

Judgment Sheet
IN THE HIGH COURT OF SINDH BENCH AT SUKKUR
C.P. No.D-84 of 2023

Date	Order with signature of Judge
------	-------------------------------

Before:

Mr. Justice **Salahuddin Panhwar, J**
Mr. Justice **Abdul Mobeen Lakho, J**

Petitioner Pervaiz Ali: In Person

Amicus Curie: M/s. Sohail Ahmed Khso and
Muhammad Raza Soomro

Province of Sindh through: M/s. Ali Raza Balouch, Shahryar Imdad Awan and Zahid Farooq Mazari, AAGs alongwith Pervaiz Ahmed, Additional Secretary (Education), Piyar Ali Lakho, Deputy Secretary Schools, Dr. Fozia Khan, Chief Advisor, Curriculum Wing, Government of Sindh, Piyaro Khan Sehran, Director Curriculum Assessment and Research Sindh Jamshoro, Junaid Samoo, Chief Program Manager, RSU, Ms. Abida Lodhi, Special Secretary Schools, Javed Ali Khawaja, Deputy Secretary Schools, Naseer Ahmed Jogi, Additional Director, Mirpurkhas Miss. Farzana Riaz, DSE (ES&HS), Karachi

Date of hearing(s): **28.02.2023, 01.03.2023 & 14.03.2023**
Date of Judgment: **25.01.2024.**

JUDGMENT

Salahuddin Panhwar, J.-

"Education" is the Movement from Darkness to Light "Allan Bloom"

This *Court*, in exercise of *jurisdiction* bestowed under Article 199 of the Constitution of 1973, or while exercising Civil original or appellate jurisdiction, has repeatedly been *hammering* this issue by rendering a number of judgments, borne of *legal, purposeful* and *meaningful deliberations*, which have shaped the legal *landscape* concerning education in the province, with a specific focus on *rural* and the *underprivileged* people and areas. This present judgment stands as a *compilation*, drawing from the *wellspring of decisions* delivered by this *Court*, each contributing to the overarching mission of uplifting the education sector, particularly addressing the poignant issue of closed schools in the province and education as a whole, which would

eventually pave the way for a prosperous future for generations. The *legal journey* begins with a resounding commitment to *equal educational opportunities* for all, irrespective of *geographical location* or *socio-economic status*. The Bench, echoing *sentiments* from *landmark judgments*, to be discussed *herein below*, has consistently reaffirmed that *education is not a privilege reserved for urban centers, but an inalienable right*, that, must permeate even to the remotest corners of Province of Sindh.

2. By this judgment, we intend to decide captioned petition wherein petitioner **Pervaiz Ali Khaskheli** claimed that running Government Boys Primary School Pandhi Khan Khaskheli, bearing **SEMIS** Code 416030034, has been deleted from the database by the concerned Department; besides, **bio-metric** attendance of the only teacher posted at that school has been changed without *informing* him. Hence, he prayed that this court may direct the respondents to **restore** that running school and make *corrections* in **bio-metric** attendance of teachers posted there so that children may not be deprived of from their basic right and their future can be saved.

PROCEEDINGS OF THE PETITION

3. Before proceeding further, it is essential to reproduce order dated 01-03-2023 passed in C.P.No.D-84 of 2023, same is reproduced herewith;

"Pursuant to order dated 28.02.2023, Chief Advisor, Curriculum Wing, present contends that after review committee meetings to adopt single curriculum, they have approved Mathematics, English, General Science and Computer Science and such summary has been approved by Worthy Chief Minister, Sindh. Accordingly, that shall be applied from the academic year 2024-2025, positively. Chairman, Sindh Text Book Board, shall ensure printing of books. In case of failure, that act will be considered as pejorative act liable to be initiated under contempt proceedings.

With regard to SNE(s), it has come on record that thousands seats of teachers are yet lying vacant. According to Special Secretary (Education), he has submitted tabular form at Serial No.1 & 3, which is Primary School Teachers and Junior Elementary School Teachers and in this regard it is asserted that they have advertised in twenty (20) Talukas for fresh recruitment and such process will be completed preferably within three months.

With regard to Column No.2 & 4, Special Secretary (Education) contends that they submitted requisition to the Sindh Public Service Commission (SPSC) for appointment; however such requisition was required to be updated by adding the rest of seats which are around 2300. Accordingly, such requisition be sent within a week to Sindh Public Service Commission (SPSC), who shall ensure that all requirements in Education department are completed within three

months within same spirit as decided by this Court in 2ndAppeal No.32 of 2017.

With regard to Column No.8 & 9, Special Secretary (Education) contends that due to pendency of lis, such posts are not fulfilled; however the lis attained its finality and in view of observation of Apex Court, the committee shall hear the applicants and in case, they are qualified, they shall be accommodated. According to him, that list was consisted upon 1037 candidates and out of 1037 candidates, they have appointed 196 candidates as genuine and they have been appointed, rest of them have been declared as fake. Accordingly, posts of Early Childhood Teacher (ECT) and other cadre teachers shall be fulfilled through fresh advertisement within three months through 3rd party testing agency up to grade-15 and rest of appointments shall be made through Sindh Public Service Commission (SPSC) in similar way.

Further in compliance of above referred order, Directors of all regions are present. They have submitted that there is 3rd component, structure in high and higher secondary schools; however, that is to be reorganized by the Education department. According to Director (Schools), Sukkur, there are 165 posts of Agro Technical, Workshop Instructors, Commerce Instructors, Assistant Workshop Instructors and that posts are of the grade-10 to 17; in Larkana Region, 102 posts are lying vacant as total sanctioned posts are 326 and rest are lying vacant. In Karachi Division, total sanctioned posts are 117 wherefrom 56 are lying vacant. In Mirpurkhas Division, total sanctioned posts are 179, whereas, 49 are still lying vacant; in Shaheed Benazirabad 142 posts are lying and in Hyderabad 128 posts are sanctioned; however out of them, 46 instructors are working whereas rest of same are vacant.

On query, it has come on record that despite of that third component showing in academic record of marksheets of Matric and Intermediate, this component is without syllabus since its inception.

Chief Advisor, Curriculum Wing, Government of Sindh present contends that this issue was raised by Secretary (Education and Literacy Department), Government of Sindh and in this regard she has submitted they communicated with STEVTA with regard to their expertise and she submitted curriculum. We have examined the same. According to curriculum offered by STEVTA, existing posts in Education department are not applicable and those appointments cannot be part of education course as provided by STEVTA.

This Court takes judicial notice of this alarming situation when admittedly in more than thousand schools, workshops are available as well instructors but that component is without syllabus hence how they can part education.

At this juncture, Chief Advisor, Curriculum Wing, contends that STEVTA provides course with regard to internet of things and that aspect covers digital education, hence that can be adopted in all high and higher secondary schools with fresh recruitment on sanctioned posts as well as to provide computer labs at the places of workshops. Accordingly, Secretary (Education and Literacy Department) shall form a committee and that shall include Mr. Muhammad Memon, Ex-Chairman, Hyderabad Board, Mr. Piyar Ali Lakho, Additional Secretary (Education Department), Dr. Fozia Khan, Chief Advisor, Curriculum Wing, Government of Sindh and Piyaro Khan, Director

Curriculum Wing and they would be competent to nominate their members if required and that committee shall submit mechanism with regard to 3rd component within ten (10) days.

With regard to closed/deleted schools, inspection was carried out. Being relevant, paragraph-1 is reproduced as under:-

"Director Education Officer, Larkana Region, in his report contends that there are 636 schools were declared non-viable; however, out of them, 322 schools are viable and they have opened 59 schools. In similar way, Director (Primary) Sukkur provides details of 13 declared closed/deleted schools and undertakes that such schools will be opened at an earliest without fail. Besides, Director (Primary) Hyderabad, in his statement annexed with certain documents, contends that there are 1263 schools were declared as non-viable, out of them 242 schools have been opened; however rest of 319 schools will be opened. DEO Sanghar, in his statement, contends that there are 479 schools are closed; however they have opened 78 schools and rest of schools will be opened immediately. DEO Naushahro Feroze contends that there are 325 schools are non-viable; however they have opened 145 schools and rest of them will be opened soon. These all exercises regarding opening/make viable of schools shall be completed within a period of two months, positively; however subject to availability of SNE(s). In case of failure, contempt proceedings would be initiated against delinquent officer (s)".

It is further agitated by learned Counsel for the Petitioners, they found that there was non-availability of buildings and teachers, though big numbers of students were available. In these circumstances, we have no option but to direct District and Sessions Judge(s), who will depute Magistrate(s) and direct them to visit all closed/ deleted schools along with DEOs (Primary) and submit report in terms that:-

- (i) Whether closed schools were within vicinity and having sufficient facility of school easy access to them
- (ii) Whether schools are closed due to non-availability of teachers.
- (iii) Whether closed/ deleted schools were justified to be closed by the Education department due to SNE(s) issues;
- (iv) Magistrate(s) would be competent to call Directors (Education), TEO to conduct such exercise.

Needless to mention that this exercise shall be completed within ten (10) days and accordingly submit report before this Court through Additional Registrar. It is pertinent to mention that learned Magistrate(s) shall respect teacher(s) and this exercise shall b completed while maintaining dignity of teaching profession. Learned AR of this Court shall ensure compliance.

Adjourned; to come up on 14.03.2023; to be taken up at 09:30 a.m., when Director General Monitoring and Evaluation, Education and Literacy Department, Government of Sindh, shall be in attendance without fail."

4. Prior to the above order dated 01-03-2023, On **02.02.2023**, learned AAG filed comments of DEO (Primary), Naushero Feroze, wherein it was contended that the said Primary School Teacher is continuously working at i.e. **GBPS Pandhi Khan Khaskheli**; however, due to error in biometric system, his posting is flashing in another school and in this regard, they have approached the concerned Department for its **rectification** on this admission. The matter was adjourned to **09.02.2023**, with direction to Director (School) Nawabshah and Sukkur Region to submit the list of deleted/ missing/ closed schools in their regions. Accordingly, DEO Naushahro Feroze appeared and submitted compliance report wherein it was stated that biometric of concerned teacher has been rectified. Further in compliance of aforesaid order, DEOs (Sukkur and Shaheed Benazirabad) submitted that due to *non-availability of teachers*, schools fall under the category of ***deleted/missing/closed schools*** and submitted charts in this regard. It shall be conducive to reproduce such charts as under:-

"Directorate of School Education (Primary) Shaheed Benazirabad

S.No	Division	District	Total No of viable schools	Total No. of Schools decided to be re-opened by the committee	Remaining schools (4-5)	Remarks
1	Shaheed Benazirabad	Naushahro Feroze	325	145	176	
2	Shaheed Benazirabad	SBA	168	16	152	
3	Shaheed Benazirabad	Sanghar	499	204	295	
Total			992	365	623	

District Wise Summary of Progress report of Non-Viable Schools

List of Deleted/Missing/Closed Schools of Sukkur Region

Sr. No.	Name of District	Number of School Deleted/ Missing/ Closed
01	Sukkur	13
02	Khairpur	112
03	Ghotki	94
Total		219

5. Further, it came on record that due to non-availability of teachers, non-availability of buildings and/or non-availability of students, schools in whole

Sindh have been declared within the *category of deleted/ missing/ closed schools* including the school in question, which, due to mistake in biometric system of the remaining school having same code, was also shown in the deleted category, as such, we deemed it appropriate to take judicial notice to examine the policy of deleted/missing/closed schools. Accordingly, this court by order dated **01-03-2023**, directed the District & Sessions Judge(s) to depute Magistrate(s) with direction to visit all closed/missing/deleted schools along with **DEOs** (Primary) and submit report in the following terms;

- i. *Whether closed schools were within vicinity and having sufficient facility of school easy access to them;*
- ii. *Whether schools are closed due to non-availability of teachers;*
- iii. *Whether closed/deleted schools were justified to be closed by the Education Department due to SNE(s) issues;*
- iv. *Magistrate(s) would be competent to call Directors (Education), TEO to conduct such exercise;*

6. The learned District & Sessions Judges through concerned Magistrates visited the schools and submitted their compliance reports on the *prescribed* proforma after *visiting* the closed schools. The relevant paras of the compliance reports which are based on the visit reports submitted by the Magistrates are reproduced hereunder: -

DISTRICT KASHMORE @ KANDHKOT

TALUKA KANDHKOT	In all thirty-six Primary Schools were closed/deleted by the reasons mentioned in column No.11 of the report. After submission of report by the concerned Taluka Education Officer (Primary), undersigned paid the visit to the above cited schools along with District Education Officer (Primary), Taluka Kandhkot and found that above all the schools were closed/deleted and all the schools were falling in above cited categories i.e. close schools were within vicinity and having sufficient facility of school easy access to them, schools are closed due to non-availability of teachers and closed/deleted schools were justified to be closed by the Education Department due to SNEs.
TALUKA KASHMORE	In this report 71 schools have been shown closed due to non-availability of teachers while 24 have been shown closed to be decided by the committee to delete the schools.
TALUKA TANGWANI	This report shows 28 closed/deleted schools. According to report all the schools were falling in above cited

	categories i.e. close schools were within vicinity and having sufficient facility of school easy access to them, schools are closed due to non-availability of teachers and closed/deleted schools were justified to be closed by the Education Department due to SNEs.
--	---

DISTRICT JAMSHORO

TALUKA KOTRI	In this taluka 09 schools have been shown closed due to non-availability of teachers but there is no issue of SNE.
TALUKA SEHWAN	In this report 35 schools have been shown closed/deleted due to non-availability of teachers despite of availability of building and other facilities for functioning of schools.
TALUKA THANA BULA KHAN	This report shows 57 school are viable but closed due to shortage of teacher, however eight schools are closed due to damage, non-availability and worst condition of the schools. It further reveals that SNE is available despite that the schools are not functional.
JAMSHORO	08 schools were found closed due to issue of SNE

DISTRICT JACOBABAD

TALUKA JACOBABAD	In the report 43 schools have been shown non-functional/temporary closed and reasons assigned for closing of school is non-availability of teachers, non-availability of buildings and destruction of buildings.
TALUKA THUL	<u>The report shows 62 non-functional/temporary closed schools for the reasons of non-posting of teachers, non-availability of buildings.</u>
TALUKA GARHI KHAIRO	The report shows that 49 schools have been visited, from which 08 schools have been reopened but have not been made functional. However, <u>the reasons for closed schools is deletion of school and non-availability of teachers.</u>

DISTRICT TANDO MUHAMMAD KHAN

TALUKA TANDO MUHAMMAD KHAN	12 schools have been shown closed/deleted due to merging, non-availability of building, no population in the village and one school is found bogus. <u>While four schools were found closed due to retirement and non-posting of teacher.</u>
TALUKA BULRI SHAH KARIM	The report shows that 69 school are closed and 55 are deleted. <u>While out of 12 Girls Primary School are closed and 06 Girls Primary Schools are deleted. Further the reason of close/delete schools is non-posting of teachers</u>

DISTRICT DADU

TALUKA DADU	16 schools shown to be visited, from which 08 schools have been re-opened while 08 have been shown closed due to non-availability of building and teachers despite of enrollment of students.
-------------	---

TALUKA MEHAR	The report shows three shelter-less school, one is in dilapidated condition, six are closed due to non-availability of teachers, and 21 have been deleted.
TALUKA KHAIRPUR NATHAN SHAH	Report shows that 10 girls primary schools are closed due to non-availability of building and non-posting of teacher. However, 15 boys primary schools are closed due to non-availability of building and non-availability of teachers.
TALUKA JOHI	The reasons assigned for closing of six schools due to no population and deletion of schools.

DISTRICT UMERKOT

TALUKA UMERKOT	67 boys primary schools have been shown to be closed due to non-availability of teachers from which 12 schools are non-viable, however, 58 girls primary schools have been shown closed/deleted due to non-posting of teacher and the schools deleted.
TALUKA SAMARO	In this Taluka, according to report 36 boys and 36 girls primary schools are closed due to non-availability of teachers while 28 schools have been deleted.
TALUKA PITHORO	In the report 66 boys and 24 girls primary schools are closed due to non-availability of teachers while 69 boys and 39 girls primary schools have been deleted.
TALUKA KUNRI	In this Taluka 17 schools are closed due to non-issuance of SEMIS Code.

