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THE HIGH COURT OF SINDH AT KARACHI

No.: 1031/MIT-II/C.P. No. S-251/2019

Dated: 08-06-2024

From:

Member Inspection Team – II,
High Court of Sindh, Karachi.

To,

All the learned District and Sessions Judges in Sindh.

SUBJECT: CONSTITUTIONAL PETITION NO. S-251/2019

**REF. : Letter No. 879/MIT-II Dated 16-05-2024 on the subject
“REPORT REGARDING CEILING COLLAPSES
INCIDENT AT GOVERNMENT GIRLS LOWER
SECONDARY SCHOOL, TELEGRAPH WORKSHOP,
KOTRI, DISTRICT JAMSHORO” (copy attached).**

I am sending copy of order dated 06-06-2024 passed by this Hon’ble Court in subject petition for compliance. Relevant portion of Para-3 of the said order is reproduced for sake of convenience:-

“The learned counsel representing the Intervenor asserts that, despite two First Information Reports (FIRs) being lodged against the incumbent engineers, the construction of the school buildings predates their appointment. He implores the Court to amend Paragraphs 6 and 7 of the Order dated 11th December 2023. It is his contention that the FIRs ought to be registered against the engineer(s) who oversaw the construction, which was concluded within the preceding five years. The contention raised by the learned counsel appears to be well-founded. Accordingly, the Order dated 11th December 2023 is modified as follows:-

“The delinquent officers who were posted during the construction period are to be held responsible and shall be arraigned in the relevant cases/ offences. In light of these developments, the Investigating Officer (I.O.) or the trial court are empowered to exonerate any such officers from culpability, provided they are determined to be uninvolved in the perpetration of the offence.”

You are, therefore, required to ensure compliance of the above order.



(SADAF KHOKHAR)
Member Inspection Team-II

Enclosed as above.

HIGH COURT OF SINDH, KARACHI

Phone No.021- 99203220

Fax No. 021-99203221

No. 819/MIT-II

Dated: 16-05-2024

All
communication
should be
addressed to the
REGISTRAR
High Court of
Sindh, Karachi
and not to any
official by name

From:
The Registrar,
High Court of Sindh,
Karachi

To,
The learned District and Sessions Judges in all districts of Sindh.

SUBJECT: REPORT REGARDING CEILING COLLAPSES INCIDENT AT GOVERNMENT GIRLS LOWER SECONDARY SCHOOL TELEGRAPH WORKSHOP, KOTRI, DISTRICT JAMSHORO.

I am directed to communicate a copy order dated 11-12-2023 passed by this Hon'ble Court in C.P. No. S-251/2019 for ensuring strict compliance.

Accordingly, a copy of order dated 11-12-2023 passed in C.P. No. S-251/2019 is attached herewith and the relevant portion of paragraphs 6 and 7 are reproduced as under:-

6. This state of affairs requires judicial interference in cases where, due to negligence in the construction work, if any kid receives any injury in the buildings of middle, High and Higher Secondary Schools, there shall be a criminal case against the respective Executive Engineer as well as the Contractor on behalf of the State, with the concurrence of the HM/ Principal with the condition that if the building is collapsed and partially damaged within ten years of handing over the criminal case shall be filed against the contractor and Executive Engineer Education Works both and in case if building is old in that case the criminal case is filed against Executive Engineer works of that district as he failed to get it maintained within time. The cases should be registered for the offences in accordance with the nature and gravity of the injuries sustained by the kids, teachers or staff members due to full and partial collapse of Middle, High and Higher Secondary School(s) buildings besides the offense relating to negligence and mischief against the delinquent contracts/ executive engineers as mentioned above.

7. Hence, IGP Sindh shall direct all SSPs for lodgment of cases whenever an incident is flashed in newspapers and/or reported to them by any source. Simultaneously, learned District & Sessions Judge(s) shall also ensure that in such cases all delinquents are booked under the Pakistan Penal Code, as no one can be allowed to create such atmosphere in the schools, where the students are studying, which are running either in public sector / state-owned buildings, having involvement of huge funds, despite that such types of incidents occur.

You are requested to ensure compliance accordingly.



(SUHAIL MUHAMMAD LAGHARI)
REGISTRAR

Enclosed as above

- Copy forwarded to the learned District and Sessions Judge, Jamshoro with reference to letter No. Admin/2161 of 2024 dated 22-04-2024 on the above subject.

