

ORDER SHEET
THE HIGH COURT OF SINDH AT KARACHI

II-Appeal No.32 of 2017

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

Disposed of Matter.

1. For Orders on MIT Report dated 05.12.2023.
2. For Orders on MIT Report dated 30.11.2023.

10th June, 2024.

Mr. Sohail Latif Memon advocate for the Petitioner / learned Amicus Curiae alongwith Dr. Naveed Mehar, Chairman Town Committee, Chuk.

Ms. Noushaba Haque Solangi, AAG

Mr. Ashraf Ali Mirani, Law Officer Culture, Tourism, Antiquities & Archives Department.

Mr. Roshan Ali Kanasro, Director Archive, Resident Director, PDM & I Cell.

Mr. Muhammad Arshad Patoli, Director Libraries Sindh

Mr. Zahid Abbas Akhund, Focal Person/Director Culture Tourism, Antiquities Department.

Mr. Akhtiar Mangi, Executive Engineer, PDM & I Cell, CTA&AD.

Mr. Zaheer Shaikh, AD, CTD & AD.

Mr. Manzoor Ahmed Leghari, Additional Commissioner-II, Hyderabad.

Sikandar Hassan, Deputy Secretary (Legal), Finance Department, Government of Sindh.

Mr. Abdul Ghafoor Pitafi, S.O (A), Local Government Department.

Allah Dino Channa, Deputy Secretary, Local Government on behalf of ACS, Local Government.

Mr. Shahzaib Bashir, Assistant Director, Directorate of Alternative Energy, Energy Department, Government of Sindh.

Salahuddin Panhwar, J:- By order dated 27th May 2024 wherein directions were issued to Culture Department, Local Government, Energy Department as well as Commissioner Hyderabad. Being relevant paragraph No.3 of the order is reproduced herewith:-

“3. At this juncture, Mayor Karachi Barrister Murtaza Wahab has assured that he will personally address this issue. He aims to ensure that public libraries under local government jurisdiction receive the same level of maintenance and modernization as those managed by the

Culture Department. This includes establishing a separate directorate for libraries and transitioning them to solar energy. The Court, recognizing this commitment, refrains from imposing an immediate injunction against releasing OZT funds. It is expected that Mr. Wahab will submit a reasonable proposal, specifying an equitable share amount allocated from OZT revenue for libraries. As an interim measure, existing libraries will be preserved, and steps will be taken toward establishing a centralized directorate similar to that within the Culture Department.”

2. Pursuant to that, the Deputy Secretary Local Government, alongwith Section Officer present, contends that they have floated a summary for Additional Directorate in a separate budget to improve the smooth functioning of public libraries and it is expected that the same will be established within the shortest span. Accordingly, the Chief Secretary Sindh and the Additional Chief Secretary, Local Government shall pursue the same as well as Mayor Karachi Barrister Murtaza Wahab shall also pursue the same as undertaken by him.

3. It would be conducive to refer paragraph 4 of the order dated 27.05.2024 passed by this Court, which is that:-

“4. Furthermore, the Commissioner of Hyderabad has not complied with the submission of a report concerning the surrender of the building, as mentioned in the last order dated April 29, 2024. In that order, he was required to hand over the same to the Culture Department. Consequently, an official show cause notice should be issued to the Commissioner of Hyderabad, demanding an explanation as to why contempt proceedings shall not be initiated for non-compliance of the directives contained in the Order dated 29-04-2024.”

4. Pursuant to that, Additional Commissioner Hyderabad present submits an interim compliance report of the order dated 29.04.2024 and contends that they have convened various meetings to ensure that the Industrial Department’s building, which is in abandoned condition, will be vacated, handed over to the Culture Department to establish a library as the same is adjacent to *Allama Daudpota* library, which currently lacks capacity and facilities. This court appreciates the efforts and further directs the Commissioner Hyderabad to ensure that this exercise is completed within two months, with a positive compliance report. Since

hundreds of students regularly attend the *Allama Daudpota* Library despite of non-availability of a seating area and the same is located on main road, due to speed, there is apprehension of casualties, hence, the Commissioner Hyderabad shall ensure the installation of speed breakers to prevent any accidents.

