

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

II-APPEAL NO.32/2017

Date Order with signature of Judge

13thDecember 2022

APPEARANCE.

Mr. Muhammad Zahid Farooq Mazari, AAG.

Mr. Abdul Hafeez Leghari, Controller of Examinations, SPSC and Mr. Muhammad Yousuf Alvi, Law Officer, SPCS.

Mr. Dilawar Ali Mangi, Director General Sindh Education & Literacy Department (SE & LD)

Mr. A. Jabbar Shahan, DS Law (SE & LD)

Mr. Fazal Hussain A Avesi, Additional Secretary, Local Government & HTP

Mr. Zahid Abbas Akhund, Director Culture Tourism, Antiquities Department.

Mr. Faqir Muhammad Lakho, Additional Secretary, College Education Department

Mr. Muhammad Arshad Patoli, Director Libraries Sindh

Dr. Liaquat Ali Abro, Law Officer, Law Department, Government of Sindh

Raza Mian, DSP Legal on behalf of AIGP, Legal-II.

Mr. Zahid Hussain Hulio and Qurban Ali Bhatti, Interveners

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Salahuddin Panhwar,J, In pursuance to earlier order, Controller of Examinations, Sindh Public Service Commission (SPSC) present contends that almost they have declared results of written examination except two subjects and same will be announced within this week and thereafter lecturers' viva voce will be conducted within the spirit of orders of this court passed on various occasions and they have arranged all the formalities of audio video as well as CCTV and there will be complete transparency, result sheets will be sealed on the same day and the same will be handed over to Chairman. He further contends that within the directions of this Court they have also started interviews of lecturers in Statistics College Education Department.

2. It is pertinent to mention that SPSC shall take all necessary measures to maintain reputation regarding transparency, hence, Sindh Public Service Commission in future shall ensure that all written test papers are assessed in

a hall having CCTV and marks assigned to the copies shall be sealed on same day.

3. At this juncture, Controller of Examinations (SPSC) contends that expert of IBA as nominated by the IBA Sukkur at the requisition of Statics College Education Department is claiming conveyance, boarding and lodgings. He further contends that according to their mechanism the amounts/fees deposited by the candidates are to be transferred to Finance Department, Government of Sindh. It is strange that SPSC though is established through Constitution of Pakistan but the same is not yet an independent and budgets are to be released by the Finance Department on requisition basis through Secretary S&GAD. To resolve this issue, Chief Secretary and Finance Secretary Sindh with the consultation of Chairman, SPSC shall submit a proposal to ensure that SPSC shall work as independently as an autonomous body and there shall be permanent funds, which shall be allocated and released directly and to be utilized by the Controller, Secretary and Chairman SPSC with their mandates jointly. Needless to mention that SPSC is normally receiving funds directly from the candidates as well funds allocated by the Finance Department, hence, funds received shall be utilized directly by the SPSC by enhancing their mechanism, their digital labs and other procedures regarding Prometric system and there is a suggestion that Chairman SPSC shall act as Principal Accounting Officer. Accordingly, the recommendations made by this Court and suggestions advanced by SPSC as well as by learned AAG, the concerned authority as referred above [Chief Secretary, Finance Secretary, Chairman SPSC and Secretary General and Administration Department, S & GAD] shall ensure that such exercise is completed and focal persons of Chief Secretary, Finance Department and Secretary General Administration, S&GAD, not below the rank of Additional Secretary, shall be in attendance on the next date along with compliance report. The said exercise shall be completed within one month. Besides, this state of affair prevalent in SPSC though an independent and autonomous body appears to be in serious administrative predicament. Therefore, it is ordered that SPSC Chairman shall act as Administrative Secretary/Principal Accounting Officer and the Finance department shall create a new and a separate Demand Number and Cost Center for SPSC and release funds directly to SPSC. Similarly the SPSC

shall collect the fees in SPSC account to be operated under joint signatures including Chairman SPSC to meet the necessary expenditures like nominating well reputed experts and other services with transparency and get them audited as per procedure.

The vice Chancellor IBA University is also directed to ensure availability of Expert, Statistics on scheduled dates 15th, 16th, 19th & 20th December 2022 and other categories to be scheduled later, by incurring expenditure by IBA and subsequent claiming from SPSC for reimbursement. The mechanism devised vide this court order, dated 06.04.2021 will remain the same. Needless to mention that this interim arrangement shall be continued until issue is resolved by the competent authority.

4. With regard to expenses of subject specialists of IBA in interviews, Vice Chancellor IBA Sukkur shall make all arrangements being public University and that claimed amount shall be released by the Finance Department directly to avoid the delay of the interviews pertaining to the Education Department, when admittedly 1500 seats are vacant and common student/ pupil is suffering from the right of education due to these technicalities.

