

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

SUIT NO.1243/2015

Date Order with signature of Judge

20.03.2020

Mr. Malik Altaf Javed advocate for SEF.

M/s. Aley Maqbool Rizvi and Saulat Mirza, A.A.G alongwith Mr. Sikandar Hassan, Deputy Secretary (Legal), Finance Department and Dr. Saeed Ahmed Qureshi, focal person to Chief Secretary.

Mr. Masood Alvi holding brief for Raja Qasit Nawaz advocate.

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SALAHUDDIN PANHWAR, J: Learned counsel for Sindh Education Foundation seeks time to submit complete breakup of Secondary and Higher Secondary School sides established and scholarships provided in last three years. Here, it would be relevant to add that the miserable condition, once noticed by honourable Apex Court in *Suo Moto* case reported in 2014 SCMR page 396 triggered this Court to ask for compliance of all the *obligations* upon the quarter concerned which, otherwise, are necessary to make our public sector educational system upto the mark.

2. It is worth adding that there never came a single denial, *even*, to obligations of the government (department concerned) rather at all material times whenever a *legal* obligation / position was confronted, the response *always* came in noding thereto, however, no positive compliance of such obligations was placed on record. This Court, in earlier relevant orders, already clarified the position with regard to difference into *higher secondary education* and *college (s) education*. A direct referral to para-5 of the order dated 20.09.2017, passed in CP No.D-1817/2016, being relevant is made hereunder:-

“5. Perhaps it was not practicable for the government to establish *colleges* at each Taluka therefore as a temporary arrangement, the **higher education** was introduced.

Government of Sindh, Education Department vide notification dated 12th June 1989 introduced the role of **Higher Secondary schooling** had approved the following TORs:-

- (i) that the Regional Directors and all the concerned one responsible to follow the conditions strictly and submit monthly progress report to the Secretary without fail.
- (ii) that comprehensive/Higher Secondary will be established/created on need basis in existing High Schools wherein enrolment is more than 1000 and there is no college within the radius of 2.5 kms.
- (iii) that the comprehensive schools will be established in rural/far-flung areas of the province only without exception to impart only intermediate education and the staff (BPS-17 and above) will be appointed on **adhoc/contract basis as the scheme is purely on development side till the year 2000**, unless extended through an Act from the Sindh Assembly depending on the analytical progress of each school.
- (iv) that, where dire need two classes will be constructed in that High School **but within the radius 2.5 kms then any college is established**, either the high Secondary will be **shifted alongwith staff or closed** and the staff will be merged as BPS-1 to 16 with school side and BPS-17 and above with college side.
- (v) that, all the Higher Secondary Schools will impart science (pre-medical pre-engineering) education in the province comprising teachers as principal BPS-18-one, Assistant Professor BPS-18-two Subject specialist BSP-17 above (Physics chemistry, mathematics, zoology, botany, Sindhi and Urdu one achno other subject);
- (vi) that, the post of H.M. will exist and he/she will look after secondary classes and will look after overall school if senior,
- (vii) that, the introduction of higher secondary schools shall in **no way discourage college education** but will assist the system and its overall impart and pros and cons will be assessed **after 10 years in the year 2010**;
- (viii) that, SS and other higher posts of comprehensive cadre, will be **non transferable and non promotional** till they are on development side.

3. It is also worth adding here that constant hammering continued unveiling number of defects in public sector education system of Sindh or neglected area (s), including the one, discussed in order dated 02.08.2019 in CP No.1817/2016 etc which, being relevant is reproduced hereunder:-

"14. At this juncture, it would be conducive to refer the Higher Education Commission's letter dated 15th March 2017, which is that:-



HIGHER EDUCATION COMMISSION

H-9, ISLAMABAD, PAKISTAN Website: <http://www.hec.gov.pk>

Muhammad Raza Chohan
Director General (Academics)

No. 9-2(16) Phasing out BA/BSc/Curri/HEC/2016-982
March 15, 2017

Subject: PHASING OUT TWO YEARS DEGREE PROGRAMMES BA/BSc & MA/MSc BY THE YEAR 2018 & 2020 RESPECTIVELY

Dear Sir/Madam,

It has been observed that most of the universities are using abbreviations BS and BSc (Hons) involving 16 years schooling and BA/BSc involving 14 years schooling, respectively. Similarly, abbreviations MS/MPhil and MSc (Hons) are adopted to denote 18 years Masters. The main disadvantage of using different titles for bachelor level degrees is creating confusion for employers, national, international organizations and community as well.