DISTRICT SHAHEED BENAZIRABAD

TALUKA SAKRAND	Eight schools have been shown to be closed due to no SNE and non-availability of teachers.
TALUKA NAWABSHAH	Schools have been shown closed due to non-posting of teachers.
TALUKA DAUR	26 schools have been shown closed due to non-availability of building, non-viability of the building and non-availability of teachers.
TALUKA KAZI AHMED	30 schools have been shown to be visited and closed due to non-availability of teachers, merging of schools.

DISTRICT MITHI

TALUKA DIPLO	In this Taluka, during visit 19 schools have not been found, while 25 schools are found closed due to non-availability of teachers, Bio-metric issues and two schools were not found.
TALUKA KALOI	In the report 15 schools have been shown to be deleted and non-viable and non-availability of buildings. 07 boys and 03 girls primary schools from which record of two schools was not found and due to non-availability of building and teacher. 02 schools have been shown deleted as not record was found. However, 24 girls primary school have been shown to be closed due to non-availability of teachers.

TALUKA MITHI	In the report 16 schools have been shown closed on the ground that there is no need of the school in the area.
TALUKA ISLAMKOT	70 schools have been shown closed due to non-availability of teachers.

DISTRICT THATTA

THATTA	In the report 171 schools have been shown closed for the reasons that the schools are not available, non-availability of teachers, deleted due to non-availability of building, non-availability of students, building not found and the schools are non-viable. 22 more school have been shown closed due to no building, dangerous building and non-posting of teacher.
MIRPUR SAKRO AT GHARO	11 + 79 schools have been shown closed/deleted due to non-availability of teachers, damaged building, despite of availability of building and other facilities for functioning of schools.
KETIBUNDER	51 schools have been shown closed due to non-availability of building, infrastructure, non-posting of teacher and merging of schools.
KEENJHAR LAKE	22 schools have been shown closed due to non-availability of building, infrastructure, non-posting of teacher and merging of schools.

DISTRICT HYDERABAD

HDYERABAD	According to report 28 Girls and 81 Boys primary schools are closed due to SNE.
------------------	---

TANDO MUHAMMAD KHAN

TANDO MUHAMMAD KHAN	Report shows that 16 boys and girls primary school are deleted/closed due to non-posting o teacher, merging of school and bogus school.
BULRI SHAH KARIM	The report shows that 69 and 55 schools are closed and deleted respectively. It further reveals that 12 & 6 girls primary schools are closed and deleted due to non-availability of population, non-existence of village and non-availability of teachers.
TANDO GHULAM HYDER	According to report 45 & 31 boys primary schools are closed and deleted respectively while 15 and 05 girls primary schools are closed and deleted respective due to non-availability of population, non-existence of village and non-availability of teachers.

DISTRICT TANDO ALLAHYAR

TALUKA JHANDO MARI	In the report 09 schools have been shown closed/deleted for different reasons including non-availability of teacher and building.
TALUKA	The report shows that one school was visited and the

TANDO ALLAHYAR	building of the school is not available.
TALUKA CHAMBAR	Report shows 24 schools closed due to non-availability of teachers, furniture, SNE, non-availability of building,

DISTRICT SHIKARPUR

SHIKARPUR	The Magistrate visited 26 schools, from which 17 are not possessing proper building and one school is occupied by villager while in the remaining 08 schools teachers are not posted.
LAKHI GHULAM SHAH	According to report 19 schools were visited and 13 were not found functioning due to non-posting of teacher.
KHANPUR	40 schools were visited from which 17 are not in proper buildings, found in the Katcha area and closed due to non-posting of teachers. One of the school is in possession of a villager.
GARHI YASEEN	21 schools visited and 13 found closed due to deletion of SNE and non-posting of teachers.
	In all 115 schools were visited in this district from which 77 were found closed.

DISTRICT LARKANA

TALUKA LARKANA	Two male and four female schools were visited and found closed, from which five were found closed due to non-posting of teacher.
TALUKA BAKRANI	11 schools were visited and found closed due to non-availability of teacher.
TALUKA DOKRI	One school was found close due to non-posting of teacher.
TALUKA RATODERO	11 schools were visited and found closed due to non-availability of building, occupation of one building by villager and non-posting of teacher.

DISTRICT MATIARI

TALUKA MATIARI	In the report 68 schools have been shown closed due non-availability of teacher and deletion of schools.
TALUKA HALA	16 Schools were visited from which 03 were deleted and remaining 13 were found closed due to issues of building, furniture and non-posting of teacher.
TALUKA SAEEDABAD	Report shows 37 schools closed due to non-availability of teachers.

DISTRICT GHOTKI

TALUKA GHOTKI	19 schools were visited and found closed due to non-availability of teachers while some of the schools are non-viable.
TALUKA	According to report 21 schools have been deleted due to

MIRPUR MATHelo	non-availability of teachers, while 26 schools were found closed due to population reasons.
TALUKA DHARKI	72 schools are closed as deleted.
TALUKA UBARO	44 schools were visited and found closed due to building issue and non-posting of teachers.

DISTRICT NAUSHEROFEROZE

TALUKA NAUSHERO FEROZ	According to report 43 schools were visited and found closed due to non-posting of teacher and occupation of school building.
TALUKA MORO	31 schools visited and found closed due to non-availability of teachers.
TALUKA BHIRIA CITY	18 schools were found closed due to building issue and non-availability of teachers.
ALUKA KANDIARO	69 schools were visited and found closed due to non-availability of teacher and building issues.

DISTRICT KAMBER SHAHDADKOT

TALUKA KAMBER	According to report 22 schools are closed due to building issue and non-posting of teachers, while 22 schools are closed as SNE is not sanctioned, there is no building and teacher.
TALUKA SHAHDAD KOT	During visit 14 schools were found closed due non-posting of teacher and building issue.
TALUKA QABU SAEED KHAN	Report shows 50 schools found closed due to non-availability of teachers and building issue.
TALUKA NASEERABAD	28 schools were found closed due to non-posting of teachers and building issue and no SNE is sanctioned.
TALUKA WARAH	49 school were found closed due to non-posting of teacher and building issue.

DISTRICT SANGHAR

TALUKA SANGHAR	In the report 32 schools have been shown closed/deleted due to non-availability of teacher. However, 40 schools were deleted/closed due to non availability of building.
TALUKA JHOL	The report shows that 90 schools were visited, most of them are closed as non-viable and few, some have dual semis code and non-availability of teacher and building.
TALUKA SHAHDAD PUR	13 schools were found closed due to non-availability of teacher and building.
TALUKA TANDO ADAM	17 schools were found closed due to non-availability of teachers and building.
TALUKA KHIPRO	219 schools were found closed due to non-availability of teacher and deletion.

TALUKA JAM NAWAZ ALI	During visit 27 schools were closed and 38 deleted due to shortage of teachers and building issue.
---------------------------------	--

7. The reports further indicate that a large number of schools are closed due to non-posting of teachers. We are unable to understand this reason for school closures, despite that the government has appointed thousands of teachers and still there is need of appointment of teachers according to the need of these schools. It is beyond comprehension that as to why the Government/Education Department is reluctant to appoint teachers. According to reports number of schools are closed due to retirement, death and transfer of teachers for many years and/or non-availability of building(s) but the Education Department did not recruit the *required* teachers for a period of more than a decade and we are compelled to give our opinion that the Education Department do not care at all about this serious issue and the Education Department is *responsible* for failure to provide primary education to the children/students, which is their fundamental right enshrined under the Constitution of Islamic Republic of Pakistan.

8. Moreover, *Education* is not merely a *privilege*; it is a *fundamental* and *inherent right* that lays the foundation for individual growth, societal progress, and the advancement of civilizations. *Embedded* in international *declarations* and national constitutions, the recognition of education as a basic guaranteed right asserts its indispensability and underscores its immunity from arbitrary denial or revocation. At the heart of this assertion lies the belief that every individual, regardless of *socio-economic* status, *gender*, *ethnicity*, or *any other characteristic*, has an intrinsic right to access quality education. This principle is enshrined in the *Universal Declaration of Human Rights*, which proclaims in Article 26(1): "Everyone has the right to education. Education shall be *free*, at least in the elementary and fundamental stages."

9. The concept of education as an *inalienable* right is grounded in its transformative power. Education is not just the acquisition of knowledge; it is the key that unlocks doors to opportunities, empowers individuals, and enables them to participate meaningfully in society. It equips people with the skills and understanding necessary to navigate the *complexities of the modern world, fostering critical thinking, creativity, and informed decision-making*. Furthermore, education is an indispensable tool for breaking the shackles of

poverty and *social inequality*. By ensuring access to quality education, societies can address systemic disparities and create a more level playing field. Denying individuals their right to education perpetuates cycles of poverty and hinders the collective progress of communities and nations. Recognizing education as a basic guaranteed right establishes a moral imperative for governments and institutions to allocate resources and implement policies that ensure universal access. This obligation is echoed in numerous international agreements, such as the Sustainable Development Goals (SDGs), which explicitly call for inclusive and equitable quality education for all by 2030.

10. The notion that education cannot be taken away, underscores its resilience in the face of challenges. Even in times of crisis, whether caused by *natural disasters, conflicts, or public health emergencies*, the commitment to preserving and providing educational opportunities remains steadfast. Efforts to maintain continuity in education during such crises demonstrate the unwavering belief that depriving individuals of their right to education is not an acceptable compromise. Legal frameworks at both the national and international levels reinforce the inviolability of the right to education. Constitutions of many countries explicitly recognize and safeguard this right, and numerous legal instruments, including the *Convention on the Rights of the Child*, emphasize the importance of ensuring that every child enjoys the *right to education without discrimination*.

11. The *right to education* extends beyond the classroom. It encompasses the freedom to choose the form and content of education, allowing individuals to pursue learning that aligns with their values, cultures, and aspirations. This holistic understanding of education as a right respects diversity and promotes inclusive learning environments that cater to the unique needs and backgrounds of learners. Hence it can safely be arrived at, that education is a basic guaranteed right that transcends geographical, cultural, and social boundaries. Rooted in international declarations and national constitutions, this right is an essential *cornerstone* of human dignity and progress. Upholding the right to education is not only a legal and moral obligation but a commitment to building a more equitable, enlightened, and

harmonious world where the potential of every individual is *nurtured* and *realized*.

12. Rejuvenating the educational landscape in Pakistan, especially in Sindh Province, particularly addressing closed or missing schools, requires a multifaceted and strategic approach. The foremost step is to conduct a thorough assessment of the closed or missing schools. This involves collaborating with *local authorities, educational experts, and community leaders* to identify the root causes behind the closures. Factors such as *infrastructure deficiencies, lack of resources, and socio-economic challenges* should be meticulously examined. Once the issues are identified, a targeted plan for infrastructure development must be implemented. This includes refurbishing existing structures, constructing new buildings, and ensuring that the facilities meet the necessary standards for a conducive learning environment. Collaborating with local businesses, NGOs, and government agencies can help mobilize resources for these initiatives.

13. Simultaneously, addressing the shortage of qualified educators is paramount. Implementing comprehensive teacher *training programs, attracting skilled teachers* to these underserved areas through incentives, and leveraging technology for remote learning can help bridge the gap. Establishing partnerships with universities and educational institutions to provide ongoing professional development opportunities can also enhance the quality of teaching. Financial barriers often contribute to the closure of schools. Therefore, implementing targeted financial assistance programs for families facing economic hardships can encourage school attendance. This could involve scholarship programs, subsidies for school supplies, and initiatives to reduce the overall cost burden on parents. Collaborating with *non-profit organizations and philanthropic foundations* can supplement government efforts in this regard.

14. Community engagement plays a pivotal role in revitalizing the education sector. Establishing School Management Committees (SMCs) comprising local community members, parents, and educators can empower communities to take ownership of their schools. These committees can be instrumental in overseeing *school operations, mobilizing resources*, and

fostering a sense of collective responsibility for education. To address the broader socio-economic challenges impacting education, implementing skill development programs can be transformative. By equipping students with practical skills relevant to local economies, schools can contribute to local industries and businesses to design curriculum components that align with real-world demands enhances the employability of students.

15. Moreover, *leveraging technology* is crucial, especially in remote or underserved areas. Establishing e-learning platforms, providing students and teachers with access to digital resources, and promoting a technology-enabled learning environment can overcome geographical barriers. Government partnerships with tech companies and NGOs can facilitate the necessary infrastructure and support for the *integration of technology* in education. Ensuring the sustainability of these initiatives requires a robust monitoring and evaluation system. Regular assessments of school performance, infrastructure quality, and community engagement can provide valuable insights into the effectiveness of implemented measures.

16. This data-driven approach enables policymakers to make informed decisions, allocate resources efficiently, and adjust strategies based on evolving needs. Revitalizing the closed or missing schools in Sindh demands a comprehensive strategy that addresses *infrastructure, teacher quality, financial barriers, community engagement, skill development, and technology integration.* By fostering collaboration between government agencies, local communities, businesses, and non-profit organizations, a sustainable and inclusive education system can be established, laying the foundation for the holistic development of the region.

17. In line with these principles, the court has reiterated the constitutional duty of the state to ensure that educational resources are *equitably distributed.* Cases such as the present one, underscore the importance of dismantling barriers that impede access to education, reaffirming the court's commitment to the foundational concept, that, education is a fundamental right, not a luxury. This "Court", in a *continuum of judgments*, has addressed the perennial issue of inadequate infrastructure plaguing schools in the province of Sindh, the bench has consistently held that the state bears a non-

negotiable duty to provide functional and safe learning environments for every child.

18. Building upon this *jurisprudential edifice*, the court emphasizes that the uplifting of closed schools necessitates a concerted effort towards infrastructure development. Judgments and orders discussed in herein below, elucidate the obligation of the state to invest in the refurbishment and construction of school buildings, ensuring that closed schools are not just reopened but revitalized as centers of educational excellence. Recognizing the pivotal role of educators in the education ecosystem, the bench has pronounced judgments echoing the sentiments of common people.

19. The court emphasizes that uplifting closed schools requires a holistic approach, including the removal of financial impediments, thus paving the way for an education sector that transcends economic disparities. In summation, this judgment stands as a composite reflection of a judicial journey devoted to the cause of education in Sindh. Drawing inspiration from a plethora of decisions, the bench has crafted a legal tapestry that emphasizes equal opportunities, infrastructure imperatives, teacher quality, financial inclusivity, technology integration, and community empowerment. In uplifting closed schools, the court reaffirms its role as a custodian of the constitutional right to education, breathing life into closed doors and rekindling the flame of knowledge for the benefit of generations to come.

20. Be that, as it may, *Education Department* has miserably failed to provide primary to higher secondary education to children, as approximately millions of children from backward areas are deprived from availing such facility due to non-availability of teachers or the reasons mentioned above, hence emergent efforts need to be taken; besides there is Compulsory Education Act, 2013, which provides *compulsory education free of costs* to every children and even parents can be compelled to admit their children in government schools inspite of their unwillingness. Hence, in this regard serious and emergent efforts on war footings are required to be taken for admission of kids in the primary schools and firstly the parents be convinced, if not, then be compelled in accordance of law. **The government shall take effective measures for launching literacy awareness and convincing to parents programs.**

21. The report further reveals that a large number of schools are closed owing to deletions after retirement of teachers and non-sanctioning of SNEs, despite that the students are there who need education. Whereas, no reason has been assigned by the Education Department for deleting and non-sanctioning of SNEs and it is the major reason of depriving the children/students from *acquiring* compulsory primary education. Thusly, Secretary Education is strictly directed to sanction the SNEs of all those schools which have been closed due to expiry, retirement of teachers or any other reason, make these schools functional by allocating their SEMIS code and posting of teachers and submit report accordingly. Accordingly, Finance department shall approve all summaries regarding SNE(s) of education department. Secretary Finance shall also restore all deleted SNE(s) in schools(s) and College(s) and same shall be shifted to the respective Divisions.

22. The scan of reports further reveals that the large numbers of schools are *shelterless* and functioning in the damaged buildings. Nothing is explained by the Education Department that as to why these schools are shelterless and are functioning in the damaged/dangerous buildings and as to why these buildings have not been *repaired* despite of issuance of **billions** of rupees under the head of **Maintenance and Repair** (M&R) of schools. **Nonetheless**, furniture in schools can also have significant impacts on the educational environment and the learning outcomes of students; however, such *rudimentary* facility is not being provided to the schools. Without *appropriate furniture*, students may face *discomfort*, which can affect their *concentration* and overall learning experience, also, inadequate seating arrangements and lack of desks or tables can make it challenging for students to engage in activities, take notes, or participate in group work effectively; besides *dilapidated* buildings, lack of proper *fencing*, or absence of security measures can **increase** the risk of accidents, *vandalism*, or **unauthorized** access to the premises.