5. Additional Secretary Colleges shall submit details of vacancies except 1500 as to be filled by the SPSC as well as Secretary Colleges shall submit requisition to the Sindh Public Service Commission and those seats shall be filled within three months on same mechanism as adopted already.

6. At this juncture, Mr. Faqir Muhammad Lakho, Additional Secretary, College Education Department contends that they are going to recruit internees for a limited period of one year to fill the gap of teaching faculty through reputable Testing Agency and there will not be mechanism of any interview, the reputable Testing Agency will announce the test result on merit basis, while taking objective test/MCQs, they will issue appointment orders without any delay within one month on merit wise list prepared by the Testing Agency however documents will be verified by the Director(s) of respective Divisions. At this juncture, Additional Secretary, College contends that they have advertised such selection process and there are many agencies

interested to select the internees and they will prefer a highly reputable testing agency to select the internees.

7. At this juncture, it has come on record that though this Court appreciates the College Education Department as they are going to recruit internees through independent testing agency whereas school side is committing irregularities in violation of the policy. However, that practice shall not be continued in future and all internees shall be appointed in the same manner as referred in para-6. This order will not effect upon the candidates who have received the letters of internees but in future any teaching faculty, may be temporary, shall be filled through credible testing agency in school side as well.

8. At this juncture, it is pertinent to mention that in Suit No.1243 of 2015 by order dated 11.10.2021 this Court directed that one Additional Secretary (Technical) and two Deputy Secretaries in College and School side shall be from parent Education Department and the Secretary and other officers to assist properly with regard to existing policies and ground realities. Compliance report shall be submitted before the next date of hearing through MIT-II.

9. With regard to Compulsory Education Council as provided in **Compulsory Education Act 2013**, Secretary School shall ensure that such notification is issued, it appears that though repeated directions were issued to the Secretary Schools but yet Court is not aware whether Compulsory Education Council has been notified or not. In case, same is still not notified, it shall be notified within one month comprising of reputable educationalist from all over Sindh having representation of every area of the education from primary level and that Compulsory Education Council shall include representative of teaching faculties (organization(s)). It is pertinent to mention that recommendations of Council would be binding upon Schools Education Department.

10. With regard to Education Oversight Council pursuant to Durrani Committee report, all recommendations of that council, as that council is continuing their meetings as reported by the learned MIT of this Court,

would be binding upon all Education Department(s) including Boards, Universities, Colleges and Schools as well other educational institutes.

11. At this juncture, Abdul Wahab, advocate present in Court while assisting contends that in Ghotki, it has been flashed in media that new books of Sindh Text Board were sold out in Kabari Market and it is shocking news, therefore, Chairman Anti-Corruption shall form a Committee comprising of honest officers, who shall probe into the issue and in case malfeasance, misfeasance is surfaced, delinquent officer(s) shall be taken into task and brought in the Court of law.

12. At this juncture, Additional Secretary Colleges contends that Sindh Text Book Board is required to provide free books of first year and intermediate in all schools and colleges. Accordingly, Chairman Sindh Text Book Board shall ensure that free books are provided to all the schools, Higher Secondary Schools and Colleges of first year and intermediate. The Chairman and Secretary Text Book Board shall be in attendance on the next date of hearing and they shall submit explanation with regard to that scam as huge books sold out as discussed above.

13. At this juncture, Mr. Abdul Wahab, advocate contends that College Education Department has announced Degree College Dharki that has yet not started work. In contra, Director General Planning Schools and College on Development Side contends that property of Revenue Department was allocated for the purpose of College, such mutation was effected and that is comprising on 05-10 acres and vide letter dated 10.12.2022, the Principal, Government Boys Degree College, Daharki has prayed for lodgment of the FIRs against encroachers, which fact was also brought into the knowledge of the Civil Judge Dharki, who visited the college under the directions of this Court, however, it is reported that said illegal occupants/encroachers have approached the Court while filing direct complaint against Administration as they intended to remove the encroachment, therefore, they are now reluctant to remove the encroachment. Needless to mention that in **suo-moto case of miserable conditions of schools** (2014 SCMR 396) domain was given to learned District & Session Judges to ensure removal of the encroachments. Accordingly, learned District & Sessions Judge, Ghotki shall ensure that this partial encroachment is removed by taking all modes by involving Law

Enforcement Agencies and as soon as the vacant possession of the plot is handed over, learned District & Sessions Judge shall ensure that construction work is started by the Education side. SSP Ghotki and DSR (Pakistan Rangers) Ghotki shall provide complete force and shall ensure removal of encroachers as well as their prosecution under Pakistan Penal Code. Learned District & Sessions Judge Ghotki would be competent to call Deputy Commissioner in this whole exercise on routine basis. In case of failure, learned District & Sessions Judge shall take strict action against all delinquent officer(s).