For streamlining, HEC constituted a committee comprising of experts from different universities/institutions to work on the possibility of phasing out BA/BSc programmes and to devise a mechanism to accommodate existing BA/BSc graduates into BS four years programme. The Committee analyzed BA/BSc programmes at different universities. It proposed a bridging semester as foundation to cover the academic deficiency of a student who would be entering in to the 5th semester of the BS programme. Moreover there shall be **NO admissions in conventional BA/BSc after Academic year 2018 & in MA/MSc after Academic Year 2020**

The matter was taken up in the 31st meeting of the "Commission" and was approved as a policy, therefore needs to be communicated to all the universities/DAIs of Pakistan for implementation within all HEIs in letter and spirit.

In this regard, all universities/DAIs are advised to comply with the Commission's endorsement to the recommendations of the committee, constituted for the purpose of Phasing out BA/BSc and bridging the existing BA/BSc graduates

With profound regards,

Yours sincerely,


(Muhammad Raza Chohan)

15. It has come on record that in Province of Punjab and KPK 04 years BA and BSc programs are commenced in view of guidelines provided by HEC, whereas in Sindh, Degree colleges are providing

degrees based on two years program upto 14 years. This seems to be in complete negation to above *decision*. Secretary Colleges is not in a position to controvert the above factual aspect. Petitioner's counsel contends that two years BA /BSC degree is not acceptable all over the world, hence there is no use if 14 years education is provided in the Degree Colleges instead of 16 years. Similarly there shall be MS/M.Phil and MSc (Hons) as of 18 years. A little discussion on *vitality* of such issue also brought it on surfaced that through Notification# 15-54/A&C/2019/HEC/691 dated: Thursday July 11, 2019 the Higher Education Commission (HEC), Islamabad has decided to discontinue the BA/BSc programs of 02 years in transition with Associate Degree Programs. It has further been directed that the new nomenclature (Associate Degree or AD) shall be adopted in all documentation and announcements related to 02 year post higher secondary or equivalent programs, and the previous nomenclature of BA/BSc programs shall be discontinued forthwith. The Students who are enrolled/registered in BA/BSc programs on or before December 31, 2018 are allowed until December 31, 2020 to complete their programs and receive the BA or BSc degree as applicable. Those who fail to complete their courses of studies by the cutoff date shall be awarded an Associate Degree upon completion of such requirements as determined by the Degree awarding University. **There can be no escape legal escape to such legal position therefore, Secretary Colleges and Secretary Universities shall ensure that education system of the Sindh does meet with required standard of World and above referred decision and directives are complied with in its letter and spirit. We, needless to add, are not supposed to educate people for a limited area but for the whole globe. Courses of all above degrees and mechanism in this behalf shall be converted from two years to four years by including all relevant subjects.** At this juncture, it would be significant to direct Chief Secretary Sindh to constitute a committee comprising of Secretary Colleges; Mr. Nisar Ahmed Siddiqui, Vice Chancellor, IBA; Ms. Naheed Shah Durrani, Managing Director, Sindh Education Foundation, Government of Sindh (SEF) and Secretary Planning and Development (P & D) Sindh, Secretaries of Colleges and Universities and Mr. Hussain Kapri, Associate Professor Sachal Sarmast College, Hyderabad, Vice Chancellor of respective Universities, that committee shall examine this aspect and ensure that relevant and necessary subjects are provided in the syllabus and this order is implemented in its letter and spirit within six weeks."

Not only this, but the factum of '*Non-formal education*' also came on surface with complete and categorical stand that there is a complete mechanism for such education for which undertaking was also made.

4. *Prima facie*, above reflects that mere '*nodding*' by quarter without any substantial steps in achieving the required objectives, compelled

in passing an order regarding constitution of a high level Committee, specifically to work on certain 'ToRs'. At this juncture it would be conducive to refer para-3 of order which is that :-

"3. By order dated 02.08.2019 passed in CP No.D-1817/2016, 2894/2017 & 1890/2019 in Para-14 & 15 Secretaries colleges and Chief Secretary Sindh were directed to ensure that bachelor and master degrees is provided on 16 years and 18 years based. As well by order dated 11.12.2019, passed in II-Appeal No. 38/2017 Secretary Colleges, was directed to publish disclaimer notice with regard to bachelor degree provided by the universities. Nothing has been placed on record to show compliance of such direction (s) although there had been no denial in justified demand for compliance of such direction (s). The position, being so, activates judicial propriety demands. Accordingly, the Chief Secretary shall amend the notification as referred above and to add that:

"to ensure that universities shall provide bachelor and master degrees based on 16 year and 18 years on college side from onward academic session strictly".