23. It is pertinent to mention here that in the year 2014, the Apex Court passed categorical direction to the learned District Judges to visit schools in the case of miserable condition of school(s) reported as (2014 SCMR 396). Following the same path, this Court also passed various orders to ensure the public sector school(s)/college(s) provides better education. In this regard,

this Court has already directed to the concerned authorities to take efforts in this regard.

GUIDELINES FOR APPOINTMENTS

24. Needless to mention here that school **teachers** play a crucial role in the development and education of students and their importance cannot be *overstated*, as they have a significant impact on the lives of their students and the overall functioning of the education system; besides to establish a conducive learning environment by managing the classroom *effectively*. By educating and inspiring future generations, they contribute to build a knowledgeable and skilled society. Teachers shape the leaders, professionals, and citizens of future, making a lasting impact on the progress and development of communities and nations. The non-availability of teachers can exacerbate existing educational inequalities. Students in underserved or remote areas may face a greater impact as they already have limited access to educational resources. The lack of teachers can widen the educational gap between different groups of students; besides their absence can lead to disruptions in the curriculum, lesson planning, and overall educational continuity. When the education system lacks adequate teachers, it can hinder a nation's ability to develop a skilled and knowledgeable workforce, impacting economic growth and societal progress, resulting in a waste of valuable educational assets. Reports further reveal that majority of schools are closed due to non-availability of teachers and in this regard, this court is hammering this issue in **various orders**, however, no sober-sided efforts have been taken by the concerned Department to initiate transparent and translucent recruitment process. Such *carelessness* and *inattentiveness* conduct on the part of Respondents towards fundamental right i.e. education is deplorable, hence needs emergent efforts for recruitment as it is crucial to prioritize teacher recruitment efforts to ensure a sustainable and effective educational system. Needless to add, the issue of recruitment of teachers has widely been discussed in various orders passed by the Court wherein Courts have shown serious concern over this issue and passed strict directions in this regard as well.

25. Another point requires austere deliberation to elaborately discuss the process of appointments in government service as undeniably, there is discrimination in such process, hence in order to ensure transparency in appointments in government service, several efforts mentioned hereunder needs to be taken:-

- **Clear recruitment policies and guidelines:** Develop and enforce clear policies and guidelines for government appointments, outlining the criteria, qualifications, and procedures to be followed. These policies should be accessible to the public and strictly adhered to during the appointment process.
- **Independent selection committees:** Establish independent selection committees composed of qualified and impartial individuals who are not directly affiliated with the appointing authority. These committees should be responsible for reviewing applications, checking domiciles, conducting interviews, and making recommendations based on merit and suitability.
- **Merit-based selection criteria:** Emphasize the importance of meritocracy in the appointment process. Candidates should be evaluated based on their qualifications, skills, experience, and performance in fair and transparent assessments, such as written exams, interviews, or practical tests.
- **Advertise vacancies widely:** Ensure that all job vacancies are advertised widely through multiple channels to reach a diverse pool of potential candidates. This can include newspapers, government websites, online portals, and social media platforms. Advertisements should clearly state the eligibility criteria and selection process.
- **Regular audits and oversight:** Conduct regular audits and independent oversight of the appointment process to ensure compliance with policies and guidelines. External auditors or oversight bodies can review the process, assess its transparency, and identify any irregularities or discrepancies.
- **Whistleblower protection:** Establish mechanisms to protect whistleblowers who report any unethical or corrupt practices in the appointment process. Encourage individuals to come forward with information and ensure their confidentiality and protection from reprisals.
- **Feedback mechanisms:** Establish channels for candidates to provide feedback on the appointment process, allowing them to express concerns or report any irregularities. Actively address

and investigate complaints or grievances to maintain transparency and accountability.

26. It shall be conducive to reproduce relevant paragraph of order dated 26.05.2021 Mashal Welfare Foundation case [Suit No.1243 of 2015] is as under:-

"4. Secretary School(s) Education present contends that they are going to recruit around 40,000 teachers in one go through IBA, he has placed statement, taken on record, which reflects MoU, advertisement and sanctioned posts. This Court appreciates that effort and this is the high-time particularly when such huge number of seats are lying vacant. According to Secretary Schools, IBA has advertised these posts and received around 400,000 applications in this competition. It is expected that Secretary Schools will pursue the process and shall ensure that all recruitments are made within six months as well on pure merits so that future of ours be assured to be in good hands. Besides, it is contended that recruitments of Headmasters will be carried out by Sindh Public Service Commission and Schools Education Department will send requisition thereof.

5. At this juncture, Zain-ul-Abidin, Assistant Director Elementary School contends that total posts of Head Masters i.e. 8624 posts are vacant and at present 1600 headmasters are working apart from around 1000 IBA Headmasters. At this juncture, Secretary Schools contends that all vacant posts of Headmasters, except those recruited through IBA Sukkur, will be referred to Sindh Public Service Commission within 45 days. Accordingly, Secretary Schools shall ensure that requisition is forwarded to the Sindh Public Service Commission for recruitment of around 5000 Headmasters on priority basis. This recruitment shall be communicated within 45 days with syllabus. It is further undertaken by the Secretary Schools that in requisition to Sindh Public Service Commission, they will provide syllabus as well as will request the Sindh Public Service Commission to recruit the Headmasters and other posts in schools as per Sindh Public Service Commission's regulation vetted by Law Department, approved regulation as well as on the basis of parametric system. In same manner Secretary Schools will send requisition to recruit 1200 Subject Specialists in view of new recruitment rules as well as syllabus within a month."

27. It is further pertinent to mention here that in C.P.No.D-1817/2016, 2894/2017 & 1890/2019, vide order dated 20.08.2019, it was noticed that around 25 posts of principals are lying vacant, hence it was directed as under:

"10. It has come on record that around 25 posts of principals are lying vacant in higher secondary schools. The importance of the post of principal in a school or college cannot be denied as he is supposed to ensure proper functioning of the school or college; thus, Secretary Schools shall ensure that such posts are filled in accordance with law.

At this juncture, Secretary Education contends with regard to appointment of all teaching staff up to grade 16 as provided by education policy of foreign donors, recruitment process is initiated through third party, whereas for above the 17 grade post (s) Sindh Public Service Commission is required to recruit every post. Since education is more important and any compromise with regard to recruitment process cannot be accepted, hence, Secretary Schools and College Education undertakes that before initiating recruitment process by the Sindh Public Service Commission there will be screening test through third party contract. Needless to mention that in the case of Muhammad Sami Abro and others vs. Province of Sindh and others (2017 PLC (CS) 419), the Chairman Public Service Commission was directed by the Division Bench of this Court to ensure that all recruitments in Education Department shall be initiated after screening test through third party (IBA Sukkur/NTS).

11. Secretary Colleges and Chief Engineers of both respective regions contend that Khipro Girls College and Pithoro Girls Degree College will be established within three years. Besides Secretary Colleges shall submit present status of IT college, established in Tando Bago, Badin. District and sessions Badin shall visit, said IT college and ensure that same is functional, in case any illegality is found, he would be competent to direct concerned authorities to make it functional."

28. The Apex Court in renowned case of **Al-Jehad Trust v. Federation of Pakistan** [1996 PLD SC 324], emphasized the importance of transparency in appointments and held that the selection process must be fair, objective, and merit-based. Furthermore, the Supreme Court of Pakistan stressed that government appointments should be made through a transparent and competitive process to ensure equal opportunities for all candidates.

29. This Court in the case of **Sindh High Court Bar Association v. Federation of Pakistan** [PLD 2009 Supreme Court 879] also emphasized the significance of transparency and merit in government appointments. The court held that the appointments made on political considerations or without following proper procedures would be deemed illegal. It directed the government to adopt transparent and objective criteria for appointments in government service.

30. Therefore, Secretary Education is also strictly directed to recruit/appoint teachers transparently and merit-based according to need for making functional the closed schools especially those schools that have been closed due to non-availability of teachers. All vacant seats of teachers shall be filled preferably within a period of two months and a report shall be

submitted without fail to the effect that schools closed due to non-posting of teachers (for any reason) have been made functional.

31. Chief Secretary shall constitute a committee including Secretaries School(s), College(s) and all other stakeholders, who shall work on the needs of schools as per digital/computerized census of 2023 and shall increase the number of teacher(s)/subject specialist(s)/ lecturer(s) with the approval of SNEs, keeping in view the statements ratio within six months. If necessary measures are not espoused, such act shall deem to be a contemptuous act.

32. This Court has already given such initial findings as such gave directions regarding filling of vacant posts of teaching and non-teaching staff, earlier this year at Sukkur Bench, in C.P.No.D-1431 of 2022, vide order dated. 08-03-2023, the same is reproduced as under;

"In compliance of earlier order Additional Secretary Finance (B&E), Govt. of Sindh has submitted comments which are re-produced as under;

"In compliance with the order dated 16.02.2023 passed by Honourable High Court of Sindh Bench at Sukkur, in order apprise the Honourable Court about process of SNE (Scheduled New Expenditure), it is submitted that the process of SNE is a regular activity which starts in the month of January, every year. This process starts with a call of SNE Meetings, for Which a Meeting Letter is forwarded by Finance Department to all Secretaries alongwith Meeting Scheduled and General Guidelines/Instructions to submit their proposals, duly examined; scrutinized and prioritized by the Administrative Department. Afterwards, the meetings are held in Finance Department, where the representatives of Administrative Departments present their demands and discuss their essential needs. The decisions made thereof are submitted to Secretary Finance Department who approves these proposals, keeping in view departmental requirements and available fiscal space for next year. These proposals of SNEs are then presented before the cabinet along with proposals of receipts and exact Annual Budget Account is laid before the Provincial Assembly for debate, voting and approval.

It is pertinent to mention that number of sanctioned posts in Government of Sindh has risen to approximate 739,317 for which Rs 510.000 Billion have been allocated for salary. Besides, the number of approximate pensions is 270,118 for which there is an allocation of s275.000 Billion. The Government of Sindh is allocating around 55% of its Current Revenue Expenditure as Salary and Pension, and their number is increasing at a fast pace. Such increase is not financially sustainable in coming years as revenues of the government are not increasing proportionately. This fact necessitated that Finance Department examine, all requests of SNE strictly to assess genuine

requirements of the departments, otherwise in future if would be difficult to provide them salaries and pension.

As far as the instant issue of District Sukkur, Ghotki & Khairpur are concerned, it is submitted that SNE meeting with School Education and Literacy Department was held in the month of December, 2022 and it was discussed that as there were 19,802 Primary School Teachers already sanctioned for i above mentioned districts. Out of these, 8,619 (PSTs') are still vacant. However, 60 posts of Teaching & Non-Teaching were provided during current financial year 2022-23 on the desire of School Education & Literacy Department.

Following district wise, sanctioned, working & vacant position of PST School Education & Literacy Department is as under:

District	Destination	Sanctioned Posts as Per Budget Book Vol-III 2022-23	Working posts as per AG Sindh Payroll for the Month of January, 2023	Vacant
SUKKUR	PRIMARY SCHOOL TEACHER	3,435	1,974	1,461
KHAIRPUR	PRIMARY SCHOOL TEACHER	7,995	4,341	3,654
GHOSTKI	PRIMARY SCHOOL TEACHER	8,742	4,868	3,504
Total		19,802	11,182	8,619

District wise position of Teaching & Non-Teaching posts provided during current financial year 2022-23:-

Name of District	Teaching	Non-Teaching	Total District
SUKKUR	4	4	8
KHAIRPUR	39	6	45
GHOSTKI	6	1	7
Grand Total	49	11	60

Perusal of comments reflects that meeting of Finance Department was held with the Education Department wherein it was surfaced that 8619 PST posts and 60 posts of Teaching and non-Teaching are vacant for the year 2022-23 as per approved SNE, despite of vacancy position and availability of budget and approval of SNE Education department has failed to appoint teachers. Accordingly, Secretary (Education & Literacy Department) Govt, of Sindh shall direct DRCs for induction of new teachers as per merit list in recent examination conducted by the IBA. This exercise shall be completed within one months' time. In case of failure contempt proceedings shall be initiated against Secretary, (Education & Literacy Department) Govt. of Sindh and contempt

proceedings will also be issued against the Chairman DRCs of concerned districts. This order shall be communicated to the District Education Officers of three districts as well as Secretary Education Department through all modes including WhatsApp for compliance. This exercise shall be completed on war basis as availability of Schools SNE is not disputed and there is thousand of dropout ratio in Primary Schools and students are suffering because of lethargic attitude of the concerned District Education Officers. Secretary, Education & Literacy Department Sindh and all Director Schools of Higher Secondary and Primary shall submit report with regard details of posts of non-teaching staff as per SNE and vacant position on next date.

To come-up on 16.03.2023 to be taken up at 09:30 a.m. Copy of this order be provided to learned Additional Advocate General Sindh for compliance."

33. That, prior to the above, this Court has already issued directions vide **order dated 20.09.2017** passed in C.P. No. D-1817 of 2016 at Circuit Court, Hyderabad with regard to compliance of directions issued by Apex Court's in a case reported as **2013 SCMR 764**, whereby it has observed as under:-

"The issue relating to education not only involved true compliance of apex court's judgment but education system for which the respondents (Education Department) was/is always otherwise bound within spirit of Articles 9, 25-A and 37 therefore, time and again directions were issued to do what the department was / is already obliged to do however, attitude of the Education department continued to be the same as was noticed and observed by apex Court in the case of "Petition regarding miserable condition of the Schools: In re 2013 SCMR 764" as:

"2.....The education departments of the other provinces also admitted that there are Ghost Schools or the property owned by the Schools have been occupied and without taking effective steps, the officers travel from their Provincial Headquarters to Islamabad for attending the cases before the Court but without showing any progress and we are unable to comprehend as to why they are not willing to take the benefits of the orders of the Court or act on their own initiative and make laws to improve the education sector including getting removed encroachments and also of stopping the payments to the staff who are getting salary without providing services. Having left with no option, we are of the opinion that as far as the education sector is concerned, it is one of the most important social service and the executive Government is duty bound to pay full attention in order to raise the standard of education and to ensure that its children are well educated but here the things are otherwise. However, under the circumstances, we direct the Provincial Government (s) through Chief Secretary or the Secretary Education (s) to implement the orders of this Court in letter and spirit and in the meanwhile in order to have a clear picture we appoint all the District and Sessions Judges or the Additional District & Sessions'

Worth to add that issue of education after induction of Article 3, 25-A became a fundamental right hence the Government was left with no option but to make such fundamental right available to all and any deviation thereto shall now open the door of apex Court as well this court. Reference may well be made to the Petition regarding Miserable Condition of the Schools. In the matter of 2014 SCMR 396 wherein it is held as:

"154. Article 37(a) of the Constitution requires the State to promote with special care, the educational and economic interest of backward classes or areas whereas clause (b) of said Article makes it incumbent upon the State to remove illiteracy and provide free and compulsory secondary education within minimum possible period. However, with the introduction of Article 25A, the scenario has been changed and now the State of Pakistan is called upon to ensure free and compulsory education to all children of the age of five to sixteen years in such manner as maybe determined by law. The direction on imparting education contained in the Constitution by way of a Directive Principle has now been translated into a Fundamental Right, which is enforceable by the superior courts in exercise of the jurisdiction vested in them under Article 199 and Article 184(3) of the Constitution."

34. The summary further indicates that large number of posts of non-teaching staff is lying vacant for the same reasons as of teachers. Therefore, the Secretary Education is directed to take rapid and swift initiatives to start the process of recruitment of non-teaching staff along with teaching staff, who have already been declared successful in competitive exam and are waiting for their offer and posting order, according to need on emergent basis.