5. It would be conducive to reproduce paragraph-6 of the referred order which is that:-

“6. Already, there are directives to the energy department regarding the transition of all public libraries at the division level to solar energy systems. The energy department is required to submit a comprehensive report on this transition and ensure compliance. In the event of non-compliance, the Secretary of Energies will be held accountable. In the meantime, the Chief Executive Officer (CEO) of HESCO in Hyderabad must guarantee uninterrupted electricity supply to the Allama Daudpota Library. Failure to do so may result in contempt proceedings being initiated.”

6. Pursuant to that, focal person, Directorate of Alternative Energy, Energy Department submits field survey report of public libraries, which is taken on record and contends that in compliance of order of this Court they have submitted scheme for shifting of 32 libraries from electricity to solar energy with the Planning & Development Department thereafter same will be placed with the Finance Department for approval thereof. Accordingly, Secretary Planning and Development shall ensure that compliance shall be made and such scheme shall be placed before the Finance Department to flash the same in upcoming budget or by special summary.

7. At this juncture, Mr. Sohail Latif Memon advocate/Amicus contends that despite directions Chief Executive Officer (CEO) of HESCO has failed to provide uninterrupted electricity to Allam Daudpota Library. Accordingly, issue show cause notice to Chief Executive Officer (CEO) of HESCO as to why contempt proceedings should not be initiated against him.

8. Being relevant paragraphs No.7 & 8 of above-referred order are reproduced herewith:-

“7. Moreover, a representative from the Department of Culture has presented a grievance concerning a facility in Dadu. A segment of this library is presently occupied by the Department of Information. It is hereby ordered that the Deputy Commissioner of Dadu shall expedite the evacuation of the encroached segment and mandate the relocation of the Information Department’s operations to an alternative venue. Non-adherence to this directive will necessitate the Deputy Commissioner of Dadu to appear in person before this Court, accompanied by reasons delineating the grounds for such defiance.

8. The Pitambar Hostel Library is recognized as an institution of considerable importance. Consequently, to facilitate the optimization of its governance and the augmentation of its services, the following directives are issued:

The **Deputy Commissioner of Naushero Feroz** is hereby directed to conduct an inspection in person at the Pitambar Hostel Library. Subsequent to the inspection, custodianship of the library shall be transferred to the **Department of Culture**. The Department has heretofore indicated its acquiescence to assume control of the library. In its capacity as the new custodian, the Department is tasked to provide a comprehensive collection of materials for competitive examinations, inter alia.”

9. None present on behalf of Deputy Commissioner Dadu and Deputy Commissioner Naushero Feroz for compliance. Accordingly, issue show cause notices to them as to why contempt proceedings should not be initiated against them.

10. In CP.No.D-260/2023 and CP.No.D-355/2023 by judgment dated 15.03.2023 this court directed that:-

8. Moreover, report has been submitted by Deputy Commissioner, Nausharo Feroze as well, with regard to establishment of two libraries in Moro. Accordingly, Secretary Culture and Secretary Local Government shall *ensure* provision of funds for *establishment* of libraries in Moro as directed earlier within one year. In case of failure, this Court will pass appropriate order.

9. With regard to Taluka **Mehrabpur**, it has come on record that Government Middle/High School Building at Village Qasim Khaskheli near Mehrabpur Town is found **non-functional** despite in good condition but without any academic activity, which is also confirmed by Taluka Education Officer concerned. Accordingly, Executive

Engineer Education Works and Culture Department shall ensure renovation of this library and its use for library purpose especially for the surrounding village students/readers, *particularly* for competitive exam. In similar way, in Pitambar Hostel of High School Kandiaro situated at Kandiaro city is a spacious two-story historical building comprising of 12 rooms; however, this building is not in the use of education department; Nevertheless, the same is suitable for establishing as library. Accordingly, subject hostel shall be restored by Education Works department or shall be handed over to Culture department for the library purpose, enabling students to be benefited from this building as library.

11. The Deputy Commissioner of Naushero Feroze is hereby directed to personally visit and inspect the libraries in Moro and Kandiaro to ensure that both are working without any disturbance. Any encroachments identified should be promptly eradicated, and all requisite amenities must be provided to facilitate the libraries' optimal functioning. Besides, it is deemed appropriate at this juncture to direct learned District & Sessions Judge Naushero Feroz to undertake all necessary actions to enforce Court's Order in letter and spirit. Deputy Commissioner Naushero Feroze is also directed to ensure full adherence to the mandates established by this Court.

