

ORDER SHEET
THE HIGH COURT OF SINDH AT KARACHI

CP.No.D-1910 of 2024

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

Present: **Mr. Justice Salahuddin Panhwar**
Mr. Justice Amjad Ali Sahito

For hearing of main case.

11th September 2024

Mr. Suhail Latif Memon and Ghulam Rasool Soho, Advocates for the
Petitioner.

Mr. Muhammad Qasim, DAG.

Mr. Akhtar Ali Mastoi, Advocate for Land Utilization Department.

Mr. Shahryar Mehar, AAG.

Mr. Ashraf Ali Mirani, Law Officer alongwith Abdul Talah Sheikh,
Director General Antiquities, Zahid Abbas Akhund Director Culture.

Mr. Farrukh Shahzad Qureshi, Chief Administration Auqaf along
with Muhammad Kashif Siddiqui, Director (A&A) Auqaf, Religious
Affairs, Zakat &Ushr Department.

Mr. Khurram Ghayas, Advocate for SMPA along with Jamil Abidi,
Focal Person SMPA

Salahuddin Panhwar, J. Pursuant to this Court's **orders** dated 22.07.2024,
09.05.2024, 07.08.2024 and 26.08.2024, Chief **Administrator Auqaf**,
Hyderabad, Sindh has submitted a *report* in the shape of a **booklet**
providing complete *details* of the **properties** under the *control* of **Auqaf**
Department, including **agricultural lands** and **commercial** properties. The
booklet also provides details of the dates of **festivals** (Urs).

2. In the similar manner, the **Secretary**/Senior Member, Board of
Revenue has *filed* **compliance** statement, taken on *record*, along with the
statement, a **Notification** is also appended, issued by the **Chief** Secretary,

Province of Sindh, whereby a **committee** has been *constituted* for the purpose of **demarcation** and mutation, of all **heritage properties**, the notification further reads as under:-

- "i. To ensure demarcation and mutation of all heritage public properties falling within Sindh under Ancient Monument and Preservation Act, 1904 and Antiquities Act and Heritage Act, 1994 as per government prescribed policy/procedure.*
- ii. To complete the exercise within a period of 60 days positively."*

3. Besides, learned **Additional MIT-II**, has also submitted a **compliance** report which *includes* documents regarding **budget allocation** under the **Charitable Endowment Act 1890**.

4. In view of the above, as the **committee** is headed by the Senior **Member**, Board of Revenue, Sindh, this Court *expects* from a senior officer of revenue department, that, he shall **ensure** strict **compliance** of this Court's earlier **orders** in *letter* and *spirit*, regarding the **demarcation** and mutation of the public **properties**, falling explicitly within the **domain** and authority of the said committee, as per its **TORs** jotted down in the said **notification** within the *stipulated* timeline provided therein. Needless to mention here, that apart from the *properties* referred above, the elsewhere public properties, which under the **control** and *domain* of **Culture Department**, which are otherwise not disputed in any manner whatsoever, and where the *demarcation* is not required at all, shall be **mutated** forthwith, without wasting of further loss of time in accordance with the law. As far as the properties, where there are some *disputes*, raised by any **individual** or even by any government department, whether provincial or federal, over the *boundaries* of such alleged **disputed** public properties, through any nature of proceedings before any legal forum, the **demarcations** be carried out and subsequently the **mutations** shall be recorded immediately without any delay. However, regarding those public **properties**, which are admittedly and *exclusively* falling under the control and authority of **administrative** department, for which no exercise as referred above is

required, a detailed **report** *exclusively* in respect of those **properties** shall be **submitted within a period of month positively without fail.**

5. **Chief Administrator, Auqaf**, has submitted a *report* which reflects the details of lands. Further, it has also come on record that majority of (*property*) land belonging to **Auqaf** Department, is not entered in the *revenue record* of rights, in such a scenario, the Auqaf Department is **directed**, to ensure the mutations entries are recorded in their favour, for this purpose they shall approach the respective **Deputy Commissioners**, in whose jurisdiction such property *squarely* falls, who shall ensure mutations entries are recorded in accordance with law, after receiving **complete** record without any *delay* and such **report** shall also be filed through the Senior Member Board of Revenue who shall personally pursue the same. During the hearing of the proceedings, it has also *transpired* regrettably, that there is no mechanism provided in the relevant **scheme** of law, for the purpose of *transparently disposing* or deciding the fate of properties through **open auction**, rather the powers have been given to District Committees to decide their fate. Furthermore, there is also *no concept* of **valuation** of lease/tenancy in relevant law and rules. Therefore, the **rate** assessment *exercise* is pivotal and a condition precedent for all the *properties*, including the **agricultural** and commercial properties, through **third party** is to be carried out. It is further **ordered** that, from now (*from the date of present order*) onwards, only **open auction proceedings**, shall be carried out by **advertising**, through three widely published (*abc-certified*) leading **newspapers**, enabling the interested persons to participate, in healthy and transparent *auction/lease/tenancy* process, subsequent to above referred rate *assessments* through third party, keeping in view *firstly* the Government/DC rates of the land for levying taxes, *secondly* market value whichever is higher.

6. Regarding the endowment fund, it is submitted by concerned respondents, that **summary** in this regard has been moved and **endowment funds** will be established under the **Waqf scheme of Laws** within the **jurisdiction**, where such land/property is *situated* and dedicated for a

specific purpose. It is pertinent to mention here, that the report which is submitted, lacks the details regarding the dedication/*reservation* of more than **10,000 acres** of agricultural land specifically, whether it is *dedicated* for the **educational** purposes or for the **maintenance** of shrines. Accordingly, the Secretary Auqaf Department, shall submit a **compliance** report with **details** of accounts, and **Waqf Deed** shall be registered for the properties that were donated/dedicated by various *philanthropists* for the intended purpose.

