

ORDER SHEET
THE HIGH COURT OF SINDH AT KARACHI

PRESENT: MR. JUSTICE SALAHUDDIN PANHWAR &
MR. JUSTICE ADNAN-UL-KARIM MEMON

C.P No.D-4434 of 2020.

C.P No.D-2281 of 2021.

Date: Order with signature(s) of the Judge(s)

Direction.

1. For Hearing of CMA No.23600/2021.
2. For Orders on CMA No.21418/2021.
3. For Orders on Office Objection.
4. For Hearing of CMA No.10959/2021.
5. For Hearing of CMA No.18702/2021.
6. For Hearing of Main Case.

21st September, 2021.

Mr. Malik Altaf Hussain advocate for the petitioner in CP No.D-4434/2020.

Mr. Mustafa Mehdi advocate for the applicant/intervener in CP No.D-4434/2020.

Mr. G. M. Korai advocate for the petitioner in CP No.D-2281/2021.

Mr. Ali Safdar Deepar, AAG a/w Dr. Kazim Jatoy, Secretary, Health Department, Government of Sindh and Dr. Sikandar Ali Memon, Focal Person, Health Department, Government of Sindh.

SALAHUDDIN PANHWAR, J. Pursuant to order dated 01.09.2021 Secretary, Health Department present submits compliance report. That report reflects constitution of Board with regard to all Tertiary Hospital of Sindh, as approved by worthy Chief Minister. The constitution of the Board, being a good sign, towards most vital and important aspect of an *ordinary* man, is appreciated. The *'life'*, as assured by Article-9 of Constitution, is never complete without basic **health facility assurance**. The constitution of the Board or notification thereof *alone* shall never satisfy the objective thereof unless it (Board) becomes functional and up-dated by continuing periodical meetings so as to know the out-puts of decisions of the meeting as well objective of its constitution. Accordingly,

vice chancellor, who are chairperson of Board shall ensure meeting of Board and they shall take over all the responsibilities. Medical Superintendent would be completely responsible before the Board and in urgent matter before the Chairman of that Board.

2. At this juncture, Secretary Health contends that there is proposal by him that the one line budget shall be provided to Tertiary Hospitals. We appreciate such proposal because one line budget shall make Tertiary hospitals in receiving directly what they are entitled to. Accordingly, Secretary Finance shall ensure that single line budget, as proposed by Secretary Health for all Tertiary Hospitals, stands implemented from October, 2021. Re-appropriation of fund shall be made within the spirit of above proposal and Board would be competent to re-examine the same and as well as post of Director Finance shall be filled within three months. Till then Director Administration and any member, nominated by Board, shall be co-signatory of Budget with Medical Superintendent as interim measures and they shall be answerable before the Board for ensuring transparency in whole such process.

3. With regard to direction that in health department all OPS; allowed to work/ additional charge officer shall be removed, the report is filed which speaks that 36 officers working on higher grade though they were in lower grade who, however, have been removed from different posts. The Secretary, Health shall ensure that specific directives in this regard are not infringed in future. If so, the same shall leave a room of legal action against the delinquent.

At this juncture Secretary Health was confronted whether post of D.G Health is filled by BS-20 Officer, he has replied that at present BS-19 Officer is now Acting Incharge of BS-20. The directives were / are of general application and no '*post*' has an exception from such directives. Accordingly, Para-5 & 8 are modified and all OPSs, Acting Incharge and allow to work officer shall be removed including D.G Health within three days. In case, at any stage this statement is found improper or wrong, the Secretary Health would be liable to be charged under the contempt of court act as well as beneficiaries, posted on the higher grade officers.

Needless to mention that direction assigned to work shall not be exploited by the Health Department by posting of officials of below grade and posted on higher grade.

4. With regard to Intervener Dr. Muzafar Hussain Buriro's application, the Secretary Health undertakes that they will release the salary of Dr. Muzafar Hussain Buriro subject to his duty in Expo Centre for certain period. Accordingly, intervener's application is disposed of.

5. With regard to compliance of order dated 01.09.2021 Para 6 & 7 which is that:

"6. By order dated 18.08.2017 passed by this court at Circuit Court Hyderabad in CP No.D-2303/2017, paragraphs No.6 of which is as under:

"In view of above, this court takes judicial notice and direct Chief Secretary Sindh that he shall constitute committees on District levels in whole Sindh to submit reports with regard to present status of the public sector hospitals, they shall hold open Katchehries in every Taluka Headquarter and visit the hospitals after issuing notices to general public through vide publication and submit their recommendations to Chief Secretary and Secretary Health, Sind 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 reports submitted by the committees on emergency basis. Such committee shall be comprised upon responsible officers, having good reputation, not below the grade-18 of various departments including nominated representations of District 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. In the light of above order it was directed to Health Department, government of Sindh, that they shall form committees and invite public in open Kachehri and as per population, revised SNEs of all hospitals from DHU level to district hospitals and Tertiaries. They will submit revised SNEs of all hospitals including staffs and strength of hospitals to cope up the flow of patients. Besides Secretary

Health shall submit details of hospitals which are designated/notified as DHQ Hospital and Taluka hospitals but yet summaries are not approved which, we insist, is not worth appreciating. It was a categorical direction which was / is always required to be honoured. Accordingly, this exercise shall be completed within one month on war basis. Such up gradation shall be completed preferably within two years, however at least six DHQs and 12 Taluka Headquarter Hospitals shall be upgraded as required within one year”.

Secretary Health contends that he will submit detail reports in different phases within three weeks. Time is granted, however, it is expected that the report shall show compliance of the para-6 *supra* at first instance for which the Secretary can competently approach to the Chief Secretary.

6. At this juncture Secretary Health contends that mechanism, as applied in Teaching Hospital, is required to be applied in District Headquarter Hospitals and at least one in Taluka in a District and by creating different posts of different cadre on market based recruitment through contract. The Secretary is ultimate authority of the department therefore his *ultimately* duty always require him to come forward with new ideas, per developing situations in the field (department) because every good and positive step always brings fruits. The responsibility of the Secretary, Health stands double because the basic health facilities were / are the **fundamental rights** of every single individual citizen regardless of his place of residence. This court appreciated this formula and there is heavy flow of patient in every Taluka, therefore, DHQ shall be regulated like Teaching Hospitals. This exercise shall be completed within one month. Accordingly, that summary as prepared by the Health Department shall be floated to the Worth Chief Minister and thereafter to be placed before Cabinet.

7. Besides, Secretary Health contends that they are going to launch ambulance service by providing toll free number thereby enabling the common man to reach in hospital (s) in *time*; and further contends that the process is under way and it is expected that the same will be completed within one year. At present 60 ambulances of Sindh Integrated Emergency Service on the road of Karachi with toll free number 1021

thereby enabling common man to reach hospitals in case of emergency. The big city (ies) also need to be given their due but at the same time the small town (s) or cities are also to be assured of their rights which, again insisted, include basic health facilities. The basic health facilities can't satisfy its meaning if in cases of emergencies the patients can't reach to hospitals. This, hopefully, shall be appreciated by the health department while dressing up the commitment of starring ambulance service.

To come up on **14.10.2021**.

JUDGE

JUDGE

M.Zeeshan