12. At this juncture, Dr. Naveed Mehar, Chairman Town Committee, Chuk, District Shikarpur present contends that they have building which is meant for library and they intend to extend the same. In the said building some shops are located which were rented out when they issued notices for vacation purpose, they approached civil court wherein their suit was dismissed hence, appeal was preferred, accordingly, case was remanded back. However, he contends that ad-interim order is not operating.

13. In light of the matter's significance as an issue of public importance and the pressing need for additional space to transform the existing library into a State-of-the-Art Educational Resource Center, the Council has passed a resolution and earmarked the requisite funds for this purpose. Consequently, it is of utmost importance that learned District & Sessions Judge, Shikarpur, in collaboration with the Deputy Commissioner of Shikarpur, shall initiate the necessary legal procedures

and serve a minimum of two months' notice to the shopkeepers and occupants for the orderly evacuation of the shops. This notice period is to ensure compliance with due process and to afford the occupants sufficient time to vacate the premises without undue hardship.

14. Upon the successful vacation of the premises, the responsibility will then be vested in the Chairman of Chuk Town. The Chairman shall be entrusted with the pivotal role of overseeing the development and establishment of a modern library. This facility is envisioned to be fully equipped with advanced educational resources and amenities, catering to the academic and research needs of both female and male students. The Chairman's duties will include, but not be limited to, ensuring that the library provides a comprehensive range of services, such as access to a vast collection of books, digital media, study spaces, technology labs, and research support, all designed to foster an environment conducive to learning and intellectual growth.

15. The execution of this project is to be carried out with the highest standards of administrative oversight, ensuring that the transition from commercial shops to an educational edifice is seamless and reflective of the community's aspirations for educational excellence and accessibility. The Chairman's role in this endeavor will be significant in actualizing the vision of a library that not only serves the immediate needs of the community but also stands as a beacon of knowledge and learning for future generations.

16. The Deputy Commissioner of Ghotki is hereby directed to submit a comprehensive record of all libraries, in accordance with paragraph 11 of the order passed on 15th March 2023.

17. The Secretary, Culture Department is directed to transform the Lansdowne Bridge into a site of public interest, facilitating tourist access and providing comprehensive amenities. This shall include the establishment of archive museum and history of Lansdowne Bridge museum, alongside an information desks with historical value material, and offer study tours to students of schools and colleges. The bridge's historical significance shall also be integrated into the academic

curriculum by the Education Department in order to enlighten students on the ancient heritage and historical narrative of Sindh Province.

18. In pursuance of the directives issued in suo moto case relating to the miserable condition of Schools, reported as (2014 SCMR 396), learned District & Sessions Judge Sanghar shall direct a Magistrate to conduct an inspection of the Girls High School Goth Banko Chaniho, Taluka Khipro. This inspection will involve summoning of all relevant officials/officers and compiling of a report that assesses the current operational status of the school.

19. Further a State of art School building of Higher Secondary School at Chondko Town (*approximately 80,000 population*) in Naro Taulka (*approximately 352,000 population*) having hostel for 400 students and a separate Teachers Hostel was built by EOBI in the year 2015 and it was handed over to SESSI, Labour Department, Government of Sindh, which is from the first day of its completion is not functional. Accordingly, such building shall be taken over by the Secretary College Education Department after completing all legal and codal formalities and shall ensure that SNE is approved and the facility at the door step education is provided in the far-flung area of the desert (*Achro Thar*). Alternatively, in case of any legal impediment, in that eventuality, Labour Department shall establish a degree college on public private scheme/partnership scheme with the affiliation of IBA Sukkur/Karachi and/or Aga Khan University.

20. The show-cause notice issued to the Commissioner Hyderabad is hereby vacated. However, a cautionary note is issued, advising vigilance in future undertakings.

21. The learned Additional MIT-II is tasked with ensuring strict compliance of the judgment dated 25th January 2024 passed by this Court in Constitution Petition No.D-84/2023 at Sukkur as well as the stipulations of this order.

22. Being part heard, instant petition is adjourned to **13th August 2024**. The office is directed to bifurcate the compliance reports into a distinct file, which shall be presented in conjunction with the second appeal.

JUDGE