IN THE HIGH COURT OF SINDH, CIRCUIT COURT, MIRPURKHAS

Constitutional Petition No.S-661 of 2025

Before:

MR. JUSTICE ZULFIQAR ALI SANGI

MR. JUSTICE NISAR AHMED BHANBHRO

Petitioners: Mir Pervez Akhtar Talpur & another, Advocates in person.

Respondents: Province of Sindh & Others.

Mr. Ghulamullah Memon, Additional A.G.

Date of Hearing: 19.11.2026

Date of Order: 19.11.2026

O R D E R

Nisar Ahmed Bhanbhro, J*:* Through the instant petition, the petitioners seek directions to the Government of Sindh for the establishment of a Government Medical College in Mirpurkhas, which, according to the petitioners, has already been approved and sufficient work has been carried out; however, yet to be made functional. The petitioners, who are practising lawyers, have, therefore, prayed for appropriate directions in the following manners:

a. *That this Honourable Court may be pleased to direct the respondents to establish a Government Medical College in Mirpurkhas Division in the already constructed building at Mirpurkhas, immediately.*

b. *Direct the respondents to release funds for functioning Government Medical College at Mirpurkhas on emergent basis.*

c. *To declare the conversion or utilization of the existing infrastructure of medical college of Mirpurkhas into any other*

use is unlawful, malafide and liable to be declared void by this Honourable Court.

d. *Any other relief which this Honourable Court deems fit and proper under the circumstances of the case.*

2. Pursuant to the notice, the Secretary to Government of Sindh has filed its reply wherein it is stated that Medical College at Mirpurkhas was approved in the year 2012 with the estimated cost of Rs.2049 million and its work was initiated by appointing Project Director. In the year 2018, pursuant to the Water Commission's directives the project was handed over to the Works & Services, Department Government of Sindh. It is further stated in the comments that Works & Services, Department has revised the estimate and it was included in the Annual Development Programme for the year 2025-26 at serial No.1068. It is further stated that pursuant to the decision made by the Pakistan Medical & Dental Council (PM&DC) vide its notification dated 05.01.2025 a three year moratorium was imposed on the establishment of new Medical and Dental Colleges in the country. Therefore, the College could not become functional.

3. Heard arguments and perused the material available on record.

4. It is quite surprising and shocking to notice that the project for the establishment of a Government Medical College at Mirpurkhas was initiated by the Government of Sindh in the year 2012, with an estimated cost of Rs.2,049 million; however, despite of the lapse of almost 14 years, the same has not yet been completed, leaving the petitioners with no option but to approach this Court through the instant petition.

5. It further appears from the record that, in the year 2018, due to the slow pace of work, the estimated cost of the project was revised; however, even after the lapse of more than eight years thereto, no substantial progress has been made.

Now, the Department has come forward with the plea that a three-year moratorium has been placed by the PM&DC on establishment of new medical colleges. A careful examination of the letter dated 19th February, 2025 placed on record by the health department evinced that said moratorium did not apply to the parts of all Pakistan viz. FATA, Balochistan, Tharparkar and Gilgit Baltistan. For the sake of convenience, letter dated 19th February 2025 is reproduced herein under:

Pakistan

Medical & Dental Council

G-10/4 Blue Area Islamabad

PF-1-C-PM&DC/Notification/2024/703 *19th February, 2025*

Secretary

Ministry of National Health Services, Regulations

And Coordination

Islamabad

Subject: DECISION OF THE PM&DC COUNCIL REGARDING MORATORIUM ON MEDICAL AND DENTAL COLLEGES FOR 3 YEARS

Pursuant to the decision of the PM&DC Council meeting dated 05 January, 2025, the concerns about the availability of qualified faculty required to maintain educational standards due to the rapid increase of medical/dental colleges in Pakistan were discussed. In view of the scarcity of faculty, the PM&DC Council has been pleased to impose a moratorium (for a period of 3 years w.e.f 5th January, 2025) on the opening of new medical/dental colleges as well as on the enhancement of seats. (creating the same Impact le., Increased faculty requirement).

Applications submitted before January 5, 2025, if complete, will be considered by the PM&DC for inspection. The Incomplete

applications (not fulfilling mandatory pre-requisites) will be returned with instructions to the Institutions to re-apply once the moratorium is lifted.

In this regard, a moratorium on the establishment of new colleges and seat enhancements (except FATA, Balochistan, Tharparkar and Gilgit Baltistan) be imposed and notified for a minimum of three (03) years, effective from January 5, 2025. In case of rural / under-served areas of other provinces, such applications shall be decided by the council on individual basis.

7. From the perusal of the above letter, it appears that the Tharparkar region of the Province of Sindh has been excluded from the said moratorium. As a record ffrom history, the Mirpurkhas falls under Tharparkar region and remained part of Tharparker District from 1947 until 31st October, 1990, when Mirpurkhas was separated from Tharparkar District and made an independent District. Three districts, namely, Tharparkar, Mirpurkhas and Umerkot, were formed out of the Tharparkar region. Presently, Mirpurkhas is the Divisional Headquarter of the Tharparkar region, as such notification dated 19th February, 2025 reflects that decision made on 05th January 2025 by the PM&DC does not apply to the Tharparkar region as Mirpurkhas is part of the same.

8. Though establishment of a medical college falls within the policy domain of the Government and Court sparingly interferes into the policy matters. Doing so would amount to judicial legislation and would erode the institutional autonomy that underpins administrative efficacy. Courts are to interpret the scheme as framed, not to re-engineer it according to perceived notions of equity or convenience. The judiciary must therefore respect the institutional boundaries drawn by law. Unless the omission complained of violates a constitutional or statutory command, the Court cannot compel an institution to adopt a policy or grant a concession not contemplated by its own governing

framework. The principle of institutional autonomy thus guards against judicial overreach, ensuring that policy formation remains the prerogative of the executive, and that courts confine themselves to ensuring legality, rationality, and procedural fairness within the limits set by law. In the instant case the Medical College at Mirpurkhas was approved in the year 2012, and its construction was almost completed by the year 2018 but remained un-executed for a considerable period despite of utilization of hefty public funds, therefore a case for indulgence of this Court is made out.

9. For the foregoing, case for indulgence is made out, the instant petition is allowed. The Respondents directed to establish the proposed Government Medical College at Mirpurkhas and ensure that the academic activities in the college commence from the academic year 2028, for which all requisite arrangements shall be made by the Health Department Government of Sindh. It is further clarified that, in view of the letter dated 19th February, 2025, issued by the PM&DC, the moratorium on the establishment of new medical colleges and enhancement of seats shall not apply to the Tharparkar region, including Mirpurkhas. Therefore, the Government of Sindh shall allocate seats to the new college independently of the seats already allocated to other public-sector medical colleges of Sindh.

10. Office is directed to send copy of the order to the Respondents for compliance.

JUDGE

JUDGE

Approved for reporting

"Adnan Ashraf Nizamani"