7. **Secretary, Culture, Tourism, Antiquities & Archives Department, Government of Sindh**, has also filed a **compliance report** with regard to the Endowment Fund for the preservation and conservation of Archaeological & Heritage Buildings/sites, stating therein that funds amounting to **Rs.250.00 million** are required to be released during the current *financial* year **2024-25**, and the *remaining* amount of **Rs.250.00 million** will be released during the next financial year **2025-26**. Accordingly, the Finance Department shall provide **guidelines** to all the Deputy Commissioners and respective authorities of the **Waqf Department**, regarding the creation of an endowment fund account and the registration of Waqf deeds *respectively*.

8. It has come on record that **Auqaf Department** is awarding public **contracts** for providing services for keeping the **shoes** of visitors at *shrines* under its control; however, such a practice is not available within the existing laws *dealing* with the subject matter. At this juncture, it is relevant to mention that while *examining* the details of **shrines**, that various shrines of prominent personalities like Shah Abdul Latif **Bhitai**, Sachal **Sarmast**, Abdul Rahim **Ghirhori** (Mangrio), Shah Abdul Karim Bulri, Shah Inayat Shaheed, and Bedil Bekus, *admittedly*, they were *Sufis* and *poets*, therefore, the question arises, whether there shall be a policy that *every visitor/disciple* shall visit barefoot, when, *admittedly*, even at the shrine of Moulana Jalaluddin Rumi, who was also a Sufi and poet, there is no such concept of visiting unshod for visitors and followers. Even Shah Inayat Shaheed was a revolutionary, and he was maltreated in a fight against big landlords and usurers, under the slogan "*Jo Kherray so Khaey*" (Sindhi: جو ڪي ڀڙي جو ڪو)

ك ل ا ي) (means the one who ploughs has the foremost right on the yield) as he **physically** cultivated the land, claiming his rightful entitlement to keep possession of the land.

9. Even otherwise, in the Province of Sindh, where temperatures can soar up to **50 degrees Celsius**, walking without shoes can become *unbearable* and even dangerous due to the scorching hot grounds, that cause discomfort or burns on the feet, particularly during the **summer** months. This poses significant challenges for *followers, researchers, and students* visiting shrines, as many may have medical conditions, disabilities, or simply find it uncomfortable to walk barefoot or in socks. Instead, the policy of shoes keeping should be formed more selectively, such as in holy places like Masjids or strictly sacred spaces, while being relaxed in places of cultural and literary significance. The teachings of Sufi saints and *revolutionary poets*, such as Moulana Jalaluddin **Rumi** and **Shah Inayat Shaheed**, do not explicitly mandate the establishing shrines and visit shoeless. In fact, the Sufi tradition emphasizes humility, *spiritual contemplation*, and the internal journey of the seeker, rather than enforcing specific outward practices. Similarly, the works of revolutionary poets like **Rumi**, which is largely focused on *cultivating* the *inner transformation, compassion, and a connection* with the **divine**, rather than prescribing specific conduct or behaviours. It is essential to recognize that the *practice* of removing **shoes** at **shrines** in Sindh is rooted in local and **cultural** traditions, customs or norms, rather than being a direct directive from the teachings of Sufism or influential literary figures. While some interpret this **custom as a sign of respect**, yet the same is not universally mandated or enforced by the spiritual and intellectual legacies of the region instead of maintaining cleanness. In reality, the *fluidity* and *inclusiveness* inherent in **Sufi** and revolutionary poetic traditions encourage an *open-minded* approach, allowing individuals to **engage** with the *sacred* in their own authentic ways, without rigid **adherence** to prescribed conduct or behaviours. Therefore, the decision to remove shoes when visiting shrines in Sindh should be viewed as a voluntary, culturally-rooted practice, rather than an obligation stemming from the explicit teachings of Sufi saints or

influential poets. Nonetheless, the **focus** should *remain* on the essence of the spiritual journey and the *sincere connection* with the divine, rather than the *enforcement* of external rituals, customized in the modern days to illegally benefit a few.

10. Thusly **shoe-storage** service contracts at the shrines shall be *revisited*, as common visitors cannot be *penalized* for the purpose of revenue generation, especially when thousands of **acres** are already *dedicated* for **those shrines**, and there is recurring budget allocation each year specifically reserved by the Government of Sindh for maintenance of the shrines. The **Auqaf** Department shall devise a **mechanism** and also *define* a **policy** regarding facilitation of the visitors with or without shoes categorizing the places for *removal* of shoes holy places i.e Masjids etc, keeping in view **cleanness** and of these **places**.

11. Adverting to the lis, an earlier **report** was *submitted* by the **Auqaf, Religious Affairs, Zakat & Ushr Department**, stating therein that there is a **summary** for the *provision* of **funds** for two schemes, namely: the *construction* and *establishment* of **academies** at Dargah Bedil Bekus Rohri, District Sukkur and Dargah Sufi Shah Inayat Shaheed Jhok Sharif District Sujjawal, as well as the reconstruction of Shah Waliullah Academy at Jamia Masjid Saddar Hyderabad. Accordingly, the Secretary of the **Auqaf** Department shall pursue the same and submit the progress **report** and present status of the construction and *establishment* of **academies** on the proposed places accordingly.

The learned Additional MIT-II shall ensure compliance of the directions passed by this Court in the above petition.

To come up on 14.10.2024 at 10:00 a.m.

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