3328
08.06.24

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI
CP.No.S-251 of 2019

Date Order with signature of Judge

For directions

1. For orders on MA No. 5114 of 2024 (U/O 1 rule 10 application filed by Intervener in person.
2. For orders on MA No. 7960 of 2022.
3. For hearing of main case.

Date of hearing: 30th May 2024

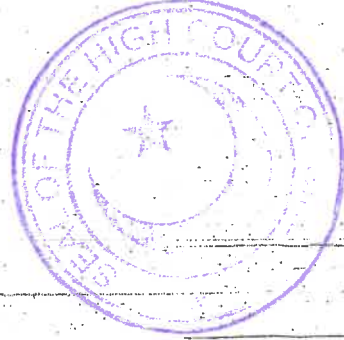
Date of order: 06th June 2024.

Mr. Ishrat Ali Lohar advocate for Intervener No.1 & Attorney of No.2 to 15
Mr. Suresh Kumar A.G. Sindh
Mr. Jaaved Ahmed, Additional Secretary Finance, (B&E) Finance Department Government of Sindh.
Mr. Sikandar Hasan, Deputy Secretary [Legal] Finance Department.
Mr. Jawed Ali Khuwaja, Deputy Secretary, Law & SE&LD)
Prof. Zahid Hussain Hulio and Prof. Muhammad Jameel Qureshi,
Interveners.

ORDER

Salahuddin Panhwar, I:- Pursuant to order dated 20.05.2024 respective officials are present. Additional Secretary, Finance present submits compliance report, same is taken on record, containing therein that they approved reshuffling of 3848 posts of subject specialist as per requirement/demand of Education Department and will be flashed in up-coming budget. Besides, he contends that around 18000 Posts of teaching and non-teaching have been approved and same will be flashed in upcoming budget whereby 11000 posts pertaining to teaching faculty and residue with the non-teaching staff. It has further come on record that 56000 seats are vacant in School Education Department which are yet to be filled. In view of this report show cause notice is hereby recalled. The personal attendance of Secretary, Finance Department is dispensed with.

2. Secretary Education is hereby directed to complete merit list of the candidates having secured plus 40 marks for appointment; however, with regard to marks on Bed or expertise, verification of documents shall be mandatory, in case on the basis fake documents / marks are added criminal case will be registered against candidate and District Recruitment Committee (DRC) members. This exercise shall be completed within a three months period. Thereafter new recruitments shall be made within six months through any.



[Handwritten signature]

Received Order 08.06.24

reputable third-party testing agency. Eight thousand posts are vacant and seven thousand will be added in upcoming budget, however, due to stay proceedings same could not be done.

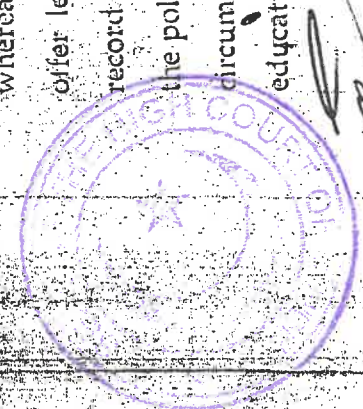
3. The learned counsel for the Intervenor has submitted an application pursuant to Order I, Rule 10 of the Civil Procedure Code (CPC) in duplicate. The said application has been duly taken on record, as the original application appears to be missing from the case file as per contention of the learned counsel. The Office is directed to allocate a CMA number to this application. The learned counsel representing the Intervenor asserts that, despite two First Information Reports (FIRs) being lodged against the incumbent engineers, the construction of the school buildings predates their appointment. He implores the Court to amend Paragraphs 6 and 7 of the Order dated 11th December 2023. It is his contention that the FIRs ought to be registered against the engineer(s) who oversaw the construction, which was concluded within the preceding five years. The contention raised by the learned counsel appears to be well-founded.

Accordingly, the Order dated 11th December 2023 is modified as follows:

The delinquent officers who were posted during the construction period are to be held responsible and shall be arraigned in the relevant cases/offences. In light of these developments, the Investigating Officer (I.O.) or the trial court are empowered to exonerate any such officers from culpability, provided they are determined to be uninvolved in the perpetration of the offence.

4. At this juncture it has come on record that some portion of budget of education department is under the committee headed by Deputy Commissioner and Deputy Commissioners have no interest to release the relevant budget. Accordingly, Secretary School shall submit reasonable proposal by minimizing or excluding the role of Deputy Commissioner with the consultation of relevant department on next date.

