

ORDER SHEET
IN THE HIGH COURT OF SINDH,
CIRCUIT COURT, HYDERABAD

C.P No.D-834 of 2011

DATE	ORDER WITH SIGNATURE OF JUDGE
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| 1. For hearing of MA 4685/11
2. For hearing of MA 6990/12
3. For hearing of main case | |
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21.08.2019.

Mr. Jagdish R. Mullani, Advocate for petitioner.

Mr. Allah Bachayo Soomro, A.A.G.

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Petitioner is resident of village Waoiri Rahiman Para, Khanghar, Taluka and District Umerkot. His case is that in his village or in the surrounding area no High School or Middle School exists for children. But due to efforts of villagers, Director School Education, Mirpurkhas accorded necessary permission vide a letter dated 04.09.1995, for opening of a Middle School known as Haji Umar-ud-din Pao Haji Umar-ud-din Khanghar Village Wavri Rahuman (Anopani) Taluka Umerkot to be constructed in the village of the petitioner. However, there are people in a rival group residing in a nearby village known as Khanghar Umer Anupani who used different tactics for either preventing opening of the said school or at least shifting its location to some other place, and succeeded to get the impugned Notification dated 24.03.2009 issued changing name and location of said school from GBMS Khanghar Umer Anupani Taluka Umerkot to GBMS Wavri Rahimoon Deh Doodar U/C Khokhrapar Taluka Umerkot to be constructed in Deh Doodar U.C Khokhrapar. Petitioner made efforts for cancellation of said notification and restoration of the location of said school to the same place but in vain. Hence this petition.

Learned Counsel for petitioner has argued that the location and name of the subject school have been changed on account of political considerations in order to deprive the children of the village of the petitioner from getting higher education, which is against their fundamental right guaranteed under Article 25A of the Constitution of Islamic Republic of Pakistan, 1973.

On the other hand learned Additional Advocate General Sindh has referred to the comments of respondents and a letter dated 17.05.2019 issued by Deputy Director (C-I), Planning, Development & Research, School Education and Literacy Department, Government of Sindh, reflecting that the change in

location and name of the school from GBMS Khanghar Umer Anupani Taluka Umerkot to GBMS Wavori Rahimoon, Deh Doodar, UC Khokharapar was made due to non-availability of a suitable Plot free of cost at sanctioned place and under the recommendations of the then Minister (Low Cost Housing and H.R), Government of Sindh Karachi which was duly endorsed by Chief Minister Sindh vide order dated 27.11.2008 after it was processed by Planning & Development Department, Education and Literacy Department, Government of Sindh on the aforesaid ground. Learned Additional Advocate General Sindh has also filed comments of Deputy Commissioner, Umerkot vide his statement dated 07.05.2019, which depict that after change of location of the scheme, in order to execute the civil work on the site, the tenders were invited on 07.04.2009, and after due formalities the contract was awarded to M/s Muhammad Ghulam Muhammad Samejo vide letter dated 27.05.2009. Thereafter work started on the site and the building up to roof level was completed however the remaining work could not be carried out on account of pendency of this petition. The comments further reflect that an amount of Rs.1.025 Million has already been paid to the said contractor against the work done. The Deputy Commissioner has further reported that both the villages i.e Wavori Rahimoon and Umer Khanghar are adjoining villages having 400 houses with population estimated to be about 1500 to 2000. In both the villages two separate Primary Schools with two rooms each are functioning with an enrolment around 100 students in each school. The new Middle School building under construction is at a distance of 500 meters from each village which can be covered by five minutes' walk from both the villages. He has further reported that there is an issue of ego between the people of both villages over the construction of school building.

The aforesaid comments portray sufficiently position of the controversy in hand that it is only an ego problem between the villagers of two nearby villages which has hampered for many years construction of the school already built up to the roof level and upon which an amount of Rs.1.025 Million has already been spent. The proposed school is situated at a distance of 500 meters from each village that requires only five minutes' walk to reach it by the children of both the villages which include the village of petitioner. In the circumstances no fundamental right of the petitioner to get education seems to have been infringed to justify adjudication of the issue by this court under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973. The change of name and location has been properly explained by the respondents, which was due to non-availability of the required space free of cost at initially sanctioned place.

It may further be added that impugned notification is not only in respect of change of the subject school but there are other items of like nature in respect

of other schools wherein some change has been notified in the said notification. Therefore, the argument of learned Counsel that on account of political considerations the location and name of the subject school have been changed from petitioner's village to the adjoining village is not sustainable. We, therefore, see no merits in the instant petition for the relief as prayed for and dismiss it along with listed applications.

Before parting with this order, we direct the respondents to complete the construction work of the subject school expeditiously preferably within six months from today and make it functional during said period and submit such compliance report.

JUDGE

JUDGE