

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
Suit No. 1243 of 2015

Date	Order with signature of Judge
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21st December 2021

APPEARANCE :

Mr. Suresh Kumar, Asst. A.G. Sindh.

Mr. Ameeruddin, advocates for Karachi University

Malik Altaf Jawed and Mr. Muhammad Nasir advocates for S.E.F.

Mr. Asadullah Abro, Addl. Secretary, University & Board Department.

Mr. Faisal Ahmed, Secretary Planning and Development (P & D) Sindh.

Mr. Ghulam Muhammad Pathan, DG PSD, SELD PDR Education.

Mr. Jawed Ali Khawaja, Deputy Secretary (Law) (SELD).

Mr. Muhammad Ashraf, Assistant Commissioner Hyderabad.

Mr. Faqeer Muhammad Lakho, Additional Secretary, Colleges.

Mr. Sikandar Hassan, Deputy Secretary (Legal), Finance Department

Mr. Zahid Abbas Akhund, Director Culture, Tourism, Deptt. Government of Sindh.

Mr. Muhammad Nadeem, Secretary SELD

Mr. Mureed Hussain, Registrar, Shah Abdul Latif, University, Khairpur Mirs.

Mr. Tehseen Ahmed Qureshi, advocate alongwith Mr. Jamil Qureshi, Syed Israr Ahmed Shah, Abdul Rasheed, Zahid Hussain Hulio, Qurban Ali Bhatti, Burkatullah Bhatti, Interveners.

Mukhtiar Kar Sajjad Ahmed Leghari, Taluka Hussain Bux Mari, Distt. Mirpurkhas.

ORDER

SALAHUDDIN PANHWAR, J. Mr. Ahmed Ali Hussain, advocate files vakalatnama on behalf of Deputy Director, Sindh Education Foundation, as well as compliance reports are filed on behalf of Additional Secretary, Finance Department, Government of Sindh and Additional Secretary (Law) School and Education & Literacy Department, which are taken on record.

2. With regard to up-gradation of 100 Higher Secondary Schools, as approved by the School Department and directions by this Court, Secretary School present contends that Planning and Development Department has raised various objections. At this juncture, Secretary Planning & Development as well as Director, present in Court, contend that in the Summary submitted by the School Department, they have provided details of criterion and location of schools and colleges and certain recommendations contained therein are in conflict with their policy. With regard to distance of degree colleges and

higher secondary schools they referred to a letter to call the Secretary Colleges with regard to their NOC. The picture, so surfaced, appear to be causing some confusion between the meaning and definition of '*Higher Secondary School(s)*' and '*College(s)*' which should never been the case because it is by now clear and obvious that there shall be BS program of four (04) years i.e from class 13th to 16th so has been '*declared/notified*' by the HEC while '*Higher Secondary Education*' means education upto class XII. The up-gradation of the 100 *High Schools* into '*Higher Secondary Schools*', per matter of record, was the recommendation of the School Department *itself*. Such up-gradation was / is believed to ensure education *least* upto class XII at door-steps which, however, does not provide any relaxation to Government to ensure *further* education those passing out of such *Higher Secondary School(s)* therefore, a '*distinction*' must always be marked. It is pertinent to mention that the '*School Department*' and '*College Department*' are two different departments, having their own functions; obligations and duties.

3. Position, being so, makes it clear that while discharging functions; obligations and duties by *School Department* including but not limited to up-gradation of *High Schools* into *Higher Secondary Schools* the School Department would not require the NOC of the College Department but shall proceed further while fixing priorities in up-gradation of the High Schools into Higher Secondary Schools. Needless to add that the Higher Secondary School(s) and High School(s) must be equipped with facilities, as pointed out in earlier orders. Accordingly, monitoring policy or any other decision by the school department or colleges department which comes in the way of approval/up-gradations of 100 schools, as pointed out, shall not come in the way and the school /education department shall resubmit summary within two days and thereafter Planning and Development Department shall forward the same, after completing all the codal formalities, within ten days to the Finance Department and the Secretary Finance, Government of Sindh shall ensure approval of up-gradation with SNEs within next 15 days.

4. At this juncture, Secretary Colleges contends that they have no objection and concern with regard to summary and in fact they are going to initiate four years' and six years' degree program, while closing Associate programs in all over Sindh Colleges, therefore, in future there will be no issue of overlapping of education or conflict with the college side and school side. This order shall be complied with in its letter and spirit.