14. Pursuant to order dated 04.10.2022, Director General Planning Schools and College on Development Side contends that 46 new college buildings have been completed, however, yet SNE(s) are yet to be approved by the Finance Department, according to him Worthy Chief Minister has directed the Finance Department to approve the SNEs as submitted by the College Department. Needless to mention that repeated directions have been issued by this Court to the Finance Department and College Department. Accordingly, Secretary College Department shall submit SNEs identifying 46 Colleges and Finance Department shall approve the same within one month after observing all legal and codal formalities. In case of failure, Secretary Finance shall be present with explanation.

15. At this juncture, Additional Secretary Colleges contends that a wonderful building named Khan Sahab Din Muhammad Junejo School is constructed by the Federal Government as earlier education was the domain of the Federal / Provincial Government in concurrent list. Accordingly, Additional Secretary Colleges contends that they have taken over that building and they are going to establish Girls Degree College and they have already submitted SNE with Finance Department and it is pending for approval. Accordingly, Secretary Finance Department shall approve the same within 15 days from today.

16. Director General Planning Schools and College Education Department in addition to 46 colleges shall submit report with regard to 15 colleges, out of 15, three were approved with special summary in Pithoro and are in Taluka Khipro and rest of twelve in annual budget were approved, he will submit progress report with regard to construction of those colleges as well

as, if any new school/colleges is approved in last three years by the Sindh Government and present status of those schools/colleges whether constructions are completed or not with clear statement that when all buildings will be completed. Report shall include photographs as well video footages. Director General shall personally visit all the buildings under progress and shall submit report if any hindrance in construction is created by any person (private or official), Schools/Colleges Department would be competent to approach concerned District & Sessions Judge for aid in pursuance to order passed by the Hon'ble apex court as referred above. On the next date Director Planning Colleges shall be in attendance. He shall also visit alongwith Mr. Dilawar Mangi and shall submit report in terms as stated.

17. At this juncture, in pursuance to order dated 26.05.2021, passed in Suit No. 1243/2015 and order dated 04.10.2022 passed in present appeal, focal person present submitted report through Assistant Advocate General Sindh, which speaks that they have submitted list of 101 higher secondary schools to be upgraded with the Finance Department for approval of SNEs. Reason assigned for delay in SNEs submission is that it was due to non-availability of infrastructure. Needless to mention that there are hundred(s) schools running without buildings and students are getting education in temporary shelters or by the help of villagers in private buildings/ tents. At this juncture, D.G Planning Schools contends that they have selected 40 higher schools and they will provide allied facilities and infrastructures in the present year Annual Development Program (ADP) and rest of schools would be placed in upcoming ADP 2023-24. Accordingly, in new ADP 2023-24 budget rest of 60 schools shall be provided full-fledged Allied facilities. Chief Secretary Sindh Secretary Finance Department and Chairman P&D shall ensure that 61 higher schools as approved or adopted and allied services are provided in budget by specifying budget particularly for those schools. Besides, apart from these schools, this is the prime duty of the Education Department to upgrade schools from secondary to higher secondary and that is their practice to adopt the same in pursuance of already available mechanism, therefore, all new upgraded 101 schools as approved, SNEs shall be submitted with the Finance Department and Finance Department without

any hurdle shall approve the same after submission of SNE within one month.

18. At this juncture, Mr. Zahid Hussain Hulio, Secretary General Sindh Professors and Subject Specialist Organization is present submits copy of order dated 21st December 2021 and he has emphasized paragraph No.10 which is reproduced herewith:-

“10. Paragraph No. 8 of order dated 08th December 2021 is that:-

*“8. In pursuance of last order, Secretary School Education was directed to **notify Sindh Education Policy Oversight Council within a week.** Accordingly, that notification shall be placed on record on next date of hearing. With regard to shifting of SNE(s) passed in earlier order dated 26.05.2021 Secretary Education shall ensure compliance of the said order. Additional Secretary School seeks one week time to submit compliance report. Such sought time is granted but with rider that compliance be ensured without making further requests of like nature.”*

The Additional Secretary Schools Education seeks one month's time for compliance which is granted while confronting him with above referred order as well legal consequences thereof.”

Accordingly, Secretary Schools shall provide opportunity to Mr. Zahid Hussain Hulio. Further Mr. Zahid Hussain contends that though Secretary Schools is taking efforts but Finance Department is creating hurdles. Accordingly, this order shall be communicated to Secretary Finance Department, who shall depute Additional Secretary Finance to assist this Court and ensure that such grievance has been redressed. Besides, they shall submit mechanism of abolition/shifting of SNEs on the next date.

