

ORDER SHEET

IN THE HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD

C.P. No.D-2303 of 2017.

DATE	ORDER WITH SIGNATURE OF JUDGE
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18.08.2017.

Mr. Shoukat Ali Rahmoon, Advocate for the petitioner.

Mr. Allah Bachayo Soomro, Additional Advocate General Sindh alongwith Dr. Anwar Ali Kotrio M.S. (DDO) THQ Hospital Pithoro and Dr. Muhammad Masood Panhwar, THO HQ Umerkot BPS-19 on behalf of DHO Office Umerkot.

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Learned AAG files certain documents as well comments of Dr. Karmoon DHO Umerkot, taken on record.

2. Through instant petition, petitioner has claimed that, *albeit*, Pithoro Taluka Hospital is upgraded about 02 years back, yet same remains as RHC and no requisite formalities, as required for Taluka Hospital, are fulfilled; that X-Ray Machine is out of order since four months; that there is no Sonologist for Ultrasound; ECG Machine is available but there is no Technician to operate the same; Specialist/ Medical Officers and Woman Medical Officers, as per strength, are not posted / available; at the time of up-gradation of the RHC the strength for appointment / posting of the said Specialist Doctors was sanctioned yet same are not filled; even medicines are not provided to the poor patients; this taluka is comprising on various Towns even some parts of District Umerkot, Sanghar and Mirpurkhas and people / patients of these areas approach this hospital being nearest to them; that majority of the population of these areas are under the poverty line and they cannot afford heavy expenses to consult private doctors, surgery as well purchase of medicines from open market; that there is no Gynecologist and the women of the area have no option except to rush to District Hospital(s) which even are lacking of the basic facilities, even in Divisional Head Quarter Hospital Mirpurkhas there is no Gynecologist as well Anesthesiologist.

3. M.S. present submits detailed reply but has not disputed the facts, as pleaded by the petitioner; rather, he has admitted that X-Ray Machine is out of

order since last four months, repeatedly he has written letters to the D.G. Health for repair of the same yet no heed is paid. He was *fair-enough* to admit that ECG and Ultrasound Machines are available but there is no technician posted to operate them; medical staff, as per sanction / strength, is not available; the Auto Klav Machine, which was purchased many years back, is also not working since years; the hospital has been established on the land, which was donated by one Hussain Bux Marri free-of-cost and Government only has constructed building thereon yet as per strength paramedical staff is not available though Taluka Pithoro *itself* is having population of 1,60,000/- and the adjoining areas is also catchment area of the said hospital but there is no *proper* facility for admission of the patients suffering from serious diseases; in routine about 600 to 700 patients visit the OPD daily hence in the event of approach of patients, suffering from serious diseases, they have no option but to refer them to Tracery Care Hospitals, which are situated in Karachi and Hyderabad only.

4. Apparently, this is only Rural Health Centre which, per above undisputed facts, is not capable and even cannot be taken as “**the Taluka Hospital**” even. *Normally*, an ordinary person has no source to bear the expenses of private hospital / doctor therefore, finding no other ways approach to the hospitals of public sector but *prima facie* situation, acknowledged by M.S, of the public sector hospitals shows complete negligence and failure of Health Department in standing well with the *claim* of **health for all** despite billions of rupees are allocated in this regard. This hospital gives picture of other public sector hospitals and presumption can be drawn that what other hospitals are providing medical facilities / treatment to the poor persons. A *machine* without its operator is nothing but waste of valuable *public* money so spent for purchase of such machine / apparatus. The strength is always approved / sanctioned keeping in view the *requirements / needs* hence approval of strength shall be *meaningless* if, after appointments, the strength is not provided for which it was approved / sanctioned. In short, the responsibility of an authority does not come to an end only by

sending/providing *machines / operettas* nor by sanctioning strength but continues requiring him to ensure that *machines / operettas* are functional and requirements have properly been satisfied. The *responsibility* becomes rather *serious* when it comes to affairs of *health-facilities*. The acknowledgments of non-availability of operators/ technicians; non-deployment of staff as per *sanctioned* strength and non-repair or replacement of non-functional of vital operettas / machines are sufficient to establish negligence of all the concerned. These seem to be the reasons which compel one to approach this Court for issuance of *appropriate* directions for doing what *otherwise* is duty of quarter concerned.