HIGHER SECONDARY SCHOOLS

35. Admittedly, drop out ratio is big in Higher Secondary Schools with the reason that the same are not easily accessible for the kids aged to 15/16 years and in this regard this Court took judicial notice and passed directions in the case of **Mashal** (*ibid*) and in compliance thereof, it has come on record, that more than 100 High Schools have been upgraded; however Finance Department is creating hurdles on account of monetary burden, which is not justified as education and war comes in same category, therefore, justification made by Finance Department cannot be appreciated as upgrading schools often involves enhancing teaching methods, implementing new technologies

and providing professional development opportunities for teachers. Without the necessary budget, schools may struggle to improve the quality of education they offer, resulting in a stagnant or declining educational experience for students. Failing to invest in school upgrades can have long-term economic consequences. A well-educated workforce is crucial for a thriving economy, and if schools do not receive the necessary funding, it can hinder the development of students' skills, limiting their future opportunities and potential contributions to society. It shall be advantageous to reproduce relevant paragraphs of order dated 26.05.2021 passed in Mashal case (*ibid*), which read as follows:-

"7. At this juncture, it is pointed out that there is routine practice of change of SNEs and reshuffling of staff of Higher Secondary Schools, on directions to form a committee and examine the schools at the site for their up-gradation from High school to Higher Secondary School. Secretary Schools present submits report with the recommendations that 100 schools are fulfilling the criterion, therefore, they are upgraded. Accordingly, Secretary Schools shall ensure that these 100 schools are upgraded and their SNEs are submitted with the Finance Department within one month, thereafter Finance Department shall ensure approval of SNEs within one month after receiving the proposal.

8. With regard to other development schemes to establish those schools upto standards, Secretary Schools shall prepare a scheme and submit summary with the Finance Department for allocation of budget with regard to structure, Science Labs, additional staff and other requisite formalities within six weeks. Needless to mention that SNEs shall be approved within one month without any delay and that delay shall not be caused on the pretext that there is issue in development schemes. Besides, it has come on record that a committee was formed on province level joining all the stakeholders to recommend these 100 schools through interim report. However, after hearing the representatives of Teachers Foundation, it appears that committee members have failed to visit the schools at the site. Accordingly, committee shall be constituted at division level and college side shall not be involved in those committees. Committee shall visit all the High Schools preferably call the parents and by conducting seminar. At this juncture, as an interim arrangement for the time being, Secretary Schools shall examine the notifications and transfers as referred including Naudero High School. Secretary Schools shall hear all stakeholders and redress the grievance preferably within 15 days.

9. With regard to fake up-gradation of the schools, earlier upgraded schools shall be re-examined by the committee and if the same are lacking in requirements and as decided by the committee with regard to number of students and catchment area, the committee would be competent to refer the matter to Secretary Schools for placing them on their earlier position as they were before the up-gradation".

36. It is pertinent to mention that in [Mashal case], it was observed that Sindh Education Foundation is functioning under the Sindh Foundation Act 1992 and MoU with donor agency was aimed to promote education at fruit level and involves considerably huge funding to ensure satisfaction of Article 25-A of the Constitution. Accordingly, this court called complete details of schools under the aforesaid Act; complete audit reports with regard to all amount acquired by the Sindh Education Foundation since 2007; report showing mechanism regarding enlistment of school(s); report describing mechanism regarding checking/supervising of enlisted schools; report showing mechanism to check the entire progress of all affiliated Schools of entire Sindh. Accordingly, Secretary Education and M.D. Sindh Education Foundation were called. They appeared on 31.05.2016. While hearing it was contended that though acts provides complete mechanism from primary to secondary schools but since its inception from 1992 only primary schools have been established through private partnership, hence, parties agreed to pass following orders:-

"After hearing the parties at length the parties, while acknowledging their bounden obligations towards spirit of Article 25-A of the Constitution and that of directive(s) of honourable Supreme Court of Pakistan in the matter(s) of education, are agreed that:-

- (i). with regard to controversy, as raised in instant suit, a probe/enquiry be conducted by I.B.A, Karachi, within two months; while making probe, the I.B.A. will give assistance to this Court to the effect 'whether schools assigned to plaintiff were functional and were upto mark or otherwise?'. Plaintiff shall provide complete details of such schools, teachers and students to I.B.A. Management of IBA, Karachi may consider the following names as suggested by plaintiff in enquiry committee.
 - 1. Dr. Sayyad Ghani,
Assistant Dean, IBA, Karachi.
 - 2. Dr. Nasir Afghan,
Assistant Director, MBA Programme,
 - 3. Mr. RizwanMemon,
Senior Member, Board of Revenue,
Former Secretary Education.
- (ii). The Secretary, Education and Literacy Department, Government of Sindh and Managing Director, Sindh

Education Foundation (SEF) present, undertake to frame Rules under the Sindh Education Foundation Act 1992 within a period of two months .

- (iii). Learned A.A.Gs, on behalf of province of Sindh undertakes that compliance of paragraph No.174 of the judgment passed in a petition regarding deplorable condition of schools (reported as 2014 SCMR 396) will be made preferably within a period of two months.
- (iv). Learned A.A.Gs undertake that any panel of educationists, *as suggested by the Managing Director, S.E.F* shall be considered and nominated in the Board within a period of fifteen days, with notification. Managing Director undertakes to place such panel within fifteen days.
- (v). Board of Sindh Education Foundation shall frame a policy chalking out a complete mechanism for extending education level from primary level to middle and HSC to the students registered in Sindh Education Program under Board of Sindh Education Foundation. Managing Director and Secretary Education undertake that they will pursue the matter and compliance will be made within 2 months.
- (vi). Learned A.A.Gs and Secretary Education are of the view that since imparting education is guaranteed by Article 25-A hence learned District & Sessions Judge(s), being custodian of rights at *district level* be involved, as exemplified in the judgment of apex Court (*supra*), to make surprise visits, while deputing Magistrates, with regard to nuisance, *inter-alia* as provided under Chapter-X of the *Code of Criminal Procedure, 1898* because illegal occupation/encroachment is an obstruction causing inconvenience. The paragraph No.174 of judgment of honourable Apex Court, admitted by Secretary, to have not been complied with, therefore, within spirit of Article 187(3) and that of Article 189 of Constitution, this Court is competent to enforce execution thereof as '**executing court**'. Since, Paragraph No.174(a), (d) and (g) permit a room for involvement of the District Judges for true enforcement thereof i.e removal of *ghost schools* and removal of illegal possession/encroachment which *otherwise* do qualify the term; '*nuisance*' therefore, learned District and Sessions Judges are hereby directed that they would be competent to enforce the applicability of Articles 9 and 25-A of the Constitution of Pakistan in its letter and spirits by monitoring of schools, colleges both *functioning* under S.E.F and that of Government of Sindh by paying surprise visits *preferably* on quarterly basis

either by themselves or through Magistrate(s) under them. A case or complaint of *nuisance, or any violation of Articles 9 and 25 of Constitution of Pakistan 1973* either noticed or brought into notice shall be dealt with in accordance with law, shall be directed to concerned quarter for appropriate action.

A copy of this order shall be sent to learned A.A.G, Secretary Education, Managing Director, S.E.F. and Director IBA Karachi. As well office shall ensure that facsimile copy of this order is circulated to all learned District and Sessions Judges (Sindh) for compliance.

While parting, this Court appreciates the valuable assistances by Mr. Fazlullah Pechuho, Secretary Education and Literacy Department and Ms. Naheed Shah Durrani, Managing Director, S.E.F."

Further, by order dated 15.05.2017 counsel for Sindh Education Foundation (SEF) filed compliance report with regard to up-gradation of primary schools upto matric level and they were further directed to file such statement and initiate proceedings to launch/establish their schools upto college level.

37. In II-Appeal No. 32 of 2017, with regard to up gradation of Higher Secondary Schools, vide order dated 13.12.2022, the following order was passed:

17. *At this juncture, in pursuance to order dated 26.05.2021, passed in Suit No. 1243/2015and order dated 04.10.2022 passed in present appeal, focal person present submitted report through Assistant Advocate General Sindh, which speaks that they have submitted list of 101 higher secondary schools to be upgraded with the Finance Department for approval of SNEs. Reason assigned for delay in SNEs submission is that it was due to non-availability of infrastructure. Needless to mention that there are hundred(s) schools running without buildings and students are getting education in temporary shelters or by the help of villagers in private buildings/ tents. At this juncture, D.G Planning Schools contends that they have selected 40 higher schools and they will provide allied facilities and infrastructures in the present year Annual Development Program (ADP) and rest of schools would be placed in upcoming ADP 2023-24. Accordingly, in new ADP 2023-24 budget rest of 60 schools shall be provided full-fledged Allied facilities. Chief Secretary Sindh Secretary Finance Department and Chairman P&D shall ensure that 61 higher schools as approved or adopted and allied services are provided in budget by specifying budget particularly for those schools. Besides, apart from these schools, this is the prime duty of the Education Department to upgrade schools from secondary to higher secondary and that is their practice to adopt the same in pursuance of already available mechanism, therefore, all new upgraded 101 schools as approved, SNEs*

shall be submitted with the Finance Department and Finance Department without any hurdle shall approve the same after submission of SNE within one month.

38. Being prime duty of the Education Department to upgrade schools from Secondary to Higher Secondary. Therefore, SNEs for such up gradation shall be approved by the Finance Department without making any hurdle within a month of its submission in accordance with law.

PHYSICAL ACTIVITIES IN SCHOOLS

39. Incorporating **physical activities** into schools is crucial for *promoting* the overall well-being and development of students. Physical activities, being a fundamental part of the school **curriculum**, should accessibly be available to all ages of students. Engaging in physical activities, sports and co-curriculum exercises can help reduce stress, anxiety, and depression among students. Accomplishing physical milestones and improving in sports or activities can boost students' confidence and self-esteem. Physical activities can be tailored to accommodate a wide range of abilities and interests, promoting inclusivity and allowing all students to participate. To effectively integrate physical activities into schools, offer a variety of activities, such as team sports, individual sports, indoor games, yoga, aerobics, music and other recreational activities to cater to different interests and abilities; balance physical activities with academics, ensuring that neither takes precedence over the other; besides provide necessary facilities, sports equipment, and open spaces to facilitate different activities rather such activities open avenues for students to create their name in other fields alongside studies. **Secretary Education is directed to make atmosphere fair by directing all the heads of schools to ensure physical activities as mentioned above with coordination of Ministry of Sports and Youth affairs, for arranging sports gala, talent hunt event etcetera and revive scouts in all High schools to Higher Secondary.**

NEW DEGREE COLLEGES

40. It shall be advantageous to *reproduce* some relevant paragraphs of earlier orders passed in **CP No.D-1817/2016, 2894/2017&1890/2019** by this Court at Circuit Court Hyderabad, wherein directions in this regard were issued vide order dated 02.08.2019 as under:-

"2. At the outset Secretary Colleges contends that 56 Degree Colleges were placed in budget book of year 2017-2018 out of which 31 (thirty one) have been completed with their SNEs, rest would be completed upto 2021. Both Chief Engineers of respective divisions are present and undertake that they will complete the aforesaid colleges within the timeframe. Since, completion of projects, cannot be possible unless the due budget is timely released, therefore, Secretary Colleges and Secretary Finance shall ensure that budget is released within stipulated period.

The Chief Engineers highlighted an issue in the allocation and release of budget/funds for construction of college buildings. Instead of releasing funds to complete one project/building and then moving on to the next, funds are allocated and released for the simultaneous construction of a number of projects/buildings. But since these funds are released in stages, all projects become vulnerable to delay. The other aspect of such form of budget allocation is that the public cannot benefit from any one project until all are complete. The wisdom in such budget allocation was exposed by the Chief Engineers and the Secretary College Education did not controvert that. Therefore, unless the above discussed manner of budget allocation and release actually saves tax payers money, the Secretary College Education and the Secretary Finance shall ensure that the budget allocation and release is targeted at the completion of a project before moving on to the next one.

3. With regard to maintenance of existing Schools and colleges it is stated that budget is not allocated under the head M&R, however both respective Secretaries undertake that they will ensure to adjust the amounts available in other heads which are not so necessary and could be used for maintenance and repairs. The dilapidated condition of place of education is an open secret yet non-existence of M&R head is quite surprising. Completion of a building would never be sufficient to keep aside maintenance thereof which, otherwise, legally and logically continues if purpose of such building continues. Without saying much in this regard, the proposal, so placed, appearing to be reasonable to meet with existing issue of M&R (maintenance and repair) therefore, Secretary Finance, Chief Engineers and Finance Department shall ensure that funds available in the heads, not required for immediate use and those in routine lapse every year, shall be transferred in M&R. Needless to add that such work (M&R) be not delayed rather be taken up while keeping conditions thereof as well need so as to avoid any misuse of such fund on account of entry / introduction of any hidden hand.

4. At this juncture Secretary Schools contends that department intends to close 46 higher secondary schools as degree colleges are available. Admitted to those schools and students' ratio is very low and that transfer is with regard to the students only and teachers cadre will not be affected. Needless to mention that normally every scheme is established after due process which includes the root (need) therefore, such scheme normally should not be disturbed except after due study regarding 'whether need / purpose thereof exists or otherwise?'. Needless to add that it is not the building which matters but the

purpose / need which had been a cause for erecting such building. Record reveals that since many years there is no sufficient increase in colleges and higher secondary schools hence department is required to examine the need of schools and colleges as per census so as to enable them to make an intelligent decision without harming/ prejudicing the purpose / need of any such building/ project. Therefore Chief Secretary with consultation of Secretary Planning and Development and Secretary of Colleges/Schools shall notify committees that shall study and submit their proposals along-with figures of population, as well as, reports shall be submitted with clarity whether existing colleges are sufficient to cater the issue of education or there is need to increase the number, till then Higher Secondary Schools in question shall not be disturbed. Besides report shall be submitted regarding Para No.8 of order dated 20.09.2017 on same issue.

41. It is worth to add here, relevant paragraph of order dated 28th January 2020 passed in the **Suit No.1243 of 2015** are as under:-

5. *With regard to libraries by different department, focal person of Chief Secretary present submits statement containing therein that compliance of earlier order will be done within time. At this juncture Secretary Colleges contends that on college side there are different procurement authorities but unfortunately since many years they have not procured furniture. At this juncture, he submits notifications regarding procurement committees and he seeks involvement and supervision of District & Sessions Judges. Since furniture and other articles of college and library are very essential and absence thereof has been one of the causes for pushing people from public sector to private sector. Accordingly, all District & Sessions Judge shall call the relevant principals and director of colleges and ensure that procurement, as per the desire of colleges, is done within six months but after fulfilling cordial formalities. Needless to mention that role of District Judges will be supervisory only hence any malfeasance on the part of committees will expose them to legal consequences".*

42. It is further pertinent to mention here that in II-Appeal No.32 of 2017, the following orders were passed:

14. *Pursuant to order dated 04.10.2022, Director General Planning Schools and College on Development Side contends that 46 new college buildings have been completed, however, yet SNE(s) are yet to be approved by the Finance Department, according to him Worthy Chief Minister has directed the Finance Department to approve the SNEs as submitted by the College Department. Needless to mention that repeated directions have been issued by this Court to the Finance Department and College Department. Accordingly, Secretary College Department shall submit SNEs identifying 46 Colleges and Finance Department shall approve the same within one month after observing all legal and codal formalities. In case of failure, Secretary Finance shall be present with explanation.*

15. At this juncture, Additional Secretary Colleges contends that a wonderful building named Khan Sahab Din Muhammad Junejo School is constructed by the Federal Government as earlier education was the domain of the Federal / Provincial Government in concurrent list. Accordingly, Additional Secretary Colleges contends that they have taken over that building and they are going to establish Girls Degree College and they have already submitted SNE with Finance Department and it is pending for approval. Accordingly, Secretary Finance Department shall approve the same within 15 days from today.

16. Director General Planning Schools and College Education Department in addition to 46 colleges shall submit report with regard to 15 colleges, out of 15, three were approved with special summary in Pithoro and are in Taluka Khipro and rest of twelve in annual budget were approved, he will submit progress report with regard to construction of those colleges as well as, if any new school/colleges is approved in last three years by the Sindh Government and present status of those schools/colleges whether constructions are completed or not with clear statement that when all buildings will be completed. Report shall include photographs as well video footages. Director General shall personally visit all the buildings under progress and shall submit report if any hindrance in construction is created by any person (private or official), Schools/Colleges Department would be competent to approach concerned District & Sessions Judge for aid in pursuance to order passed by the Hon'ble apex court as referred above. On the next date Director Planning Colleges shall be in attendance. He shall also visit alongwith Mr. Dilawar Mangi and shall submit report in terms as stated.

43. Accordingly, in view of the orders referred hereinabove, Secretary Education is strictly directed to submit report with regard to approval of SNEs relating to 46 new college buildings and Girls Degree Colleges without fail. He is further directed to submit report regarding 15 other colleges out of them three were approved in Pithoro and Taluka Khipro and remaining were to be approved in the annual budget. Secretary Education is further directed to start immediate work of maintenance and repair of damaged/dangerous schools, availability of furniture; besides nearest paths going towards schools and submit such report in this regard without fail. However, failure shall be deemed to a perjury act.

