

ORDER SHEET
THE HIGH COURT OF SINDH AT KARACHI
CP.No.D-1976 of 2024

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

**Present: Mr. Justice Salahuddin Panhwar
Mr. Justice Khadim Hussain Soomro**

1. For hearing of CMA No. 8654/2024.
2. For hearing of main case.

31st May 2024

Mr. Lala Asad Mangi, advocate for the Petitioner.
Mr. Suresh Kumar, Additional Advocate General, Sindh.
Mr. Azain Nadeem Ahmed, Advocate for Respondents No.7 to 11.
Mr. Muhammad Akhtar Mastoi, Advocate for Board of Revenue.
Munawar Ali Mahesar, Secretary (Auqaf, Religious Affairs, Zakat & Ushr) Department and Kashif Siddiqui, Director (Administration & Accounts).

Salahuddin Panhwar, J- By order dated 20.05.2024, Secretary (Auqaf, Religious Affairs, Zakat & Ushr Department) was directed to provide complete breakup of agricultural land as well as lands dedicated by private persons for the benefit of shrines and Madrasa school admeasuring 11025-25 acres which is under the control of Auqaf Department.

2. Respondent No.1/Secretary Auqaf, Religious Affairs, Zakat & Ushr Department present submits report, which is taken on record. Being relevant the same is reproduced herewith:-

**REPORT IN TERMS OF ORDER DATED 20.05.2024 AND
STATEMENT OF SECRETARY, AUQAF, RELIGIOUS AFFAIRS,
ZAKAT & USHR DEPARTMENT**

In compliance with order dated 20-05-2024 passed by Hon'able High Court of Sindh Karachi in C.P.No. D-1976 of 2024, the Chief Administrator Auqaf vide letter No.AUQ(CAA)/Estt/2024/607 dated 29-05-2024 (Annexure-1) have submitted comprehensive compliance report covering complete details of Agriculture Land admeasuring 11025-25 Acres and residential / commercial waqf properties in terms of the details of donors (who dedicated land), alongwith purpose of donation and complete record of last ten years for auction of lease of agriculture land, residential / commercial waqf properties under the administrative control of Auqaf Department.

2. The compliance report also contains details of contracts related to different Shrines and complete details of Urs conducted by the Auqaf Department including a breakup of the sanctioned / utilized budget for last five years and complete details of annual Urs performed under the administrative control of Auqaf Department.

3. Further, in compliance of order dated 20-05-2024 this department floated a summary for Hon'able Chief Minister Sindh for provision of funds for two schemes namely construction and establishment of academies at Dargah Bedil Bekus Rohri District Sukkur and Dargah Sufi Shah Inayat Shaheed Jhok Sharif District Sujawal (Annexure-II). It is also relevant to add that scheme namely "Reconstruction of Shah Waliullah Academy at Jamia Masjid Saddar Hyderabad is already included in ADP 2023-24 with an estimated cost of Rs. 15.00 million.

4. In compliance of order dated 20-05-2024, this Department also established official website (link of the said website <https://arazud.sindh.gov.pk/> is placed for ready reference) and several details pertaining to all three wings vis-a-vis Auqaf, Zakat & Ushr and Religious Affairs have already been uploaded on the website and rest of the detail will be uploaded within one month positively.

5 The above information is hereby submitted for seeking further guidelines if any before this Hon'able Court.

Along with the above report, report of the Administrative Officer Auqaf Sindh, Hyderabad is also enclosed. It would be pertinent to reproduce the same:-

"The Worthy Secretary,
Auqaf, Religious Affairs, Zakat & Ushr Department,
Government of Sindh,
Karachi

SUBJECT COMPLIANCE REPORT IN TERMS OF ORDER DATED 20-05-2024 IN C.P.NO. D-1976 OF 2024 FILED BY MAJLIS-TIB-WA ADAB PAKISTAN V/S SECRETARY AUQAF DEPARTMENT & OTHERS

