

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
CP.No.S-251 of 2019

Date Order with signature of Judge

For directions

For further orders

28th November 2022

None present for the petitioner

Mr. Abdul Sattar Memon, Director Private Schools, Karachi Region

Mr. Zahid Farooq Mazari, Asst. A.G. Sindh

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In pursuance to order dated 1st November 2019, Director General, Directorate of Inspection/Registration of Private Institutions Sindh is present and files statement appended with certain documents; which are taken on record. Since this matter pertains to education and in compliance of judgment passed by Hon'ble apex Court in the case reported in (2014 SCMR 396) with regard to **suo-moto case of miserable conditions of schools**, this court has taken efforts to comply with the spirit of that judgment as judgment of the apex Court is binding upon all institutions including this Court.

2. By order dated 20.09.2017 in CP.No.D-1817 of 2016, this Court passed different directions, being relevant paragraph No.11 is reproduced herewith:-

“11. Now, we would take up other plea of learned counsel for petitioner that Secretary Colleges appeared before this Court and had stated that in girls degree colleges there is sufficient female teaching staff, therefore, they will replace the male staff by posting female staff. He has placed newspaper clippings showing therein that some colleges have been closed because of transfer in male teaching staff. The aim and object of providing a free and convenient atmosphere for teen-ager girls in colleges/ higher secondary schools shall always be insisted as same assures teen-ager girls protected from any exploitation hence same shall continue holding the field, however, it is always subject to availability of proper and adequate female staff which the department claimed / claims. The orders of the Courts should always be taken keeping its spirit alive hence transferring male staff from a college / higher secondary school without proper adjustment of / replacement with female staff was / is never worth appreciating nor can be taken as a compliance. Accordingly, the Secretary Colleges shall ensure that transfer of male teaching staff from a female college should always be with replacement with female staff and if there is no female teaching staff available for immediate replacement the male teaching staff may continue so as to keep the institution continue , however, positive efforts be taken to ensure compliance of directives of this court in this regard in

its true spirit without taking things in a manner which may not only prejudice the spirit of the order of this Court but may also frustrate the purpose of institution itself."

3. Perusal of above reflects that Secretary Colleges and Secretary School Education Department were directed to remove male clerical staff and replace them with female staff as discussed above, hence, Secretary School Education Department and Secretary Colleges Departments shall submit report with regard to present condition whether arrangements have been made with regard to female clerical staff in girls High Secondary schools and Degree colleges or alternative arrangements shall be made to appoint focal person in every Girls High Secondary Schools and Girls Degree Colleges, who shall coordinate with the male staff and there shall not be access of male clerical staff directly to the students with regard to their academic issues including examination.

4. Further, paragraph No. 13 is reproduced herewith:-

"13. While parting, we regretfully add that the Accreditation Board though was to be established right after announcement of the judgment of the apex court but only notification is issued (22nd November, 2016) which too after hammering of this Court yet it is not functioning. The objective whereof, per notification, covers almost all spheres of education which are:

- a) Develop quality assurance and accreditation system based on Standing Operating procedure for effective delivery of education service at primary, elementary, secondary, higher secondary and college level;*
- b) Assure quality of education offered by education institutions based on key performance indicators through effective internal and external processes focusing on outcomes and impact;*
- c) Accredited delivery of services such as curriculum, classroom assessment, annual internal / external examination and teacher preparation etc. based on quality assurance framework;*
- d) Strengthen / improve school inspection, classroom assessment, external examination and evaluation for assuring delivery of quality services;*
- e) Monitor performance of the School / college Education Department and its line departments including Directorate of Curriculum, Assessment and Research, Provincial institute of Teacher Education,*

Reform Support Unit, Sindh Education Foundation, Sindh Teacher Education Development Authority, Sindh Textbook Board and Directorate of School / college Education and their coordination;

- f) Ensure sustained culture of professionalism and accountability;

Accordingly, till the notification and proper functioning of Accreditation board, up-to district levels, we find it in all fairness that it would be appropriate to involve the District & Sessions Judge(s) for monitoring / supervision purpose. We therefore direct that in each district learned District & Sessions Judge shall form a committee at District level consisting on Deputy Commissioner, Director Schools, and three other members including President District Bar Associations purpose of monitoring:

- i) Proper functioning of the schools / colleges of public sector including Sindh Education Foundation Schools within their jurisdiction;
- ii) Attendance of the staff;
- iii) Utilization of funds;
- iv) Any encroachment or trespassing schools' property/building;
- v) Harassment or influence, if any, to the management of schools/colleges from any corner,

The District & Sessions Judge shall call a meeting on every suitable day of every month and reports shall be submitted; discussed and if it is found that there is any complaint of misuse of funds; encroachment; influence or harassment to school management etc then District & Sessions Judge shall be competent to report the matter to concerned quarter for initiating necessary action as per law; as well pass necessary orders. Besides learned District and Sessions judge shall also direct magistrate for surprise visits randomly or any complaint. Monthly reports shall be sent through M.I.T. of this court who shall keep record separately."

5. Accordingly, learned MIT-II shall ensure that all District & Sessions Judges shall comply with the above directions and shall also ensure that proper actions have been taken against the ghost teachers and Secretary School Education Department and Secretary Colleges shall submit complete details of ghost teachers/lecturers and there shall be departmental proceedings against them, if they are continuously absent or they are not available in the country and receiving the perks and privileges. Both Secretaries shall constitute Committees on Divisional level, shall conduct inquiries and shall submit report in this regard.