BACHELOR DEGREE EDUCATION ON COLLEGE SIDE

44. With regard to Bachelor Degree education, it is an admitted fact that except province of Sindh, other provinces are providing 16-years basic degree at the college side. However, in Sindh province, a Bachelor's Degree is of 14 years, which is not acceptable as bachelor's degree all over the world,

including in other countries, for any job, scholarship or admission to other fields of higher-grade education. This Court took cognizance on this issue and passed the following order(s):-

"Paragraphs No. 12 and 13 of order dated 02.08.2019, passed in Circuit Court Hyderabad in CP NO.D-1817/2016, 2894/2017 AND 1890/2019.

"12. It has come on record that around 25 posts of principals are lying vacant in higher secondary schools. The importance of the post of *principal* in a *school* or *college* cannot be denied as he is supposed to ensure *proper* functioning of the *school* or *college*; thus, Secretary Schools shall ensure that such posts are filled in accordance with law. At this juncture, Secretary Education contends with regard to appointment of all teaching staff up to grade 16 as provided by education policy of foreign donors, recruitment process is initiated through third party, whereas for above the 17 grade posts Sindh Public Service Commission is required to recruit every post. Since education is more important and any compromise with regard to recruitment process cannot be accepted, hence, Secretary Schools and College Education undertakes that before initiating recruitment process by the Sindh Public Service Commission there will be screening test through third party contract. Needless to mention that in the case of Muhammad Sami Abro and others vs. Province of Sindh and others [2017 PLC (CS) 419], the Chairman Public Service Commission was directed by the Division Bench of this Court to ensure that all recruitments in education department shall be initiated after screening test through third party (IBA Sukkur/NTS).

13. Secretary Colleges and Chief Engineers of both respective regions contend that Khipro Girls Degree College and Pithoro Girls Degree College will be established within three years, on the government land which is available adjacent to both towns."

45. Secretary(s) Colleges and University and Board shall ensure four years degree program in different faculties particularly computer in all Colleges all over Sindh within two years.

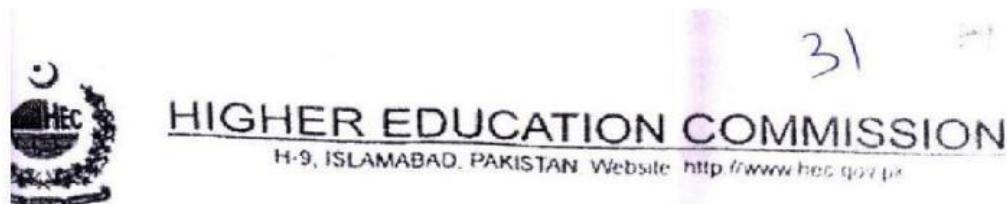
04 YEARS DEGREE PROGRAM

46. In Suit No. 1243 of 2015 vide order dated 26.05.2021, with regard to 04 years Degree Program in the Colleges in every District of Sindh, following order was passed:

10. Additional Secretary Colleges contends that in view of judgment of this Court and policy of Higher Education Commission they are going to commence four years degree program in degree colleges in first phase in every district at least one degree college will offer program from upcoming academic year. Needless to mention that those programs shall be offered in the degree colleges where district universities are not available in first phase and thereafter from 2021 to 2023 they will start four years program in every degree colleges, girls and boys both. At this juncture, Additional Secretary Colleges contends that they are going to provide opportunity to the students who have completed 14 years education to complete further their education upto 16 years to meet the standard of Higher Education Commission in Bachelor of Arts, Science and Commerce degrees.

47. This Court in C.P.No.D-1817/2016 etc. vide order dated 02.08.2019, passed the following order:

11. At this juncture, it would be conducive to refer the Higher Education Commission's letter dated 15th March 2017, which is that:-



Muhammad Raza Chohan
Sector General (Academics)

No. 9-2(16) Phasing out BA/BSc/Curri-HLC/2016-982
March 15, 2017

Subject: PHASING OUT TWO YEARS DEGREE PROGRAMMES BA/BSc & MA/MSc BY THE YEAR 2018 & 2020 RESPECTIVELY

Dear Sir/Madam,

It has been observed that most of the universities are using abbreviations BS and BSc (Hons) involving 16 years schooling and BA/BSc involving 14 years schooling respectively. Similarly, abbreviations MS/MPhil and MSc (Hons) are adopted to denote 18 years Masters. The main disadvantage of using different titles for bachelor level degrees is creating confusion for employers, national, international organizations and community as well.

For streamlining, HEC constituted a committee comprising of experts from different universities/institutions to work on the possibility of phasing out BA/BSc programmes and to devise a mechanism to accommodate existing BA/BSc graduates into BS four years programme. The Committee analyzed BA/BSc programmes at different universities. It proposed a bridging semester as foundation to cover the academic deficiency of a student who would be entering in to the 5th semester of the BS programme. Moreover there shall be NO admissions in conventional BA/BSc after Academic year 2018 & in MA/MSc after Academic Year 2020

The matter was taken up in the 31st meeting of the "Commission" and was approved as a policy, therefore needs to be communicated to all the universities/DAs of Pakistan for implementation within all HEIs in letter and spirit.

In this regard, all universities/DAs are advised to comply with the Commission's endorsement to the recommendations of the committee, constituted for the purpose of Phasing out BA/BSc and bridging the existing BA/BSc graduates

With profound regards,

Yours sincerely,

(Muhammad Raza Chohan)

16 YEARS EDUCATION

48. In C.P.No.D-1817/2016 etc. this Court on 2nd August 2019 observed as under:

13. It is strange that in Province of Punjab and KPK 04 years BA and BSc programs are commenced in view of guidelines provided by HEC, whereas in Sindh, Degree Colleges are providing degrees based on two years program upto 14 years. This seems to be in complete negation to above *decision*. Secretary Colleges is not in a position to controvert the above factual aspect. Petitioner's counsel contends that two years BA /BSC degree is not acceptable all over the world, hence there is no use if 14 years education is provided in the Degree Colleges instead of 16 years. Similarly there shall be MS/M.Phil and MSc (Hons) as of 18 years. A little discussion on *vitality* of such issue also brought it on surfaced that through Notification# 15- 54/A&C/2019/HEC/691 dated: Thursday July 11, 2019 the Higher Education Commission (HEC), Islamabad has decided to discontinue the BA/BSc programs of 02 years in transition with Associate Degree Programs. It has further been directed that the new nomenclature (Associate Degree or AD)shall be adopted in all documentation and announcements related to 02 year post higher secondary or equivalent programs, and the previous nomenclature of BA/BSc programs shall be discontinued forthwith. The Students who are enrolled/registered in BA/BSc programs on or before December 31, 2018 are allowed until December 31, 2020 to complete their programs and receive the BA or BSc degree as applicable. Those who fail to complete their courses of studies by the cutoff date shall be awarded an Associate Degree upon completion of such requirements as determined by the Degree awarding University. There can be no escape legal escape to such legal position therefore, Secretary Colleges and Secretary Universities shall ensure that that education system of the Sindh does meet with required standard of World and above referred decision and directives are complied with in its letter and spirit. We, needless to add, are not supposed to educate people for a limited area but for the whole globe. Courses of all above degrees and mechanism in this behalf shall be converted from two years to four years by including all relevant subjects. At this juncture, it would be conducive to direct Chief Secretary Sindh to constitute a committee comprising of Secretary Colleges; Mr. Nisar Ahmed Siddiqui, Vice Chancellor, IBA; Ms. Naheed Shah Durrani, Managing Director, Sindh Education Foundation, Government of Sindh (SEF) and Secretary Planning and Development (P & D) Sindh, Secretaries of Colleges and Universities who shall examine this aspect and ensure that relevant and necessary subjects are provided in the syllabus and this order is implemented in its letter and spirit within six weeks.

Syllabus and Single Curriculum policy:-

49. This Court by order dated 12.11.2019 passed in II-Appeal No. 32 of 2017, adjudication the issue of syllabus, being relevant paragraph Nos. 3 to 7 are reproduced herewith:-

“3. Before coming to question involved, I am compelled to say that there exists no concept of putting one into examination hall without first giving him due training/education, therefore,

training/education is, *undeniably*, the first **end** while the **examination** is last end. First one always needs to be addressed *first*.

'Time recognizes no excuses' hence one, if wants to be a part of an *era*, needs to step up with the time. There would need no other example to detail the importance of the education that the *first* commandment, issued from Allah the Almighty to his *last* prophet Muhammad (SAW), was '*Iqra'* which means '**read**'. Though crawling yet have entered into 21st Century, therefore, we are left with no option but to try survival in the *era* which shall never be possible without education of the *time* because it is *only* the **education** which lifts barriers of boundaries/fences. The *Pakistan* for the *globe* is a singular, therefore, the curriculum/syllabus thereof must be of *equal standard*. The people of '*Sindh*' do have a right to have the education of *international* least *national* level/standard so as to compete *fairly* in modern *era* without any barrier of national or international fences as well *financial constrains* when it comes to education/knowledge. However, the position has never been so because the quarter concerned (*government*), by making constant omissions, allowed the *original* idea/concept i.e.**education for all**' turn into a *regrettable* fact that '**better education is for riches only**'. To see one's child at a position/status has always been the *dream* of parents which (*dream*) even convince them (*parents*) in accepting destruction of their *budget* (basic needs for themselves). I shall have to acknowledge that such compromise not always works and the poverty prevails over such *dreams* because the concept of **good education** in public sector is hard to believe. This, *perhaps*, was allowed to prevail so as to avoid absolute responsibility of the government to provide **good education as free** which, otherwise, was and still is the responsibility of the government because **majority** is poor hence can't afford educations in schools of **AGHA KHAN; BECON; CITY, EDUCATOR etc.** In short, the guarantee available to every single citizen, as assured by Article 25 of Constitution, is losing its significance. This has been appraised his has been summarized by honourable Apex Court in recent case of Muhammad Imran v. Province of Sindh and other connected matters reported in 2019 SCMR 1753, which is that:-

"4. In the last thirty years or so we have witnessed mushrooms growth of educational institutions in the private sector as dependence of parents for educating their children in such institutions has grown phenomenally. This dependence is on account of pathetic quality of education in the government education system. Many government schools do not have proper buildings. Where there was once a proper running school building now it is in shambles. Most of the schools are without teachers and where there are any, they don't take classes, remains mostly absent yet get paid from the exchequer. Most of the teachers do not even have requisite skills in the subjects which they teach though they on paper can demonstrate to be qualified teachers. Even where these teachers attend schools there is either no or little furniture and that too appears to be falling apart what to speak of other necessary facilities which the government has prescribed in the rules for private

educational institutions. Thus on account of lack of capable and efficient teachers as well as lack of necessary facilities, many middle and lower middle class families, who a few decades ago used to send their children only to government schools, have utterly lost faith in the public education system. These families in their desire for better education for their children, have started seeking admissions in private schools where not very long ago only upper middle and rich class families used to send their children. This has resulted in phenomenal growth of private schools. Now more than 50% of students as per some statistics study in private schools have qualitative edge over the students who pass out from government schools. An overwhelming number of teachers who teach in private school have themselves studied in private schools. They by far excel in their teaching skills than most of the teachers of government schools. Today one can notice the difference between those students who have studied in private schools and those in the government schools. That is the reason the students who complete their education from private education institutions get admissions in renowned universities abroad and capture a very big chunk of the job market and easily secure higher executive positions than those who are being churned out from government schools. It is for this reason that regardless of the cost, parents from the middle and lower middle class families are sending their children to private schools even though it has impacted their budget severely. Much of the blame for such burden is attributed to the government which has failed in running public education system successfully. This is also one of the reasons that the literacy rate of the country, which was 60% a few years ago, has now declined to 58% and is likely to decline further thanks to the government's education policies which have proved to be worthless."

4. Though, there should never be any compromise on a *good* structural atmosphere but the *history* speaks for itself that '*good education*' normally can well be imparted under open sky. Such *transfer* normally requires a good and *friendly* contact between two *only*. Here, it is worth to add that the term '*education*' never knew nor should know any '*classification*' because the '*education*' must not only for *all* but was/is for the *today* and *tomorrow* and not for '*past*'. A *major* difference between public and private education system is, *undeniably*, curriculum / syllabus and way of delivery thereof, as was observed by honourable Apex Court in referred para (*supra*) of its judgment. To bring the *curriculum/syllabus* upto level of private schools/international *least* national standard requires no much working but would surely bring its effects because syllabus is, believed, to be printed every year. Here, it is important to add that '*government teachers*' normally possess required qualifications and even now are *subject specialist* therefore, a *little* training / workshop may be helpful for such teachers, if they are **TEACHERS**. This was directed in para-16 of order dated 02.08.2019 passed in C.P No.D-1817/2016 at Circuit

Court of this Court at Hyderabad and other connected petitions which is that:-

16. It has come on record that subjects of SSC level are not at the par of Agha Khan University Examination Board and Punjab Examination Board. Learned counsel for petitioner has submitted certain documents showing therein a mechanism of all subjects as revised by School Education Province of Punjab and Agha Khan University Board whereas notification dated 28.02.2018 issued by Intermediate and Secondary Education Hyderabad Sindh shows different signature. It would be relevant to provide here chart of comparison, which is that:-

	Punjab B.I.S.E (Since 2003)		Agha Khan Board B.I.S.E. (Since 2007)		Sindh B.I.S.E. (Since 1990)	
	SSC-I	SS-II	SSC-I	SSC-II	SSC-I	SSC-II
01	Biology-I	Biology-II	Biology-I	Biology-II	Biology	Mathematics
02	Chemistry-I	Chemistry-II	Chemistry-I	Chemistry-II	Chemistry	Physics
03	Physics-I	Physics-II	Physics-I	Physics-II	(Compulsory) URDU/SINDHI	(Compulsory) A.Urdu/A.Sindhi
04	Mathematics-I	Mathematics-II	Mathematics-I	Mathematics-II	(Compulsory) Pak. Studies	(Compulsory) Islamic Studies
05	English-I	English-II	English-I	English-II	English-I	English-II
06	Urdu-I/A. Urdu/History Geo. Pakistan	Urdu-II/Sindhi/ History Geo. Pakistan	Urdu-I/A. Urdu/History Geo. Pakistan	Urdu-II/Sindhi/ History Geo. Pakistan		
07	Islamiyat-i/Ethics-II	Islamiyat-ii/Ethics-II	Islamiyat-i/Ethics-II	Islamiyat-ii/Ethics-II		
08	Pakistan Studies-I	Pakistan Studies-II	Pakistan Studies-I	Pakistan Studies-II		

Scheme of studies in comparison Organizational Chart

SHORT FORMS

B.I.S.E: Board of Intermediate & Secondary Education

A.Urdu/ A.Sindhi: Asaan Urdu/Assan Sindhi

Geo: Geography

SSC: Secondary School Certificate (Matric IX, X)

Note: Data collected and compiled on the basis of documentation sent before.

*It is prime duty of province to provide education on international/ national standard. Admittedly, in Sindh same old curriculum/ syllabus is existing since years thus Province of Sindh can take benefits of system whereby subjects of SSC are revised by the Province of Punjab on the same line as by the Agha Khan University Examination Board. **Accordingly, Secretary Schools***

and Boards shall ensure the same mechanism like Aga Khan Board. Copy of this order shall be circulated to all chairman boards for compliance, in including referred Secretaries. **This exercise shall be completed preferably within three months.**

5. Accordingly, all Boards of Education shall ensure that they shall apply paragraph No.16 in its letter and spirit from 2020 onwards and they shall submit details that how they have implemented that relevant paragraph. The Secretaries Boards and Universities shall ensure compliance.

6. Besides, the Registrar, IBA Sukkur contends that despite federal policy with regard to curriculum 2006, yet Education Departments of Sindh province has not applied the same, whereas, in all three provinces, curriculum 2006 policy is existing and students are getting benefits of that policy which is the best one and relates to *Bloom's Taxonomy Stages*. That is also applicable to all Universities, Colleges and Schools. It is the action and not the *slogans* which give effects; when it comes to a *progressive* thing then the qualification of the '*best*' also needs to be developed. The *curriculum 2006 policy*, being advanced and developed, was/is always needs to be appreciated by way of enforcement thereof. Accordingly, Chief Secretary, Sindh shall constitute a high level Committee under the Chair of Mr. Nisar Ahmed Siddiqui, Vice Chancellor, IBA Sukkur comprising of Chairmen Boards of Education, Chairman Sindh Text Book Board, Director Curriculum, Ms. Naheed Shah Durani, Ex-Managing Director Sindh Education Foundation (SEF), present Managing Director, SEF, Vice Chancellor of Sindh University, Vice Chancellor of Karachi University, Vice Chancellor of Khairpur University, Secretary Schools and Colleges and that policy also shall be applied from the year 2020 onwards. A notification with regard to constitution of Committee shall be issued by the Chief Secretary, Sindh within a week after receipt of this order. All Boards and Universities would be responsible and they shall come forward with undertaking. Needless to mention that such policy is applicable everywhere in Pakistan except Sindh, hence students of public sector of Sindh shall be at the par and as that is the national curriculum.