5. For a better picture, the District & Sessions Judge, Umerkot was directed to deputy any Magistrate for surprise visit and submit report. The report is received. It would be conducive to reproduce the relevant paragraphs of the same, which are that:

“On inquiry Medical Superintendent informed that nine doctors are presently posted at Hospital but only one doctor namely Bhagchand alongwith Medical Superintendent were present on duty today and during the surprise visit two doctors name Dr. Saba Sartaj and Doctor Bahar Khan Balgani came late and joined their duties at Hospital. Dr. Bahar Khan Balgani appointed as dentist usually cam there two days in a week and in his absence one Health Technician Namely Muhammad Akber Malik provide medical treatment to the patients. Doctor Chaten Kumar is posted at there who is absent since long time and report in regard to his absence is made to District Health Officer Umerkot but no any strict action took place against him. Doctor Nareender Kumar General Physician performing his duty merely on public holiday as per English Calendar in the year. Furthermore Medical Superintendent stated that doctor Nareendar Kumar is running his private clinic in District Mirpurkhas and at the same time he is also delivering medical lectures at Private Muhammad Medical College Mirpurkhas. One lady Doctor Saba Sartaj almost remained absent from her duty without application or prior intimation and today also came late due to the visit of the undersigned.

On inquiry patients told that doctors are not diagnosing disease properly and honestly. During visit one lady patient namely Athli wife of Muhammad Azeem Shar made complain that she came at Hospital at 9-00 A.M. today and suffering from pain but doctor did not diagnose and provided her medical treatment. On her complaint concerned doctor namely Bhagchand was called by undersigned and asked what the complaint of that patient is and where is the file in which you have mentioned her bed history of the indoor patient? On which he failed to produce such record and satisfactory answer. One lady patient namely Mst. Fatima wife of Arshad Mangrio made complaint to undersigned that she was seriously ill and came at

Hospital at morning time, but lady doctor did not check her disease and provide medical treatment.

On inquiry Medical Superintendent informed to undersigned that three professional sanitary worker are posted at Hospital from whom two are white Kalller and namely Narsingh son of Hamtho and Ramoon son of Kalio are not performing their duties and from whom Narsingh is running his private taxi and his report was sent to DHO Umerkot but no any strict department action took place against him,. Further more on inquiry Medical Superintendent told to undersigned that four quarter were handed over to sweepers namely Ramoon son of Kalio and Narsingh son of Hamtho but unfortunately they are not performing their duties honestly and punctuality. In side of the Hospital two cattle farm were found and two cows along with kids were present there and on inquiry Medical Superintendent told such cattle belonged to Driver Malhar S/o Shadi and he verbally directed to him but he refused to shift the cattle to another place.

During the visit of the male and female ward of the hospital smell was coming from the ward rooms. Walls of the Hospital were filled with Gutka spits, garbage and waste material were present in the Hospital rooms and washrooms. Furthermore there was no facility of sitting of the patients as well as attendants were available in the premises of the Hospital and they were sitting on earth in open sky. Three water coolers were installed in the hospital but only one water cooler was in working condition and two were out of order from last few years and reason was asked for its repairing from the Medical Superintendent he did not give any satisfactory reply. Moreover the water was filled in the water cooler was not pure and seem dangerous to live of patients. There was shortage of bed in female ward and at the time of visit undersigned saw on one bed two ladies patients were sleeping.