6. Further by order dated 02.08.2019 in CP.Nos.D-1817/2016, 2894/2017 and 1890/2019 certain directions were issued. Being relevant paragraph No.2 is that:-

"2. At the outset Secretary Colleges contends that 56 Degree Colleges were placed in budget book of year 2017-2018 out of which 31 (thirty one) have been completed with their SNEs, rest would be completed upto 2021. Both Chief Engineers of respective divisions are present and undertake that they will complete the aforesaid colleges within the timeframe. Since, completion of projects, cannot be possible unless the due budget is timely released, therefore, Secretary Colleges and Secretary Finance shall ensure that budget is released within stipulated period. The Chief Engineers highlighted an issue in the allocation and release of budget/funds for construction of college buildings. Instead of releasing funds to complete one project/building and then moving on to the next, funds are allocated and released for the simultaneous construction of a number of projects/buildings. But since these funds are released in stages, all projects become vulnerable to delay. The other aspect of such form of budget allocation is that the public cannot benefit from any one project until all are complete. The wisdom in such budget allocation was exposed by the Chief Engineers and the Secretary College Education did not controvert that. Therefore, unless the above discussed manner of budget allocation and release actually saves tax-payers money, the Secretary College Education and the Secretary Finance shall ensure that the budget allocation and release is targeted at the completion of a project before moving on to the next one"

7. Accordingly, Secretary College Education shall submit complete breakup of Degree Colleges in terms whether same are functional and SNEs are approved. In case, yet SNEs are not approved, they shall submit reasons thereof.

8. Being relevant paragraph Nos. 7, 8 and 9 [order dated 02.08.2019 passed in **CP NO.D-1817/2016, 2894/2017 & 1890/2019**] are that:-

"7. Since in school management biometric system is completely having separate branch whereas college side is lacking that mechanism. Such like system is meant to ensure punctuality which, if is not effective as acknowledged, shall mean compromising on purpose thereof. Accordingly Secretary Colleges shall ensure application of same pattern of schools. Worth to add here that number of colleges and lecturers is much less than the number of schools and teachers therefore it is easy to ensure attendance of lecturers and point out ghost lecturers. This exercise shall be completed within two months. Secretary Schools undertakes that there officers will provide basic guidance and will facilitate the college side while establishing that mechanism.

8. The plea that biometric system in schools being compromised is alarming. Such an admission appears to fail least bring cloud over the efforts of this Court as well Apex Court on such vital issue (education). It had been the collapsing education system which had allowed a room for surprise visits of judicial officers. The efforts of judicial officers did leave their mark but since again there is an admission of failure hence, we find it proper to order all District Judges to direct civil judges of their respective jurisdictions to make surprise visits with regard to performance of biometric officers and their mode of taking attendance by first managing their judicial duties in a cause. Civil Judges would be competent to call monitoring officers in case of any illegality or irregularity is found or in case any officer is facilitating teachers by informing them on telephone or with other mode, he shall be booked under Pakistan Penal Code.

9. Learned District Judges shall direct Magistrates surprise visits of for Higher Secondary Schools and Degree Colleges of their respective on fortnightly basis, in terms that :-

- 1). To examine total number of teaching staff.
- 2). To ensure their attendance.
- 3). To ensure that lecturers or teachers are imparting education by delivering lectures as per their schedule, such schedules shall be available on notice board.
- 4). shall ensure that mobile phones are not being used by the teachers / lecturers or students during the time of school/colleges."

9. Accordingly, Secretary Colleges and Secretary School Education Department shall submit complete details of biometric system installed in their institutions with regard to attendance of teaching faculty and lower staff as well as learned MIT-II shall ensure compliance of paragraph Nos. 9, 13 and this order referred above. Needless to mention that learned District & Sessions Judges shall depute Magistrates (including female Magistrates to visit of Girls High Secondary Schools and Girls Degree Colleges preferably), who shall visit Higher Secondary Schools and Degree Colleges of their respective areas on quarterly basis and ensure above directions are complied with.

10. Besides, judicial propriety demands to direct IGP Sindh to direct all SSP(s) who shall ensure patrolling on school/college/university timings; that no harassment is caused to all the girls students while leaving home to the institutions and returned safely; in case of violation shall take action **under Section-511 PPC**, which provides that:

“Section 509. Insulting modesty or causing sexual harassment –

(1) whoever;- (i) Intending to insult the modesty of any woman, utters any word, makes any sound or gesture, or exhibits any object, intending that such word or sound shall be heard, or that such gesture or object shall be seen, by such woman, or intrudes upon the privacy of such woman; (ii) conducts sexual advances, or demands sexual favours or uses written or verbal communication or physical conduct of a sexual nature which intends to annoy, insult, intimidate or threaten the other person or commits such acts at the premises of work place, or makes submission to such conduct either explicitly or implicitly a term or condition of an individual's employment, or makes submission to or rejection of such conduct by an individual a basis for employment decision affecting such individual, or retaliates because of rejection of such behavior, or conducts such behavior with the intention of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment,

3. Punishment: shall be punished with imprisonment which may extend to three years or fine up to five hundred thousand rupees or with both.

Explanation-1 Such behavior might occur in public place, including, but not limited to, markets, public transport, streets or parks, or it might occur in private places including, but not limited to work places, private gatherings, or homes.

Explanation-2 Workplace means, the place of work or the premises where an organization or employer operates, this may be a specific building, factory, open area or a larger geographical area where the activities of the organization are carried out. Sexual advances may occur after working hours and outside workplace. It is the access that a perpetrator has to the person being harassed by virtue of a job situation or job related functions and activities.”

10. To come up on 13th December 2022 at 11:00 a.m. Learned MIT-II shall ensure compliance.

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