7. Since curriculum policy and publication of books relates to the Sindh Text Book Board and Director Curriculum, therefore, both are hereby directed to ensure that books shall be available as per curriculum and as per standard of curriculum policy 2006, so applied in the provinces of Punjab, KPK as well as Balochistan Education Departments. At this juncture, Mr. Zahid Khan Khand, the Registrar, IBA Sukkur contends that normally the Agha Khan Board recommends books of Punjab Text Book Board and KPK Text Book Board instead of Sindh Text Book Board, therefore, Sindh Text Book Board is required to upgrade and shall ensure that books published are at the par of other provinces. Accordingly, issue notice to the Chairman Sindh Text Book Board as well as the Director Curriculum and they shall be in attendance on the next date and they shall submit undertaking and mechanism that from 2020 onwards books would be available before commencing one month of academic session."

50. Chairman Sindh Text Board shall ensure availability of books of every subject before opening of academic session.

51. On 13.12.2022, in II-Appeal 32 of 2017, this court directed provision of free books of first year and intermediate in schools and colleges as under:

12. At this juncture, Additional Secretary Colleges contends that Sindh Text Book Board is required to provide free books of first year and intermediate in all schools and colleges. Accordingly, Chairman Sindh Text Book Board shall ensure that free books are provided to all the schools, Higher Secondary Schools and Colleges of first year and intermediate. The Chairman and Secretary Text Book Board shall be in attendance on the next date of hearing and they shall submit explanation with regard to that scam as huge books sold out as discussed above.

52. That, in the similar manner, the case bearing C.P.No.D-42 of 2023, had recently came up for hearing before a Divisional Bench of this Court on 26-01-2023, when, Division Bench had passed the following orders;

"Petitioner is claiming that Sindh Education Foundation (SEF) is not providing financial assistance to subject matter schools. Regional Director present contends that they used to provide financial assistance on the basis of physical monitoring to ensure that registered kids are getting education and there is no duplicate admission in other government schools; besides he contends that there are 1349 Elementary Schools, 272 Secondary Schools, 122 High Schools and 44 Higher Secondary Schools. They have computerized record of pupils and they have provided list to Reform Supporting Unit (RSU) to verify whether these pupils are registered with Sindh Education and Literacy regular system.

Secretary, Education and Literacy Department, Government of Sindh, present contends that they do not have computerized record of all schools as there is about 4.7 million students. In our opinion the reason put forth by the Secretary Education and Literacy Department, Government of Sindh, showing his inability to update the record is a lame excuse. Non-availability of infrastructure is also a wrong statement on his part. It is wrong because there are various channels from where the exact computerized record of all schools and students can be obtained. And if it is so then the element of ghost schools, ghost teacher and ghost students cannot be eliminated because the funds (SMC Funds), maintenance funds of schools, salaries of the teachers and the funds in different heads including the funds for the students are allocated and released. It is very simple that the computerized record of the schools can be obtained from District Accounts Officers.

The Secretary Education further contends that they don't have infrastructure to update the record. This contention of the Secretary Education is again wrong and a lame excuse. It is beyond our mind that what kind of infrastructure is required to him for updating the record especially when the Education Department is equipped with modern devices. Besides this, the Education Department Government of Sindh, in every district introduced a

system of monitoring the schools through Monitoring Officers, Monitoring Assistants headed by Chief Monitoring Officers and this system is still going on. Through these monitoring officials the education department can collect the required data within one visit of the schools. The Education Department has allocated a SEMIS Code to every school and through this code actual required data can be collected.

On administrative side, the education system in the province is dealt with/managed in the following manner.

- At school level (Primary, Elementary, Secondary & Higher Secondary) by Head Masters/Head Mistress and Principals.
 - Supervisors control some of the schools.
 - TEOs are the controlling authority of the schools at Taluka level At District level.
 - Assistant District Education Officer (Primary & Secondary)
 - Deputy District Education Officer (Primary & Secondary)
 - District Education Officer (Primary & Secondary) At Division level.
 - Assistant Director
 - Deputy Director.
 - Additional District.
 - Director.
- At province level.*
- Deputy Secretary.
 - Additional Secretary.
 - Secretary.

If all the above officers and officials upto the Director level shall work on this issue sincerely, honestly and efficiently then this task can be completed hardly within a month. In the offices of District Education Officers and Directors, modern devices are available, and if by using these modern devices the data is transferred to Secretary level, the compiling of data of students is not a hard task and this practice will make the Secretary Education enable to submit the same before this Court on next date of hearing.

The Secretary Education Department is strictly directed to collect the data of all schools and the enrolled students through Monitoring Officers or the officers of the Education Department at District and Divisional level within a month and submit positive report. He is informed that no lame excuse will be acceptable in this regard.

The Secretary Education has further contends that there is difficulty as major of the students or their parents are not in a position to provide B-Forms and unless B-Forms are available with the school administration to maintain the computerized record wherein survey of actual pupils and to check out duplication, same cannot be compared with education provided by the SEF. While pointing out such a difficulty, the Secretary Education has completely eliminated the G.R. Registers, because at the time of admission of students an admission form is filled up by the parents or the Head of the school. This admission form contains different information but no one took pain to maintain the proper record of the students and whatever oldest admissions forms are still being used for admissions of the students in the schools. Besides this every citizen is having his CNIC and in such a situation preparation of B Form is not a hard task. It is not clear whether any effort has been taken to collect the B

Form from the parents. If it is demanded, we think more than half of the parents or students shall submit the B Form immediately and it will be helpful for maintain the computerized record and survey of the actual pupils. This practice will also eliminate the duplication of the students in the Government schools and SEF.

In these circumstances, judicial propriety demands to take cognizance, hence we hereby direct to Secretary, Education and Literacy Department, to outsource the subject issue and ensure that all pupils registered on different stages with the Government schools up to school level are maintaining computerized record. Department would be competent to sign MoU with NADRA and Finance Department on submission of such requisition with regard to provide funds and the same shall be released after receiving the same within one month after completing all codal formalities.

DG NADRA shall work out this issue as this issue pertains to fundamental rights and State is bound to remove the nuisance as provided under Article 25-A of the Constitution of Pakistan, 1973, whereby it is mandatory to provide education to every student and increase the literacy ratio free of cost, hence special measures shall be taken by the NADRA by minimizing the fee of B-Form and mobile units shall be established with the cooperation of the education and literacy department, they shall approach at least Taluka(s) and provide B-Form to the respective authorities within District and Taluka(s).

Apart from MoU, if any, signed by them, it is expected that Secretary, Education and Literacy Department will pursue the issue and Secretary Finance and DG NADRA shall ensure that compliance of this order be made in letter in spirit within three months.

At this juncture, Secretary, Education and Literacy Department, Government of Sindh, contends that there is serious shortage of books in the schools as Government is bound to provide books to the students up to level of High School through Sindh Text Book Board and recently they floated a summary to increase the budget because of strength of the students and cost of papers and publications and at present, Sindh Text Book Board and Education and Literacy Department are not in a position to provide books to every student; however that summary was not accepted and the same is pending under some objections.

Accordingly, Secretary Education and Secretary Finance shall personally look into the issue seriously, remove the objections on the summary on emergent basis and ensure this basic facility provided under the Constitution of Pakistan shall be provided and all funds submitted shall be released after completing codal formalities by accepting summary floated by Secretary Education within one month.

Mr. Sikandar Hayat, Legal Advisor/Deputy Secretary (Finance) present along with concerned official of budget branch undertakes that he will pursue the summary and comply with orders of this Court in its letter and spirit.

With regard to adoption of Single Curriculum, there is no dispute in main subjects i.e. Science, Mathematics and English syllabus books of Federation provided, therefore, similar syllabus can be adopted by Sindh Government. Accordingly, Secretary, Education and Literacy Department, Government of Sindh, shall pursue the same and ensure

that if syllabus is higher than syllabus of Sindh Text Book Board, they will adopt the same in different phases preferably from the upcoming academic year. We appreciate this undertaking and expect that issue will be sort out within two months.

Adjourned to 28.02.2023, when Secretary Education and Literacy Department, Government of Sindh, shall be in attendance with computerized record of schools and students and compliance report of other directions without fail.

IMPORTANCE OF LIBRARIES AND DIGITAL LABS/DIRECTIONS OF THIS COURT.

53. A library is a place where books-shelf and sources of information are installed. They make it easier for people to get access to them for various purposes. Libraries are very helpful and economical too. It includes books, magazines, newspapers, manuscripts and more. In other words, they are an all-encompassing source of information. A public library is open to everyone for fulfilling the need for information. They are run by the government, schools, colleges, and universities. The members of the society or community can visit these libraries to enhance their knowledge and complete their research. Libraries play a vital role in providing people with reliable content. They encourage and promote the process of learning and grasping knowledge and provide learning environment. The book worms can get loads of books to read from and enhance their knowledge, skill and expertise. Moreover, the variety is so wide-ranging that one mostly gets what they are looking for. Furthermore, they help the people to lay their hands on great educational material which they might not find otherwise in the market. When we read more, our social skills, intellect and academic performance improves. Most importantly, libraries are a great platform for making progress. A library is a very useful platform that brings together people willing to learn. It helps students/readers/researchers in learning and expanding our knowledge. This helps in the personal growth of a person and development. Similarly, libraries provide upto date, authentic and reliable sources of information for researchers. They are able to complete their papers and carry out their studies using the literature present in a library. Furthermore, libraries are a great place for studying alone with concentration or even in groups, without any disturbance.

54. Public libraries stand as venerable institutions, pivotal in shaping public education and fostering a society that values knowledge, literacy, and intellectual inquiry. Their role transcends that of repositories for books; they are dynamic hubs that democratize access to information, cultivate lifelong learning, and bridge educational gaps. In elucidating the importance of public libraries in shaping public education, one must recognize their multifaceted

contributions to individual development and community enrichment. Public libraries serve as great equalizers in the realm of education. Irrespective of socio-economic backgrounds, individuals can access a vast array of books, journals, and multimedia resources. This accessibility is particularly crucial for those who may not have the means to purchase books or have internet access at home. In doing so, public libraries contribute significantly to democratizing education, ensuring that knowledge is not a privilege reserved for a few but a right accessible to all.

55. Education is not confined to formal classrooms, and public libraries play a pivotal role in fostering a culture of lifelong learning. Beyond the traditional academic setting, libraries provide a space for individuals to pursue self-directed learning, explore new subjects, and acquire practical skills. Whether through workshops, lectures, or access to online courses, public libraries empower individuals to engage in continuous education throughout their lives, libraries are instrumental in supporting formal education. Students, regardless of their academic levels, can find resources that complement their curriculum, conduct research, and enhance their understanding of various subjects. The availability of reference materials, study spaces, and knowledgeable librarians creates an environment conducive to academic achievement. Public libraries become extensions of educational institutions, offering a realm of supplementary resources that enrich the learning experience.

56. In this digital age, public libraries play a crucial role in fostering digital literacy. They provide access to computers, the internet, and digital resources, ensuring that individuals are not left behind in an increasingly digitalized world. Librarians often assist patrons in navigating online databases, developing research skills, and understanding the nuances of information in the digital realm. This emphasis on digital literacy is indispensable for effective participation in modern educational and professional spheres. Public libraries are sanctuaries for bibliophiles and novices alike, nurturing a love for reading from a young age. Through curated collections, storytelling sessions, and literary events, libraries instill the joy of reading. This passion for literature extends beyond academic pursuits, fostering empathy, critical thinking, and creativity. A society that values reading is inherently a society that values education.

57. Public libraries serve as community hubs, promoting social inclusion and cohesion. They provide a shared space for diverse individuals to come together,

transcending cultural, economic, and generational divides. Library programs and events, such as book clubs, workshops, and community discussions, create a sense of belonging and collective engagement. By fostering community connections, public libraries contribute to a social fabric where education becomes a shared endeavor. Public libraries are custodians of cultural heritage, preserving books, manuscripts, and historical records. This archival function is essential for transmitting knowledge across generations and safeguarding a community's cultural identity. Through special collections and local history resources, libraries become educational institutions that connect individuals with their roots, fostering an appreciation for heritage and history conclusion, public libraries are linchpins in the educational ecosystem, shaping individuals and communities through their commitment to equal access, lifelong learning, academic support, digital literacy, reading culture, community building, and cultural preservation. Their significance lies not only in the volumes they house but in the transformative impact they have on the educational landscape, making knowledge a beacon that illuminates the path to intellectual enlightenment for all. As bastions of learning and community, public libraries stand as champions of education, embodying the democratic ideals of accessibility, inclusivity, and the pursuit of knowledge for the betterment of society.

58. Keeping view the needs and necessities of the readers, researchers and students of Province of Sindh, this Court also took notice in respect of libraries and passed Order in Suit No.1243 of 2015. It is worthwhile to mention here relevant paragraphs of even dated order passed by this Court at Principal Seat at Karachi as follows:-

"With regard to paragraph No.2 of earlier order, Secretary Education submits compliance report which shows huge number of libraries and computer labs. According to the report, majority of buildings with regard to computer labs and libraries are not complete however there are around 167 buildings which are final and handed over to the Department. Accordingly, SNEs with regard to those 167 buildings for libraries and computer labs shall be forwarded to the Finance Department within six weeks. After receiving the same, Finance Department shall approve the same within one month, with compliance report. This court has already observed that in Education Department, Additional Secretaries must be educationists therefore one Additional Secretary and one Deputy Secretary shall be from education school side. Accordingly Secretary, Services, General Administration and Coordination Department and Secretary School shall ensure such compliance within one month.

59. In C.P.No.D-1817/2016 etc. this Court vide order dated 02.08.2019, with regard to libraries the following order was passed:

8. *With regard to libraries in schools and colleges it has come on record that no budget has been allocated during current financial year for purchase of books however Secretary Schools contends that one philanthropist Agha Noor Muhammad is establishing libraries in schools on his own and his work is commendable. This court appreciates conduct of Mr. Agha Noor Muhammad however since such liability exclusively rests with the government and cannot be avoided with reference of remarkable efforts of an individual. He may strengthen the work of government sector. It has come on record that no mechanism is provided with the colleges and schools side regarding purchase of books and to maintain the libraries and even post of separate librarian is not sanctioned. How one can hope to know developing changes / research works on side of his interest but with help of books, including e-books, which are meant to operate as tool. Accordingly Secretary Colleges shall ensure that libraries are established in every college having sufficient number of seating arrangement, however libraries shall be in two portions, one shall be digital and another by providing books. Sufficient space be provided for such purpose and post of librarian counsel / or shall be created and filled and framed by IBA Sukkur or Karachi. Passing out students shall be provided cards for at least three years, to visit the libraries. Such portion of libraries, if possible, be equipped with WIFI network with solar facility immediately least gradually. Books of competitive examinations shall be purchased with the consultation of CSS officers. Besides a partial or separate website shall be launched by joining all Universities and Degree Colleges, such website shall place every information regarding Admissions, Scholarships, Jobs and guidance. Further Secretary Schools shall submit compliance report regarding establishment of IT Labs as undertaken, reflecting in order dated 23.08.2017.*

60. Further in II-Appeal No. 32 of 2017, this Court vide order dated 13.12.2022 passed the following order:

25. *With regard to libraries in Local Government Department admittedly libraries are working in different districts under the control District Councils and Town Committees however, there is no mechanism like in Culture Department which bifurcates library section separately and with separate funds allocation, therefore, Secretary Local Government with the consultation of Chief Secretary Sindh shall ensure mechanism is provided thereby a separate wing shall be established creating post of D.G. Libraries in Local Government alongwith its secretariat and Province of Sindh shall allocate budget from the total budget specified by the Local Government separately for the libraries and to control the libraries directly through directors and librarians. Accordingly, such rules shall be framed which provides recruitment as well and procedure of purchasing library material, equipment, books establishing digital libraries in the respective divisions and upto Town levels and till then budges shall be separated for existing libraries to ensure that those abundant libraries are re-established apart from the libraries adopted by the Culture Department.*

61. That, moreover, until recently, this Court while hearing together, C.P.No.D-260 of 2023 and C.P.No.D-355 of 2023, firstly vide order dated 01-03-

2023, has given the following important directions with regard to Public Libraries, in the following manner;

"It is pertinent to mention that Sindh Local Government Act 2013 (The Act) was promulgated, strictly in view of Article 140-A, of Constitution of 1973, which provides for establishment and devolution of powers to local councils. With regard to relevant mandatory provision and maintenance of Public Libraries, under the Sindh Local Government Act 2013, promulgated to rationalize and reorganize the local government system in the Province of Sindh, Mr. Ali Raza Baloch, Learned Assistant Advocate General, Sindh, has referred to Section-72, the Act (Amended 2021) and the attached Schedules thereto, which speaks about the Functions (Compulsory & Optional) of the Councils, for ready reference, the same are reproduced as under; Section za. Functions of Council: "A Council shall, subject to rules and directions given by the Government and within the limits of the funds at its disposal, undertake all or any of the functions, given in Schedule II. in case of a Corporation, a District Municipal Corporation, Municipal Committee and Town Committee, in Schedule III, in the case of a District Council, and in Schedule IV, in the case of a Union Council and such other functions as are entrusted to them by Government"?