During the visit of Taluka Head quarter Hospital of Pithoro it is observed by the undersigned that concerned District Health Officer is not coming on surprise visits on regular basis and also no taking strict department action against the concerned doctors and subordinate staff of the Hospital on their absent and misconduct. Unfortunately due to such conduct and lenient view of the higher authorities of the Health Department there is absence of doctors and subordinate staff from their duties, shortage of Health technician, X-ray and Ultrasound devices are out of order due to technical faults, Walls of Ward rooms were filled with Gutka spits, Water coolers were destroyed due to not repainting within time and patients were stetting on Earth in open sky.”

6. In view of above, this Court takes judicial notice and direct Chief Secretary Sindh that he shall constitute Committees on District level in whole Sindh to submit reports with regard to present status of the public sector hospitals; they shall hold open katcheries in every Taluka head quarter and visit the hospitals after issuing notices to general public through wide publication and submit their recommendations to Chief Secretary and Secretary Health Sindh, who shall ensure that all requisite facilities as needed

and sanctioned for such hospitals are available in all public sector hospitals within a period of three months after the reported submitted by the Committees on emergency basis. Such committees shall be comprised upon responsible officers, having good reputation, not below the grade-18 of various departments, including nominated representatives of District Bar Associations of the concerned District / Taluka. In case there is no Bar Association, the representative would be nominated by the concerned District Bar Association. These committees shall be under the Head of Deputy Commissioner of the concerned District. This exercise shall be completed within 04 weeks.

7. With regard to Taluka Hospital Pithoro we direct Secretary Health that he shall ensure that all sanctioned posts are filled within 15 days from today and budget shall be enhanced as per status of **Taluka Hospital** keeping in view the population and daily OPD ratio; as well the hospital shall be provided with all Surgical items and ensure that operation theatre is working having all facilities within 15 days. At this juncture, M.S. present contends that there is dire need of Casualty Department, which should also be made effective within 15 days. Thereafter, D.G. Health shall visit the hospital and submit report that compliance is made in its letter and spirit. In case of failure, contempt proceedings would be initiated against the Secretary Health and Chief Secretary Sindh.

8. Despite direction, DHO Umerkot is called absent which too without any intimation hence contempt notice be issued against him. Chief Secretary Sindh shall also initiate departmental inquiry against him in accordance with law for the negligence, so appeared in responding to written requests of M.S, regarding non-functional of vital operettas / machines.

9. While parting, District and Sessions Judge, Umerkot is hereby directed to depute all Judges posted in his administrative district that they shall make surprise visits of the public health hospitals within their respective jurisdiction and if any illegality or irregularity is found the same be reported to authority, competent, for taking action. However, if a *prima facie* corruption is noticed they shall call Anti-Corruption Authorities and ensure that legal action is taken

against the criminal negligence against the delinquent persons. The Anti-Corruption authorities *however* shall follow the procedure, as per dictates of law.

10. For compliance report, to come up on 11.09.2017 at 10:00 a.m. Office shall communicate this order to District & Sessions Judge, Umerkot, Chief Secretary Sindh, Secretary Health Sindh, D.G. Health Sindh, DHO Umerkot for compliance and report. Copy of this order shall also be communicated to Chairman Executive committee and Secretary Sindh Bar Council for intimation with regard to joining of the representatives of the District Bar Associations in compliance of this order.

11. At this juncture, M.S. present further contends that he intends to stay in the hospital for proper look after round the clock, but he has no accommodation there as within the compound of Taluka Hospital Pithoro there are residential bungalows for doctors which *however* are occupied by SHO PS: Pithoro, Assistant Commissioner and Mukhtiarkar and Civil Judge Pithoro *illegally*. District & Sessions Umerkot, Deputy Commissioner and SSP Umerkot shall ensure that these bungalows are got vacated within 15 days from today and possession thereof is handed over to the M.S without any delay with compliance report. Accordingly MS in routine shall be present in the hospital apart from his duty time to handle any situation, in case of unnecessary absence, legal action would be taken as per law.

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