

ORDER SHEET  
IN THE HIGH COURT OF SINDH AT KARACHI

**SUIT NO.1243/2015**

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Date Order with signature of Judge  
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**PRESENT: MR. JUSTICE SALAHUDDIN PANTHWAR**

1. For hearing of CMA No.10499/2015
2. For hearing of CMA No.10993/2015
3. For order of CM No.3601/2020
4. For order on CM No.6234/2020
5. For order on CMA No.7168/2020
6. For order on MIT report dated 19.02.2020
7. For order on MIT report dated 08.08.2020.
8. For order on CMA No.10079/2020.
9. For order on CMA No.10080/2020.

**12.10.2020**

Raja Qasit Nawaz advocate for plaintiff.

M/s. Dost Muhammad Kolachi and Sikandar Ali Kolachi, advocates.

Muhammad Nasir advocate for SEF.

Mr. Pervez Ahmed Mastoi, AAG alongwith Mr. Ahmed Bukhsh Narejo, Secretary S.E.L.D., Nadeem Ahmed, Addl. Secretary (Law), Mushtaque Soomro, Addl. Secretary (G.A), Javed Ali Khawaja, Law Officer, Khurshid Ahmed, Section Officer and Ali Khan Mirjal, Deputy Director (HR), S.E.L.D.

Intervenors Syed Israr Ahmed Shah, Zahid Hussain, M. Jamil Qureshi, Mangoor Ali Mangi, present.

At the outset Secretary School Education present contends that partly recruitment rules have been approved and remaining portion is referred back for review, pending before the SGA&C Department's Committee. He further contends that this court may allow them for approval of Rules with regard to PST, JEST , HST and other teaching staff except Subject Specialist as they have signed MoU with IBA and IBA may start recruitment process for all posts except subject specialist; around 2000 commissioned post of teachers are vacant. Framing of **Rules** is always competence of quarter concerned hence *normally* approval / permission is not required, however, the Court is always competent to insist upon *framing* of rules as well framing thereof within *objective* thereof, if same is

delayed. **Recruitment Rules** are always the indicator of the *future* of that *department* therefore, framing thereof should not be delayed nor haste be shown rather a balance must always be shown thereby assuring objective of *recruitment*. Since there is no grievance regarding recruitment therefore Rules shall be framed in accordance with law within fifteen days so as to have recruitment process initiated without any delay.

2           With regard to grievance of subject specialist, SGA&C Department's Committee shall hear the interveners and any other person, having any stake and thereafter proceed further in accordance with law. The committee would be competent to examine all aspects while framing the rules of subject specialist and paragraph No.9 of the order dated 28.01.2020 shall not be considered as a blanket order and the committee/concerned department would be competent to re-examine the issue *openly*, however while framing the Rules, needless to insist, it must be assured that object of subject specialists object is teaching as *primary* consideration but shall be secured in all senses. Hearing of the intervener (s) or any other interested *stakeholder* shall not be an excuse to delay such process because right to challenge any legislative instrument is *always* available through independent and competent proceedings if the same fails to stand well with its *objective*. Accordingly, this exercise shall be completed within one month. Needless to mention that on the basis of this order, authorities shall not disturb the subject specialists except grade 17, who are already holding the post since years and there has not been any challenge to their competence and *expertise*.

3. With regard to recruitment and other matters it is stated that after vetting of the Rules, the Commission will initiate process for appointment. It has come on record that as per Education Policy of 2014 officers of other departments are deputed for better results in education and in present draft rules PCS and PSS Officers are included as per proportionately. This compels this court to say that every *department* has its own values hence officials in other departments may be believed to be *experts* of their fields but their *expertise* and *skills*, I shall emphasize, can't be a cause to allow them to hold *controlling / managing* post in an entirely different field / department. I again shall insist that '**education**' is a field where not only things are to be managed but keeping in view the **psyche** of the **children**, which can be understood by none but a **teacher** or one having expertise and skills in this *particular* field. It does not stand to reason that how and why an official from other department would take so much trouble when he knows his stay to be *for a limited period* and he (official) has to go back to field of his choice which, *prima facie*, was not the '**education**'. Such like *experiments* need to be stopped because it is always better to burden the *permanent* so as to make them accountable for the failure or success of their actions and omissions. Material to add that teachers are a community hence entry of strangers with extra salary or benefits will not only be a cause of disappointment to what one *legally* (per seniority / fitness) can hope but may also affect their *commitments*. Accordingly, department shall ensure that no officials except from the education department shall be allowed to fill any post including administration. Needles to mention that after framing of Rules all recruitments with regard to Taluka Schools officers shall be made preferably within six months. Till then if any interim measures taken, may continue.