Provided that no Corporation shall undertake such Functions as are assigned to and performed by anybody, agency or authority established by or under any law for the time being in force:

Provided further that Government may at any time require the Metropolitan Corporation to perform any Function of a District Municipal Corporation subject to such conditions as Government may specify.

Furthermore, Schedule-II of 'Functions to be Performed by Corporations, Municipal Committees & Town Committees' and Part-II thereof, relevant provision for libraries, which is provided at Serial No.61 of the said Schedule of "Compulsory Functions" under the heading of Culture, and so also Schedule III 'Functions of District Councils' Part-1, at Serial No.13, also makes it mandatory for provision of Libraries/Reading Rooms for Local Councils, the same are also reproduced, herein below;

SCHEDULE-II

[see section 72]

"FUNCTIONS TO BE PERFORMED BY CORPORATIONS, MUNICIPAL COMMITTEES AND TOWN COMMITTEES"

Part-II

"COMPULSORY FUNCTIONS"

1[FUNCTIONS TO BE PERFORMED BY TOWN MUNICIPAL CORPORATION, MUNICIPAL COMMITTEES AND TOWN COMMITTES]

61- Libraries A Corporation, Municipal Committer or Town Committee may and if so required by Government, shall establish and maintain such Public Libraries, reading rooms and digital libraries as may be necessary for the use of the public.

SCHEDULE-III

(see section 72)

'FUNCTIONS OF DISTRICT COUNCILS"

Part-1

"COMPULSARY FUNCTIONS"

13. Provision and Maintenance of Public Libraries and Reading Rooms.

From the bare perusal of the above provisions of the Act 2013 (Amended 2021) and attached Schedules thereto, it can safely be arrived at, that under such scheme of law, provision of Public Libraries has been made mandatory, whether the same falls within the jurisdiction of an Urban Area (Municipal Corporation) or a Rural Area (District Council), as the case may be. However, it is a matter of record, that in Local Government Department, there is no separate wing of Libraries has ever been established, which is in complete violation and disregard to the mandatory and unequivocal provisions, as reproduced (1) hereinabove. Accordingly, Secretary Local Government Department is directed, that he shall establish independent authority of Libraries, by appointing any officer as Director/Director General, Libraries and shall submit summary to Finance Department with regard to allocation of budget, in the same manner as that of Culture Department. Accordingly Chief Secretary, Sindh shall de-notify the committee as terms of reference pertains to Local Government only.

With regard to proposal of Culture Department to adopt 55 Libraries of local government, on the plea that local government is unable to maintain libraries. It is pertinent to mention here, that the local government department is a complete code and has complete hierarchy provided under the law and as per law they are bound to maintain the libraries under the act, therefore, shifting of the burden to the Culture department would result in sheer violation of above referred mandatory provisions provided under the Local Government Laws.

At this juncture, Additional Secretary, Local Government, Department, contends that they have provided 15 million to Qambar ShahdatKot Library with condition that amount will be deducted from the OZT share of District Qambar at ShahdatKot. Needless to mention that from OZT share sufficient figure of amount shall be deducted from OZT share of all Districts/Taluka councils and shall be reserved for Libraries only and the same is to be utilized by special/independent wing of Local Government Department. Secretary Local Government shall ensure that all Libraries in first phase in District level shall be made functional for public use, having solar and digital facilities, good atmosphere including Air Conditioner and clean drinking water by circulating pamphlets in the schools, colleges of said city, and affixing banners or through print and social media regarding awareness and information of public at large regarding functionality of the library. This exercise shall be completed within 15 days. Besides Local Council(s) shall maintain separate library accounts in every corporation, municipal committee, district council and town committee in view of Section-m of Sindh Local Government Act 2013 and the same shall be updated and maintained at their websites by placing all accounts related activities thereon, from own sources as provided in schedule III of said Act of 2013.

Secretary, Culture, DG Archive and Roshan Ali Kanasro, Resident Director PDMI shall be in attendance on the next date of hearing.

It has also come on record that, Executive Engineer PDM&I Cell Culture, Tourism, Antiquities & Archives Department, Sindh, has submitted report, which speaks that this Library/Culture Hall was to be established around 10 years back, however, on account of missing Allied Facilities 187.00 Million were approved and such scheme will be completed by June-2024, with all components and such SNE is yet not placed before finance department.

While perusing under construction "Culture Building Sukkur" Map, it appears that for library a small hall is specified, such neglecting approach is not worth appreciating for such an important aspect. Accordingly, Director PDMI and Secretary Culture shall ensure that major portion of the Culture Center shall be specified and reserved for library to provide opportunity to the readers with state of art facility of digital and sound libraries and for museum a smaller place can be specified and reserved except at heritage locations, thus culture centers shall be set up with huge libraries, enabling the students/readers to benefit therefrom.

With regard to 'Mir Masoom Shah Library Sukkur', Administrator, Sukkur Municipal Corporation/Deputy Commissioner, Sukkur, shall provide all basic facilities including Solar, Air-Conditioner, clean drinking water, furniture, etc. OZT share shall not be used for any other purpose till the time, the building is restored, with all the basic facilities and requirements for having smooth access of students.

That, Muhammad Laiq Zardari Library, at Moro, Additional Secretary Local Government shall ensure, that, the same is restored and shall probe the issue whether amount released by the District Council in 2019 was utilized for this purpose? in case of failure action against delinquent official shall be taken.

Director General, Antiquities shall ensure handing over of Azeem Khan Durrani' building to Director General Culture and he shall ensure that such building shall only be kept for the library for the girls which shall include facilities of Computer, Solar System, CCTV camera and shall submit such statement on next date, in respect of exact time to be taken to make this Library completely functional, with SNE.

Moreover, Deputy Commissioner/Administrator SMC, is also directed that he shall hand over double story building to Culture Department's Libraries wing, situated adjacent to Comprehensive Boys High School, Shikarpur Road, Sukkur, which is lying vacant and abandoned and they (Culture Department) shall establish library for only girl students having all facilities of state of art facility, as stated above.

Another aspect in the matter needs deliberation, that if any library is being established and if such plot is donated by any person, such mutation shall be effected in the Record of Rights in the name of libraries of Culture Department/Local Government Department, as the case may be. Deputy Commissioners of all over Sindh, shall ensure mutation of all public libraries under the domain of Culture/Local Government Department. This exercise shall be completed within 15 days, with compliance report through Additional Registrar of this Court.

Office is directed to place a signed copy of this order in the captioned petition.

Besides Director General Culture, Tourism, Antiquities and Achieves Department present along with Additional Secretary Culture, though Secretary Culture shall be in attendance.

With regard to Culture Centre Moro, Mukhtikar (Revenue) Moro has submitted report on behalf of Assistant Commissioner Moro, though specific directions were issued to Assistant Commissioner Moro, for visiting new bus stand at Moro and to submit his report, but today he is not in attendance, hence issue bailable warrants in the sum of Rs.50,000/- to be served through S.S.P Naushahro feroze.

To come up on 09.03.2023 to be taken at 9.30 a.m."

62. That, thereafter, on 09-03-2023, this Court's Bench at Sukkur, has given the below mentioned specific observations and directions with regard to approval of SNEs, missing Libraries in each and every Taulka and District of the Province of Sindh, in the following manner, order 09-03-2023, is reproduced herewith for ready reference;

"Secretary, Culture, Tourism, Antiquities & Archives Department, Government of Sindh is present and has submitted compliance report, which is taken on record. Being relevant, same is reduced as under:-

"The existing facility of Library in Culture Centers has two reading halls one hall having capacity of 80 students and second with capacity of 50 students. Now, it has been doubled with addition of two more halls having capacity of 220 students. 300 students can now benefit from this library.

Further, it is pertinent to mention here that a Memorandum of Understanding has been signed between Culture Department and Sukkur Arts Council on 21st September 2022. The Culture Department has provided Auditorium, Art Gallery and some rooms.

With regard to Para 10 of the aforementioned order, the conservation of the building of "Azeem Khan Durani" will be completed in June 2023 and same will be handed over to the Director General Libraries. However, SNE for this library for the financial year 2023-2024 has been sent to the Finance Department, Government of Sindh for approval.

With regard to the Para-11, it is submitted that the double story building situated adjacent to the Comprehensive Boys High School, Shikarpur Road, Sukkur has been taken over by the Culture Department on 8th of March 2023. However, the building of said library was visited by the Director Sukkur Division and he submitted the report. The report speaks that the building of said library is in poor condition and it needs to be restored before opening for the public.

Learned Secretary further contends that they have two more rooms at Culture Centers at Sukkur for library. They have also taken over possession of the building and they will establish library specially for girls having girls staff. Such SNE shall be moved before the Secretary, Finance and the Secretary, Finance shall approve the same after receiving

within a period of 15-days. Besides, Secretary, Culture contends that they will re-visit the Culture Centers approved map of all Culture Centers and they will erect one more floor at Culture Center for the purpose of library in addition to ground floors, which is used for library at Sukkur and will enhance libraries in view of earlier orders.

The petitioner in C.P.No. D-355 of 2023 has placed on record a picture showing running of shops and hotels under the Rohri Municipal Library. In such circumstances, the Deputy Commissioner, Sukkur shall visit Rohri Municipal Library and ensure that same is restored to its original condition as per approved map and if there is any allotment, same shall be cancelled with notice by giving sufficient time to allottees to vacate their shops/hotels etc. and such compliance report shall be submitted within three days. Deputy Commissioner, Sukkur shall submit approved map of Mir Masoom Shah Library, Sukkur and shall also depute any responsible officer who shall submit report with regard to illegal occupation of the area, which is meant for library Unless. SNE is approved, Deputy Commissioner, Sukkur shall ensure that responsible officers are appointed from Revenue or Local Government Departments to handle the affairs of Mir Masoom Shah Library, Sukkur and qualified Librarians shall be appointed through third party testing. SEPCO authorities shall ensure uninterrupted electricity to the libraries from 09-00 am to 09.00 pm. Deputy Commissioner, Sukkur shall submit compliance of orders with regard to availability of electricity and availability of books for competitive exams and general knowledge. The D.G, Libraries shall ensure timing of libraries in Sindh from 09-00 am to 09-00 p.m, from Monday to Saturday.

Secretary, Local Government Department has failed to cause his appearance though vide orders dated 15.02.2023 and 01.03.2023, directions were given, but none is in attendance on his behalf. Besides, it has come on record that OZT share is being received for salary, non-salary, pension and development expenditures Accordingly, OZT share of all Municipal Corporations and District Councils especially for development schemes in Sukkur is hereby stayed, unless libraries are restored. However, OZT share to the extent of salary, non-salary and pension shall remain continued. Secretary, Local Government Department shall be in attendance before this Court on the next date of hearing and submit compliance reports of orders, as referred to above.

Assistant Commissioner, Moro has submitted report with regard to Digital Library and Children Park and proposed Culture Center and place at old Bus Stand, which is taken on record. The Secretary, Culture contends that the project is under ADP scheme and there is need of funds to expedite and complete the project. It is expected that Moro Library shall be established within one year having sufficient area for the library purpose in Culture Center.

Besides, this Court takes judicial notice that the libraries are not functional within Local Government Department and there is need for library in every Taluka and district. Accordingly, the Secretary, Culture, Tourism, Antiquities & Archives Department shall work out this issue and submit summary for the libraries where the libraries are missing, they will submit such schemes for placing under the ADP schemes 2023-2024. Accordingly, this exercise shall be completed within a period of one month under compliance report to this Court.

Besides, Deputy Commissioners, Sukkur, Khairpur, Ghotki and Naushehra Feroze shall visit all government buildings, more particularly

buildings of Education Department and if they are in good condition having no use, they shall be handed over to the Culture Department for library purpose and shall submit report with regard to release of funds.

Office shall communicate this order and earlier order dated 01.03.2023 to the Chief Secretary, Sindh, Secretary, Finance and Secretary, Local Government, Government of Sindh for compliance so also to all Deputy Commissioners through Chief Secretary, Sindh in whole Sindh for mutation of entries, as already ordered.

Notice to DAG. Adjourned to 15.03.2023 to be taken up at 09. 30 a.m, when Secretary Local Government shall be in attendance. Personal appearance of Secretary, Culture, Tourism, Antiquities & Archives Department and D.G, Libraries is dispensed with.

Office to place a signed copy of this order in captioned connected matter."

63. That, similarly, on 15-03-2023, the following specific directions were also given, in continuation of both earlier hereinabove reproduced orders, order dated 15-03-2023, is also reproduced herein below;

"Pursuance to order dated 09.03.2023, Additional Secretary (Finance) has submitted report that Finance Department is not directly concerned with the issue; however, release monthly OZT share to all Councils in single line grant. Though Finance department has no details regarding the salary/pension and development related expenditure of concerned local councils. It is strange that the Finance department is releasing OZT share to the councils, without any check and accountability. Accordingly, Finance Secretary shall explain the reasons of such mechanism as same is apparently not appealable to a prudent mind. Besides, Secretary Local Government has submitted compliance report. Being relevant, paragraph-2 is as under:-

"It is further submitted that in pursuance of Section-7 of the Sindh Local Government Act-2013, the Council shall be a body corporate (Annex-II) and being utilize their funds according to the Sindh Local Government Act-2013 / policy guidelines framed by this department. The Finance Department directly releasing OZT share to the all Local Councils on monthly basis without delay and Councils make their own budgets independently accordingly. The Councils can also generate revenue at their own level".

2. It is pertinent to mention here, that local councils have wide network of libraries, but same has been considered as redundant and local councils are failed to maintain the same, whereas, they are receiving OZT share without any check and balance. Libraries are part and parcel of functions of local councils as highlighted in order dated 01.03.2023, therefore, no need to refer thereof. Hence Finance Secretary shall release OZT with rider that all councils will maintain separate account of libraries within two months. In case of failure, OZT share shall be stopped. Secretary, Local Government shall also issue such directions to the councils for maintaining the libraries. All local councils/ Commissioners/ Administrators shall ensure appointment of qualified librarian as per SNE(s) through third party recruitment process.