Sir,

I am directed to refer to the subject noted above and to state that in compliance with order dated 20-05-2024 passed by the Hon'able High Court of Sindh, Karachi in C.P. No. D-1976 of 2024, the requisite details are as under-

2. Complete details of Agriculture Land admeasuring 11025-25 Acres in terms of the details of donors (who dedicated

land), alongwith purpose of donation and complete record of La ten years for auction of lease of agriculture land under the administrative control of Auqaf Department are placed at Annexure-A, the summarized position of agriculture land are as under:

Sr. No.	Name of Circle	Total Area in Acres.
1	Mirpurkhas Circle	7075-08
2	Thatta Circle	3062-39
3	Sukkur Circle	76-25
4	Sehwan Circle	511-21
5	Mehar Circle	02-00
6	Larkana Circle	284-03
7	Daraza Circle	13-09
Total		11025-25

3. Secondly, the details of contracts related to different Sharines are placed at Annexure B. Thirdly, the details of commercial properties are placed at Annexure C.

4. Complete details of Urs conducted by the Auqaf Department including a breakup of the sanctioned / utilized budget for last five years are placed at Annexure-D, the summarized position are as under-

Sr.#	Year	Amount Sanctioned Budget/Release	Amount Utilized
1	2019-2020	18025600	9911720
2	2020-2021	11375000	2177550
3	2021-2022	35831250	25898430
4	2022-2023	25082000	21713000
5	2023-2024	52672000	46537308

5. Complete details of annual Urs performed under the administrative control of Auqaf Department are placed at Annexure-E.

6. The above position is submitted for onward submission and kind perusal of the Hon'able High Court of Sindh, Karachi."

3. Consolidated details of properties of Auqaf Department Sindh comprising of 3113 properties have also been shown in the above report/statements including commercial properties as well as Maddersah, Musafir Khanas etc.

4. Further Secretary Auqaf Department contends that the Auqaf Department used to lease out urban properties and agricultural land through public auction. However, he seeks time to place on record the details of the last ten years regarding all these properties rented or leased out to different persons. He further admits that the amount as received by the Auqaf Department is directly deposited into Account No.1 of the Province of Sindh and the Auqaf Department is operating as per yearly budget allocated to them.

5. Needless to mention that in agricultural land there are two sets of properties: one set is dedicated for education and the second set is dedicated for the welfare of shrines. Thus, such lands fall within the scope of public waqf and the justification given by the Secretary is shocking that under what authority the income earned from the different properties dedicated for specific purpose, can be deposited in Account No.1 of the Province of Sindh, rather than maintaining the income separately to provide welfare and education in that area for which philanthropists donated hundred(s) acres of lands with the intention that by donating their lands, the area will be benefited by receiving education or establishment of academies or different shrines and research work shall be undertaken thereupon.

6. The Secretary Auqaf Department undertakes to formulate and submit a comprehensive policy detailing the establishment of distinct accounts for each shrine or educational institution located in various districts. In the same district, separate accounts shall be established by a committee comprising stakeholders under the chairmanship of District Commissioners (DCs). These accounts will serve as the foundation for the creation of **endowment funds**. The accrued interest from these funds is specifically designated for three purposes:

1. **Scholarships for Higher Education in Agriculture:** The interest will support scholarships for students pursuing higher education in the field of agriculture.
2. **Establishment of Sufism Academies:** Moreover, the interest will contribute to the establishment of academies dedicated to the study and promotion of Sufism.
3. Maintaining shrines and accommodate visitors with basic facilities including guide(s) and information desk(s).

7. Furthermore, it is directed that research initiatives be undertaken to honor and commemorate the noble individuals to whom these lands were originally dedicated. These benefactors had a vision for education, and their legacy must be preserved. The strategic approach involves granting scholarships for higher education to students from the same area where the land was dedicated for educational purposes. By doing so, we ensure that the lands continue to serve the educational and cultural enrichment of future generations. The Secretary, as part of his responsibilities, will verify further records. Significantly, in Tando Allahyar and Pithoro Taluka, approximately **1500 acres of land** have been specifically dedicated for education. The Secretary's adherence to these directives will ensure the fulfillment of the intended charitable objectives and the perpetuation of the endowment's benefits for generations to come.

