition with good environment for education, parks but shall include drinking water; boundary-wall, electricity, and wash rooms. In case of co-education separate lavatories for girls and boys. Such report shall be submitted with complete plan within 15 days. Moreover, there was direction to the Commissioners that they shall form a committee to ensure that the teachers are performing their duties and no teacher is working in other department and as well working as journalist. Such report is not available on record. Accordingly Chief Secretary, Sindh shall call report from the Commissioners and submit report through focal person with complete assistance as well shall submit reasons for negligence in complying with *specific* direction for submitting reports. Such report shall include steps taken by them.

With regard to vehicles for inspection of schools to the officers, having administrative posts, as per project direct summary has been floated to the Chief Minister but the same is not placed on record. Accordingly on the next date said summary shall be placed on record.

Adjourned 29.08.2017 at 11:00 a.m. for appearance of Secretary Colleges as well appearance of D.C PITE and reports by the Chief Secretary, Secretary Education as well Secretary Colleges in view of order earlier passed by this Court

with the consent. Learned A.A.G. contends that Mr.Nisar Ahmed Siddiqi would be considered as Chairman Accreditation Board. The reports which are to be submitted within a week shall be filed before the next date of hearing whereas with regard to certain directions still having time for compliance thereof shall come up as per direction. The Additional Secretary PDF shall be in attendance.

C.P No. D- 3343 of 2016 shall be tagged with this petition on the next date.

Office shall communicate this order to Chief Secretary, Secretary Colleges and Secretary Education for compliance.

JUDGE

JUDGE

karar_hussain-memon/PS*