5. This Court directed that as per offer letter all subjects/pecialists shall be posted in their respective district of appointment. categorical directions were given that policy shall be at par of college department which provides five years whereas, offer of School Education Department provide one year. Despite of that offer letter candidate is to be appointed in his native district. It has come on record that earlier Notifications are modified and they have been shifted to the policy even out of the district by accommodation. The learned Counsel has argued that in such circumstances, all subsequent modified notification against the policy of education department except adjacent district and suitability are hereby



suspended. Issue show cause notice against the Secretary, School Education as to why contempt proceedings shall not be initiated against him. He shall ensure that policy shall be framed in view of order of this Court; however, till then, in view of one year policy all candidates shall be posted in their native district. In case of failure his action will be considered pejorative liable to be action. Record shall be placed with regard to earlier notification of posting of all candidates and modified Notifications with justification on next date.

6. In accordance with the terms and conditions outlined in the offer letter and policy, all modifications related to serving the same area for a period of one year are hereby stayed. This suspension applies to any changes or adjustments previously proposed or implemented.

Action Steps:

- **Committee Formation:** The Chief Secretary shall promptly constitute a committee to address any instance of non-compliance or deviations from the original terms. This committee will specifically focus on identifying and rectifying any violations within the stipulated fifteen-day period.
- **Delinquency Investigation:** If the committee identifies any delinquencies or breaches, the matter will be referred to the Chairman of the Anti-Corruption Commission for further investigation. The Chairman will oversee a thorough probe to ensure transparency and accountability.
- **Education Restoration:** Recognizing the importance of education in schools, a division-level committee will be formed. This committee will operate under the supervision of the directors who have firsthand knowledge of the field. Their recommendations will guide all personnel postings and transfers. It is essential to prioritize the restoration of educational services.
- **Bypassing Recommendations:** The Secretary, while competent in his role, will not have the authority to bypass the recommendations put forth by the field experts. All decisions regarding postings and related matters must align with the Committee's recommendations.

7. In the absence of any representation on behalf of STEVTA, the College, and the University, repeat order dated 20.05.2024 as well as this order to the Managing Director (M.D.) and the Secretary Borad and University for compliance.

8. Compliance report filed by Secretary to Government of Sindh, School Education & Literacy Department is taken on record. **Adjourned to 11.06.2024 to be taken up at 11:30 a.m.** Learned MIT-II shall ensure compliance of this order.

Certified to be true copy,



Assistant Registrar (Civil / Writ SB)

Constitutional Petition No. S-251 of 2019

Copy is forwarded for information and compliance to:

- The Chief Secretary, Government of Sindh, Karachi
- The Learned MIT-II of this Court
- The District & Sessions Judges Sindh (ALL)
- The Secretary School Education & Literacy Department, Government of Sindh, Karachi
- The Secretary School Education Department, Government of Sindh, Karachi
- The Secretary, Board and Universities, Government of Sindh, Karachi
- The Inspector General of Police, Sindh, Karachi
- The Managing Director, Sindh Technical Education and Vocational Training Authority (STEVTA), Government of Sindh, Karachi

Sd/- SALAHUDDIN PANHWAR
JUDGE

Karachi dated: 7th June, 2024


(ABDUL RASTINEH BALOCH)

Assistant Registrar (Civil/Writ SB)

MIT-II

IN THE HIGH COURT OF SINDH AT KARACHI

Const. Petition No. S- 251/2019

U.K. Educational Society
Having its registered office at
C-63, Federal B Area,
Karachi

AND

Building bearing No. I-J, 45/10,
Muslim League Quarters
Nazimabad No. 1 Karachi
Through its President
Mrs. Farida Fasihi
W/O Ziauddin Fasihi
Muslim, adult, resident of
C-228/1, Block-6,
Federal B Area
Karachi

Petitioner

Versus

1. IIIrd Additional District & Sessions Judge
Karachi (Central)

2. XII Senior Civil Judge & Rent Controller
Karachi (Central)

3. All Pakistan Educational conference
Having office at I-J/45/10,
Muslim League Quarters
Through its Honorary Secretary
Syed Mustafa Ali Bareilvi
S/O Late Syed Ashfaq Ali,
Muslim, adult, resident of
280, Usmania Colony B-Road
Nazimabad
Karachi

Respondents

PETITION UNDER ARTICLE 199 OF THE
CONSTITUTION OF PAKISTAN, 1973

Arfa Khan