8. It is further contended that the department has submitted a summary to establish academies at *Dargah Bedil Bekus* Rohri and *Dargah Sufi Shah Inayat Shaheed* Jhok Sharif District Sujawal for the allocation of funds which is pending with the Worthy Chief Minister. Besides, it reflects that in ADP 2023-2024, the reconstruction of Shah Waliullah Academy at Jamia Masjid Saddar Hyderabad was included. However, Shah Waliullah Academy is not properly functioning. Hence, the Chief Secretary, Government of Sindh shall ensure the approval of the summary with regard to the establishment of academies for great personalities/poets and a research academy on Shah Inayat Shaheed, who introduced the concept that holdings land beyond the cultivating personal capacity of the owner is *haram* under the Islam and he distributed all his land to the poor /haris; he was killed/martyred while fighting with the big landlords. Henceforth, research endeavors are obligatory, alongside the establishment of an academy. The district endowment fund should be employed for educational purposes and the establishment of an institute dedicated to the promotion of Sufism or research related to the revered personalities associated with shrines including maintenance and information desk(s).

9. It is hereby directed that the Secretary of Auqaf department must ensure full transparency and accessibility regarding the Auqaf department's

properties. A detailed record of the property breakup, as stipulated in Paragraph No.4 of the Secretary's report, must be made publicly available. This decisive action is not merely a procedural formality but a significant step towards fostering trust and accountability. By displaying the property details on the official Auqaf websites, granting the common man, ability to easily access and derive benefit from this information. It is a move that underscores the commitment to openness and serves the public interest, allowing for informed engagement with the assets managed by the Auqaf department. This directive aligns with the broader goal of ensuring that the management of these properties is conducted in a manner that is both responsible and beneficial to the public at large.

10. In respect of illegal and forcible possession over the properties owned by Auqaf department and maintaining the record of rights in the name of Auqaf Department in view of the contention of the Secretary Auqaf Department as well as public auction proceedings, it is hereby ordered as follows:

- The Board of Revenue (BoR) shall expedite the process of mutation in the record of rights in the name of Auqaf Department for the properties in question owned by the Auqaf Department.
- The BoR shall also take necessary actions to address the grievances of Auqaf Department and ensure that the rightful ownership and possession of the properties are recorded as per the law.
- It is pertinent to mention that, to prevent any disputes in the future and maintain transparency, all properties under the jurisdiction of Auqaf Department shall be auctioned through open competitive procedures.
- A comprehensive directive for the public auction shall be published in renowned newspapers with wide circulation to inform potential bidders and the general public.
- The publication shall include all relevant details of the properties, the terms and conditions of the auction, and the date and time of the auction.
- The Secretary Auqaf Department is directed to ensure that the auction process is carried out in a manner that is free from any undue influence or occupation.

11. Pursuant to the aforementioned deliberations, all Deputy Commissioners in the Sindh province, as well as the Member of the Board of Revenue are hereby directed to take immediate and decisive action to ensure the accurate mutations of properties belonging to Auqaf Department, inclusive of shrines, with proper demarcation. This directive serves to uphold the sanctity of these properties and to prevent any unauthorized occupation or transfer. The Deputy Commissioners are to coordinate with the relevant authorities to facilitate the accurate mapping and recording of these lands, thereby safeguarding the interests of the Auqaf Department.

12. The Chief Secretary Sindh and the Member Board of Revenue are hereby directed to ensure strict compliance with this Order in its entirety. The learned Member Inspection Team-II (MIT-II) of this Court shall ensure submission of a comprehensive compliance report pertaining to the directives issued by this Court. On the next date of hearing, the Secretary, Auqaf Department and the Director of the Auqaf Department Hyderabad are required to be present, accompanied by the aforementioned compliance report.

Being a part heard matter, to come up in the second week of August 2024.

J U D G E

J U D G E

Sajid