19. All Chairman Boards shall not take affiliation fees of higher secondary schools and they shall affiliate the higher secondary schools as Chairman Boards are beneficiaries and in routine they are receiving funds allocated by the Government of Sindh. In case of failure contempt proceedings will be initiated against the Chairman of all Boards existing in Province of Sindh. This order shall be communicated to Chairman Boards for strict compliance.

Paragraph No.13 of the above order (supra) is reproduced herewith:-

“13. At this juncture, Intervener Mr. Zahid Hussain Hulo submits notification with regard to affiliation, exams and enrollment fees claimed by the Boards; taken on record. At this juncture, Additional Secretary University and Board present contends that with regard to waiver of enrollment registration and examination fees Sindh Government has already released an amount of Rs.500 Million in favour of the Boards. Accordingly, Boards are not competent to receive the same from public sector and any notification, if issued by them in this respect, would be declared as null and void. Secretary Boards and University shall pursue the same and ensure its compliance in letter and spirit.”

20. At this juncture, Mr. Zahid Hussain Hulo submits details of structure of different fees charged through the students, apparently, same are exorbitant and unjustified. Hence, Secretary Boards and Universities shall examine the same and submit report and shall be in attendance on the next date.

21. At the outset, Director Libraries present contends that they have submitted a summary that with the Local Government regarding adoption of 55 libraries under the domain of Local Government. Addl. Secretary, Local Government contends that they are ready to hand over the same however they are required to sign MoU with the Culture Department and further approval of Cabinet Division. Secretary Local Government and Director Libraries shall complete this exercise within one month. Since Director Libraries has received order dated 04.10.2022 yesterday, therefore, they will submit complete list of libraries and present status whether they are functional or not and the report shall include photographs of those libraries as well.

22. Director libraries further contends that under the domain of culture Department there are total 39 libraries, out of which, 34 libraries are functional as SNEs have been approved and they have placed SNEs rest of five libraries with the Finance Department. Accordingly, Finance Department shall approve the same within one month by adopting codal and legal formalities. Further he contends that they have demanded SNE with regard to digital equipment for the libraries and technical posts. Accordingly, the same also be approved within one month.

23. Besides, Finance Department shall place on record total funds allocation to the Culture Department specifying funds allocated to the libraries for the last five years including release of those funds and utilization as well.

24. At this juncture, Mr. Zahid Hussain Hulio contends that one Mr. Agha Shakeel Pathan has established a library in village *Muhammad Essa Hulio, Taluka Bakrani*, District Larkana and Culture Department shall take over the same with MoU. Accordingly, Secretary Culture Department shall depute any responsible officer, who shall visit and submit feasibility report. It is expected that they will adopt the same and shall provide the facilities in that library by the Culture department.

25. With regard to libraries in Local Government Department admittedly libraries are working in different districts under the control District Councils and Town Committees however, there is no mechanism like in Culture Department which bifurcates library section separately and with separate funds allocation, therefore, Secretary Local Government with the consultation of Chief Secretary Sindh shall ensure mechanism is provided thereby a separate wing shall be established creating post of D.G. Libraries in Local Government alongwith its secretariat and Province of Sindh shall allocate budget from the total budget specified by the Local Government separately for the libraries and to control the libraries directly through directors and librarians. Accordingly, such rules shall be framed which provides recruitment as well and procedure of purchasing library material, equipment, books establishing digital libraries in the respective divisions and upto Town levels and till then budges shall be separated for existing libraries to ensure that those abundant libraries are re-established apart from the libraries adopted by the Culture Department.

26. Out of 55 libraries it has come on record that in taluka Pithoro there is also library and it is proposed that Culture Department will adopt the same. Accordingly, Secretary Culture and Divisional Director Mirpurkhas shall ensure that with the help of locals the library is established and regulated. Learned District & Sessions Judge shall depute the Magistrates for visits as well as Deputy Commissioner Umarnkot shall direct Assistant Commissioner, who shall provide all facilities and Secretary Local Government shall also

provide every assistance in that regard until the same is completely transferred to the Culture Department.

27. At this juncture, Additional Secretary Local Government contends that there are various libraries under the different departments and he will submit complete details with the coordination of Mr. Zahid Abbas Akhund Director Culture Department and Mr. Muhammad Arshad Patoli, Director Libraries, about all libraries maintained by Aukaf Department, Sports & Youth Affairs Department, Cooperative Societies and Revenue Department. Accordingly, Chief Secretary Sindh shall issue a notification by constituting a committee comprising on five members, under the chair of Mr. Mr. Fazal Hussain A Avesi, Additional Secretary Local Government and Muhammad Arshad Patoli Director Libraries Sindh will act as Secretary of that committee and Chief Secretary Sindh shall include representative of all concerned departments and Committee would be competent to opt any member well acquainted with libraries and submit report as well as their recommendations.

To come up on **16th February 2023.** Office shall communicate this order to all the concerned authorities through all modes including Email/WhatsApp.

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