4. The *importance* of SNEs, being clear and even hammered in earlier orders, needs not be reiterated again, however, what is not understandable is that despite submissions of SNEs there is no progress which means nothing but to frustrate the purpose of SNEs as well submissions thereof. There have been placed reports regarding SNEs of middle, high and higher secondary schools with Finance Department but nothing came on record with regard to further progress thereon. Accordingly, Finance Department shall approve all SNE(s) pending with them, within one month. In case of failure, Secretary Finance Department shall appear in person with explanation. Such conduct has also given a cause to have a report regarding progress onto earlier processed / submitted SNEs. Accordingly, Secretary Finance Department shall submit complete break-up of SNEs received during last ten years and reasons of their hanging without approval. Secretary Education shall also submit details of all processed / submitted SNEs which shall include of those Higher Secondary Schools shifted after 2016. If the purpose of such pending SNEs has not lapsed or there arose any *legal* impediment, the same be resubmitted without any delay. Such report shall be submitted before this Court for further orders. Secretary Finance Department shall ensure compliance. Secretary Finance Department shall also ensure that without consultation of Education Department, not a single post shall be de-graded or abolished.

5. Mr. Madad Ali Shah, Vice Chancellor, Technical University Khairpur is present and contends that they will open campuses in every Division and they are going to open their first campus at Mithi. Such statement, being worth appreciating, is taken on record accordingly. Campus, needful to add, should be housed at

*headquarters* of Division (s) so as to make it convenient for all as well to *political* wire-pulling in matters of **general public**. This aspect, hopefully, shall be kept in view.

6. With regard to paragraph No.2 of earlier order, Secretary Education submits compliance report which shows huge number of libraries and computer labs. According to the report, majority of buildings with regard to computer labs and libraries are not complete however there are around 167 buildings which are final and handed over to the Department. Accordingly, SNEs with regard to those 167 buildings for libraries and computer labs shall be forwarded to the Finance Department within six weeks. After receiving the same, Finance Department shall approve the same within one month, with compliance report. This court has already observed that in Education Department, Additional Secretaries must be educationists therefore one Additional Secretary and one Deputy Secretary shall be from education school side. Accordingly Secretary, Services, General Administration and Coordination Department and Secretary School shall ensure such compliance within one month.

7. Focal person to Chief Secretary Sindh shall ensure visits of libraries and submit report within 15 days.

8. It is needful to add that directives for *visiting* is never meant to have something on papers but to know the *lacking* as well recommendation (s) for making such *places* more effective and viable. Accordingly, all Deputy Commissioners shall ensure visit of all library buildings in their respective district and shall ensure that same are working smoothly; in case working thereof is being hampered for any reason they, being *administrative* authorities, would be competent to

take necessary *legal* action; they shall ensure that those libraries are workable and access is given to all students.

9. Secretary Schools shall depute any competent officer, who shall visit Hayat Pitafi Higher Secondary School, District Ghotki and Hingorja Higher Secondary School and ensure that administration is not disturbing the education of higher secondary school.

10. Learned MIT shall call report from learned District Judges regarding visit of libraries and place the same before this Court. This order shall be communicated to all concerned quarters including Secretary, SGA&C Department.

11. Listed interveners' applications are disposed of in terms of paragraph No.2.

To come up on 23.11.2020 at 11.30 a.m.