The Notification shall also be amended with regard to member as clause 5 relates to Vice Chancellor(s) of all Public Universities. The names of public Universities of Sindh Province are not mentioned, therefore, names of all such Universities of Province of Sindh shall be mentioned in Notification. Chief Secretary shall reissue Notification with above modifications within 10 days on receipt of this order. This time a better response is hoped with rider that failure shall bring its legal consequences."

5. Pursuant to that, notification has been placed by the focal person of Chief Secretary Sindh in Second Appeal No.32/2017 which reflects that as per notification Mr. Iqbal Hussain Durrani has been appointed as Chairman, however that notification needs more clarification in view of above order as well that notification is defective because in column No.5 thereof Vice Chairman of Public Universities are mentioned without *specific naming* of the university in such notification. Besides, two permanent members shall be notified representing private Universities viz. Iqra University and Agha Khan University Education Faculty. The Chairman of that committee would be competent to co-opt any educationist, in addition

to Dr. Saeed Ahmed Qureshi, focal person of Chief Secretary Sindh. D.G. of STEVTA shall also be member of that committee. Needless to mention S.H.E.C. will be represented by Secretary Universities. Accordingly, Chief Secretary Sindh shall re-issue notification as per this order, within seven working days.

6. *Without prejudice to referred defects*, the notification of *Committee* is welcomed. Needless to add that it is always the '*ToRs*' which defines boundaries of the '*working field*' of the '*Committee*' therefore, the final '*ToRs*', mentioned in the notification are referred hereunder:-

- i) To frame a policy of bringing improvement in public sector education system;
- ii) To ensure introduction of modern education system in public sector;
- iii) To apply to bloom's taxonomy stages based policy in public sector universities;
- iv) To submit quarterly compliance report through MIT of Honourable High Court of Sindh;
- v) In compliance of para No.5, the directions may be issued to Secretary Colleges Education and Secondary School Education for further necessary action"

7. The above '*ToRs*' needs a little widening which, I believe, would be appreciated by the Chief Secretary. The term-I regarding '*framing policies for improvement*' would surely cover the '*second term*' by introduction of online syllabus upto 12th classes by Text Board and *digital applications* for College and University education level, as is being done in modern world which shall also help students of the families having no permanent residence hence terms would also include active involvement and functioning of the '*non-formal education board*'. This Committee shall also

ensure '*Educational Council*', comprising on educationalist only in compliance of compulsory *Education Act, 2013*.

8. The third term of '*ToRs*' shall, hopefully, meet its true objective i.e lessening the difference between standard of education between '*private* and '*public*' sectors of education. All public educational systems shall review their present statures of syllabus (es) and shall bring it in line with *Bloom Taxonomy*.

9. The inclusion of clause-v in the *final* ToRs is an acknowledgment of classification between of education to school and college level; per clause v, the directions to respective Secretaries have also been issued therefore, to get maximum benefit of such position, it is important to add that *school education system* shall be consisting of **12 years education** as is in practice in all other provinces. The quarter concerned shall also ensure true compliance of the directives, given with regard to *bachelor and master degree (s)*.

10. Chief Secretary Sindh shall ensure to provide all required logistic support to this committee, particularly Chairman, including finance if any, shall be provided. Such direction shall be issued to Secretary Finance and Secretary General Administration. Secretary (G.A.) Services and General Administration Department shall provide/facilitate the Chairman of the Committee with logistic support. The Committee shall submit progress report through MIT of this Court. Learned Chairman would be competent to visit Universities of other Provinces alongwith members as per need.

11. Finance Secretary shall submit complete budget of non-formal schools allocated and released in last five years. Besides budget of libraries

provided in last five years to education sector as well culture and Local Government. Director libraries, Culture Department shall be in attendance on next date. Focal Person of Chief Secretary shall ensure visits of libraries in education level and submit report on next date.

12. By earlier directions, Chief Secretary Sindh was directed to ensure that Council as per Compulsory Education Act 2013 is notified. This aspect shall be considered by the notified committee and term-iv of the ToRs shall include detail of compliance or otherwise.

13. Secretary Local Government shall also submit complete details of schools under Local Government and funds specified for that purpose, that breakup shall include visits of responsible officers alongwith photographs.

14. Office shall communicate the order to all concerned Secretaries including Chief Secretary Sindh, as well as shall provide copy to learned A.G. Sindh and focal person of Chief Secretary Sindh.

To come up on 20.04.2020 at 11.00 a.m. Needless to mention that this is part heard matter.

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