5. At this juncture, Additional Secretary Colleges contends that colleges have approached Sindh University and Shah Abdul Latif University with regard to affiliation of four years' program. At this point of time, Registrar Sindh University present contends that 30 colleges have approached them and they have abolished associate BSC Degree Program and they are going to affiliate 30 colleges in BS program, whereas, the registrar Shah Abdul Latif University Khairpur contend that 19 colleges have approached them, accordingly they are going to affiliate such colleges on BS program, this Court appreciate this aspect of the Universities and Secretary Universities shall pursue other Public Universities with regard to affiliation of degree colleges.

6. With regard to any relaxation by the Higher Education Commission, the orders passed by this Court, will not come in the way of such relaxation, if permitted by the Higher Education Commission, for the pupils who were studying in BSc 14 years' based program.

7. With regard to Noor Muhammad High School, Hyderabad, Additional Secretary Culture present contends that a team to visit the Noor Muhammad High School, Muslim College and Hostel has already been sent, which after examining all these three buildings' architecture value with regard to heritage aspect shall submit report within 15 days and those buildings, if falling within the heritage category, shall be notified accordingly. This is taken on record with appreciation because every heritage needs to be preserved and secured, if qualifying the required criterion.

8. Assistant Commissioner Hyderabad present submits report; taken on record, which shows that all 21 shops are owned by Noor Muhammad High School. Accordingly, Deputy Commissioner, Hyderabad, and Director Schools Hyderabad shall pursue the rent issue and help out Noor Muhammad High School with regard to eviction, if any, through Court of law as already ordered.

9. With regard to notification of Oversight Council, Additional Secretary Schools contends that summary is pending with the worthy Chief Minister and it is expected that same will be approved in near future. Accordingly, Chief Secretary Sindh and Secretary Schools shall pursue the same.

10. Paragraph No. 8 of order dated 08th December 2021 is that:-

*“8. In pursuance of last order, Secretary School Education was directed to **notify Sindh Education Policy Oversight Council within a week**. Accordingly, that notification shall be placed on record on next date of hearing. With regard to shifting of SNE(s) passed in earlier order dated 26.05.2021 Secretary Education shall ensure compliance of the said order. Additional Secretary School seeks one week time to submit compliance report. Such sought time is granted but with rider that compliance be ensured without making further requests of like nature.”*

The Additional Secretary Schools Education seeks one month's time for compliance which is granted while confronting him with above referred order as well legal consequences thereof.

11. With regard to Comprehensive High School, Principal present contends that 21 acres were owned by the Comprehensive High School but at present they are in possession of seven acres only. Surprised on such position that out of 21 acres the school is possessing only seven (7) acres. This, being shocking, requires an answer. Accordingly, Deputy Commissioner, Mirpurkhas, shall conduct probe and submit report with regard to transfer of school's land to any other person by any authority, if so happened; and revenue record in this behalf shall be placed on record.

12. Learned MIT-II shall ensure compliance of earlier orders with regard to illegal occupation of schools' area by the District & Sessions Judge as already ordered dated 26.05.2021.

13. At this juncture, Intervener Mr. Zahid Hussain Hulio submits notification with regard to affiliation, exams and enrollment fees claimed by the Boards; taken on record. At this juncture, Additional Secretary University and Board present contends that with regard to waiver of enrollment registration and examination fees Sindh Government has already released an amount of Rs.500 Million in favour of the Boards. Accordingly, Boards are not competent to receive the same from public sector and any notification, if issued by them in this respect, would be declared as null and void. Secretary Boards and University shall pursue the same and ensure its compliance in letter and spirit.

14. Chief Secretary Sindh as well as Deputy Commissioner Hyderabad shall pursue the issue of one building of Noor Muhammad High School, Hyderabad, meant for education which is occupied by the Rangers and ensure compliance of the directives already issued whereby three months' mandate was given.

15. With regard to subject specialists and professors appointed on administrative posts Malik Altaf Hussain, advocate for SEF contends that they are not entitled to hold administrative posts. Needless to mention that teachers/subject specialists, having different expertise, appointed as teachers or headmasters but this would never meant to allow them to avoid their basic obligation / duty i.e to impart education; they are required to deliver lectures and even by holding the administrative posts, therefore, Secretary Schools as well as Directors of the concerned regions shall ensure that all teachers, subject specialists, headmasters and professors appointed on administrative posts shall deliver the lectures in different institutions in their respective areas at least twice a week.

16. At this juncture, Secretary Schools contends that they will pursue Public Service Commission with regard to appointment of all teaching posts from 17 and above including subject specialists. This matter shall be treated as part heard. To come up on **21st February 2022**.

J U D G E

SAJID