3. Deputy Commissioner, Sukkur, has submitted compliance report. Being relevant, paragraph-2 to 4 are reproduced as under:-

2) *It is therefore, submitted that the undersigned issued letter No. DC/ PA/2361 dated: 09-3-2023 to Municipal Commissioner Sukkur that the Hon'ble High Court directed to complete missing facilities in Mir Masoom Shah Library and send detailed report with pictorial views. The missing facilities in library which were observed by the undersigned are following: (copy of letter is attached as annex-C.*

I. FALSE CEILING STATUS: *To ensure the 100% completion of false ceiling work before date of hearing in High Court Sukkur.*

II. WATER COOLERS: *During the visit of undersigned it was observed that 02 electric water coolers are installed which were functional. One extra electric water cooler shall be installed by looking at the necessity of students.*

III. FILTER PLANT MAINTANENCE. *That after every 15 days ensure cleanliness of water filter plant.*

IV. COMPUTER SYSTEMS IN LIBRARY: *During visit, it was told by the Executive Engineer SMC that there are 11 computers in library. But looking at necessity 5 more computers should be procured and set in library.*

V. STATUS OF SUFFICIENT NUMBER OF SOLAR HATTRIES: *To ensure the installation of solar batteries in order to supply the un-interrupted power supply to the library.*

VI. OF LIBRARYAREA. ENCROACHMENT *Identification of encroachments over the land of Mir Masoom Shah Library. Submit compliance report regarding total land of library area including status of Air Force Recruitment Center and area occupied by Public Health Engineering Department.*

VII. STRENGTH OF FURNITURE AND FIXTURES: *Current Inventory of furniture and fixtures and replace with newone as per demand/space.*

VIII. TOTAL NUMBER OF BOOKS IN LIBRARY. *To ensure to increase the number of competitive examination books like CSS, PCB and other examinations with consultation of students.*

IX. PROVISION OF COMPETENT LIBRARIAN IN MASOOM SHAH LIBRARY: *Depute an officers/librarian BP6-17th at Mir Masoom Shah Library alongwith other officials already working in the library.*

X. CEILING FANS AIR CONDITIONERS: *Install New fans and air conditioners and replacement of old fans and air conditioners.*

3). *The Municipal Commissioner Sukkur replying in his report vide letter No. BMC/XEN/-152 dated. 13/03/2023 the details are mentioned s under: (Copy of Letter is attached as annex-D.*

1. **FALSE CEILING:** False Ceiling has completed upto and Remaining 20% is in progress.
11. **ELECTRIC WATER COOLERS:**

STATUS AND QUANTITY OF ELECTRIC WATER COOLERS INSTALLED IN MIR MASOON SHAH LIBRARY,

Current	New Purchased on 09/03/2023	Non-Functional	Functional
1	3	2	5

111. **FILTER PLANT MAINTANENCE:** Filter Plant has been cleaned on 7th March 2023 and ensure that will be regularly cleaned onfortnight basis.

IV. COMPUTER SYSTEMS IN LIBRARY:

Name of Articles	Status o Computers/Laptops available in Library					
	No. of Computers / Laptops Previously Available in Library		No. of Computers / Purchased on	No. of Computers/ Laptops Purchased	Total Computers / Laptops available in Library with Status	
	Functional	NonFunctional	09/03/2022	3	Functional	Non Functional
Computers	6		04/03/2022	3	5	15
Laptops	8				0	8

V. STATUS OF SUFFICIENT NUMBER OF SOLAR BATTERIES:

No. of Batteries Previously in Library Functional	No. of Batteries previously in Library Non-Functional	No. of Batteries purchased on 13/03/2023
6	32	32

VI. STRENGTH OF FURNITURE AND FIXTURES:

Name of Articles	Current Inventory of Furniture/ Fixture			New One required inventory as per demand/ space
	Usable	Repairable	Total Existing Inventory	
Executive Table with Side rack	1	0	1	1
Circulation Counter	1	0	1	1
Office Tables	0	2	2	2
Reading Tables	30	2	32	
Children Reading Tables	2	0	2	0
Computer Tables	10	0	10	5
Office Revolving Tables	1	0	1	1
Office Chairs	0	10	10	10
Reading Chairs	183	85	270	0
Children Chairs	0	20	20	20
Computer Chairs	6	6	10	11
Office Almari	4	0	4	0
Almari (Iron)	42	0	42	30
Almari (Wooden)	24	5	29	0
Almari (Wooden open Shelf)	1	0	1	0
Batteries Iron Cabinet 3 Doors	0	1	1	0
Batteries Iron Cabinets 2 Doors	0	1	1	0
Batteries Iron Cabinets 1 Door	0	1	1	0
Catalog Cabinet	1	0	1	0
Book Racks (Iron)	10	0	10	0
Newspapers Racks (Iron)	0	3	3	0
Newspaper (Wooden)	6	0	4	0
Magazine Racks Pocket Inside	2	0	2	0

VII. TOTAL NUMBER OF BOOKS IN LIBRARY:

Total No. of Books Available in Library	Required Books for Library
16543 on Various Subjects	The required demand will be mentioned after consulting of students studying in library for preparation of CSE & PCS Examination

VIII. CEILING FANS & AIR CONDITIONERS

4). It is further submitted that this office Issued letter No.DC/PAJ2414 dated. 10/03/2023 to the Municipal Commissioner, Sukkur Municipal Corporation Sukkur alongwith technical team to visit the Mir Masoom Shah Library Park Sukkur and send approved Map / Plan of Library.

Copy of letter Is attached as annex-E. He reported vide his letter No.SMC/XEN/151 dated.13/03/2023.

"that Municipal Commissioner SMC Sukkur has visited the site of Mir Masoom Shah Library Minaret Road Sukkur, alongwith Technical Staff i.e: Assistant Engineer, Draughtsman and Tracer & measured such site wherein total area of Plot / Land of Mir Masoom Shah Library is 9309-6 sq. yards and falls In C.S No.C-591."

"Furthermore, It has also been pointed-out that various encroachments have been made over the Land / Plot of Municipal Mir Masoom Shah Library Minaret Road Sukkur Its details is as under:-"

1. An area 1545-3 sq.yds occupied by the Public Health Engineering Department Sukkur.

2. An area 2582-1 has been occupied by the Pakistan Air Force Recruitment Moreover, Drainage Station has also been established over which is under the use of Sukkur Municipal Corporation and Land of Mir Masoom shah Library.

It is further submitted that as per record of Sukkur Municipal Mukhtiarker / Cso Sukkur the actual Land/ Plot of Mir Masoom shah library is 9309-7 (83787-0sq:ft).Copy of municipal commissioner Sukkur Municipal cooperation Sukkur & MAP as annex-f.

It is further added that the municipal commissioner Sukkur has written official letter to secretary local government department, Government of Sindh, Karachi vide letter No.SMC/GB/Estt/-199 dated. 13/03/2023, regarding posting of qualified municipal employee having BP5-17 as librarian in Mir Masoom Shah library Sukkur. Copy of letter is attached as Annex-G

In compliance of para of order dated 09/03/2023, that the undersigned issued to letter No.DC/PA/-2364, dated 09/03/2023 to Assistant Commissioner(s) all of District Sukkur and Director, Secondary Primary, Education Department Sukkur, and Letter No. DC/PA/2464 dated 11/03/2023 to District Education Officer(Primary),Sukkur and District Education Officer (Elementary, secondary, and higher Secondary) Sukkur regarding visit of all Government buildings Buildings, more particularly buildings of education Department and if they are in good condition having no use, same shall be handed over to the culture Department for library purpose, copy of letter is attached as Annex-H. The District Education Officer, (Primary), Sukkur sent report vide letter No.DEO(P)/7579 dated 13/03/2023, that there is no vacant portion/Building in Primary School of District Sukkur, copy of letter is attached as Annex-I

4. Perusal of above reflects that Deputy Commissioner, Sukkur, has taken serious pain to comply with Courts' order by providing different elite facilities including books, hence this Court appreciates and acknowledges his efforts It is expected that, other Deputy Commissioner will also conduct visits of libraries of Culture and Local Government and they will also ensure that libraries within their jurisdiction are under functional, and in operative condition having basic facilities including updated verity books of including competitive exams etcetera.

5- With regard to Masoom Shah Library, it has come on record that 1545-3 Sq.yds have been occupied by Public Health Engineering Department, Sukkur, whereas, 2582-1 Sq.yds by Pakistan Air Force Recruitment Center and 1256-2 Sq.yds are in the use of Sukkur Municipal

Corporation for drainage situation. Though this plot is for the purpose of park and library. Besides, Counsel for the Local Government contends that these are unauthorized possessions, conversely, Chief Engineer, Public Health Engineering Department claims that department has purchased the subject plot from Municipal Corporation in 1980s, thereafter erected their office and since then they have not received any notice by Municipal Corporation with regard to illegal encroachment.

6. Needless to emphasis, that there is still open land is available for library purpose, adjacent to library and an additional floor can be established. Accordingly, without going into controversy, the Municipal Corporation shall construct additional room with all basic facilities.

7. However, with regard to possession of plot as referred above, Municipal Corporation would be competent to pursue the same on departmental level, if they are aggrieved. Municipal Commissioner also present and submitted compliance report by providing details of Mir Masoom Shah Library and the same is taken on record. Further, it is contended that Sukkur Municipal Corporation needs more OZT share. Accordingly, they would be at liberty to move summary with regard to grant-in-aid for establishment of new libraries in their respective areas.

8. Moreover, report has been submitted by Deputy Commissioner, Naushahro 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 Khaskhel 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.

10. In Nausharo Feroze city, there is Sports Complex located in opposite to Deputy Commissioner Complex comprising one Hall and 05 room, wherein admittedly office of the Additional Director Social Welfare is established and same can be relocated by Social Welfare Department. Accordingly, this building will be vacated. Recommendation of this building is suitable for public library; however, building is partially constructed. Accordingly, Secretary Culture shall ensure visit of respective officers with aim and object, that the possession of this building shall be received from Deputy Commissioner and to establish library in Naushahro Feroze for Girls and Boys.

11. Deputy Commissioner Ghotki has also submitted report mentioning therein, that there is a public library under control/domain of Town Committee Khangarh, but the same is not functioning having such building without furniture or books. Whereas, Libraries, in Mirpur

Mathelo, Daharki, and Ubauro are functional. Needless to mention, that Deputy Commissioner Ghotki, shall examine the availability of funds from the welfare funds of different Oil and Gas companies and with the consultation of Oil and Gas Companies shall establish a State of Art building for the libraries having facilities of manual and digital books with computers through Culture department and such feasibility report shall be submitted on the next date.

12. With regard to library of Rohri, AC Rohri contends that they have cancelled allotments and partially library is working; however, within one month they will completely restore library exclusively for girls. Statement of Deputy Commissioner and Administrator Sukkur is worth to be appreciated with further directions, that all work shall be completed within one month; besides awareness campaign, through print, electronic and social media shall be launched and all aspiring girls and students shall be provided all facilities with attraction to feel library for their higher education and competitive exams having suitable security and safety protocols.

13. At this moment, we feel deem and fit that appreciation certificates be awarded to the Deputy Commissioners on behalf of this Court to be signed by Additional Registrar of this Court.

Adjourned to 06.04.2023. Needless to mention, earlier orders shall remain continue until this petition is decided.

ENDOWMENT FUNDS IN COLLEGE EDUCATION AND DIRECTION.

64. With regard to Endowment Funds, this Court called Secretary Schools. However, Additional Secretary appeared and submitted that as per endowment funds, every penny received by the government is to be invested in a profitable scheme and only interest earned can be utilized for scholarships. He, nevertheless, admitted that government has failed to release allocated budget since 2010. This issue was agitated on various dates. Being relevant on 01.08.2029, this Court passed order in C.P. No.D-1553 of 2019 at Hyderabad, which reads as under:

"Pursuant to order dated 30.07.2019, which is that;

"By order dated 04.07.2019, direction was issued to the Chief Secretary and Secretary Education to submit detailed report with regard to endowment funds reserving and releasing in favour of teaching institutions. Matter was then adjourned to 18.07.2019 and on that date Deputy Secretary Endowment Fund appeared and submitted that similar like nature petition is pending at Principal Seat Karachi. However, Finance Secretary, Chief Secretary, Sindh, Secretary Endowment Fund as well Secretary Colleges were directed to submit details of complete break-up but today Additional Secretary Endowment Fund present submits statement showing the budget of endowment funds as well list of institutions but complete endowment break-up is not available with regard to total amount reserved, released and allocated to the institutions though list of institutions is available but that is not proof that how and under what mechanism they allocated. Accordingly, Additional Secretary Finance, Additional Secretary

Schools/Colleges and the representative of Chief Secretary shall be in attendance on the next date as well Secretary Endowment Funds ensure to submit details of mechanism of endowment funds as observed above. In case of failure, contempt proceedings shall be initiated against them. Office shall communicate this order to all concerned on telephone as well through fax; as well copy shall be provided to learned A.A.G. for compliance. It is strange to note that Additional Secretary Endowment Funds has placed on record budget speech which create smoke on screen however, as an indulgence, we adjourn this matter with above directions."

2. Additional Secretary Endowment Fund present submits details of yearly budget allocations with regard to Endowment Fund. According to him, up to years 2010 to 2016 Rupees 250 million were allocated; in 2010, 2011 and 2016 funds were released; in 2017 there was no budget allocation; however, in 2018 and 2019 the limit was increased and budget allocation was Rupees 1000 million per year, while as per their Rules they cannot utilize the principal amount, hence they purchased PIB (Pakistan Investment Bonds) and TDIC (Term Deposit Income Certificates)and they are receiving six monthly profit which they used to distribute to different Universities, which are in 32 numbers both in Public Sector as well Private Sector. That at present rupees 200 million are available with them. He submits proof with regard to investment and profit received, taken on record. Accordingly, Secretary Finance shall release amount every year, in first quarter.

6. Since, *prima facie*, object of endowment fund is to help deserved students in getting / completing their higher studies from different Universities. It is an undeniable right of every single person regardless of his financial status hence the limitation of annual income must be placed keeping the acknowledged lowest income. Needless to mention that majority of people of this Province (Sindh) as well Country is passing their lives under poverty line and their usual income is not beyond fifty thousand per month because as per the Wages Act, the maximum limit of salary is 17,500 per month (Rs.2,10,000 per year), hence the limit prescribed / increased by the Board will not be beneficial / helpful for the poor students rather shall be a denial to all those who, otherwise, have been made entitled for such amount only. Accordingly, the quarter concerned shall take initiatives thereby including such minimum yearly income to such parents too.

7. With regard to release of Endowment Fund in favour of private Universities / Degree Awarding Institutions, which usually are taking / charging heavy fees, Additional Secretary contends that though he seriously pleads that Endowment Fund should be specified and released only to the Public Sector Universities / Degree Awarding Institutions so that instead of a short number, thousands of students may avail such scholarship, but that recommendation / suggestion was not considered as one of the Board Member, who linked / came from a Private University, as notified by the Chief Secretary, objected the same. As per Additional Secretary, usually the private sector universities are charging annual fee from the student which is around and in some cases beyond 1.0 million per year. Such fee, being excessive, cannot be expected from those, living below the poverty line,

therefore, such barrier could operate as bringing a full-stop to education life of such student coming from such family. 8. Thus, the idea of Additional Secretary as placed in the Board meeting was very logical and surely was / is likely to help big number of deserving students in getting higher education from the public sector universities which usually take / charge around Rs.50,000/- per year. Accordingly, Chief Secretary Sindh shall de-notify earlier Committee and ensure that fresh notification is issued by joining public sector universities as well Secretary Education, Secretary Colleges, Secretary Finance, Secretary Higher Education Commission, SGA&CD, Mr. Nisar Siddiqui, Director IBA Sukkur, Dr. Naheed Durrani, Director SEF and Chairman of P & D Board. The Board shall reframe all the Rules in view of this order as well within spirit of objective of Endowment fund.

8. Further, we direct the Secretary Board / Colleges and Universities as well Chief Secretary Sindh to examine the procedure of allocation of Endowment Fund Scholarship / amount as per seats and shall provide a separate mechanism with regard to separate seats for poor and deserving students having no parents or those, whose parents are not falling within the category as stated above. That by increasing the number of seats with public sector universities all such students would be funded by Endowment Fund Scholarships. In case, the mechanism provides number of any amount to be released then number of seats shall be decreased with regard to private sector universities.

65. Orders passed in Civil Suit No. 1243 of 2015 (Mashal case) are that:

3. Additional Secretary Finance shall ensure that in upcoming budget allocation of Endowment Fund is enhanced from 1000 Million to 2000 Million Rupees as in Province of Punjab Endowment Fund is around 16 Billion, whereas in Sindh, it is 3.5 Billion which is meager amount to meet the standards and cope up poor families to get higher education. At this juncture, Additional Secretary Education Endowment Funds contends that all public universities will receive the scholarships from Endowment Funds and they will not charge any tuition fee from any student selected on merit.

66. Order passed in Benish case[CP NO.S-2116/2018] is that:-

"6. It is also matter of fact that when issue of orphan was deliberated by this Court, certain irregularities / illegalities surfaced in the shape that funds reserved for endowment funds meant for scholarship for meritorious and poor students were utilized by high officials of Province of Sindh while their kids were studying in foreign countries and private universities though their cases were rejected by the Board/Competent Authority principal amount was utilized by the discretionary power of the worthy Chief Minister Sindh. When this issue was noticed, learned AG Sindh appeared and filed statement that in future Chief Minister Sindh will not utilize these power(s) and that amount received by the beneficiaries who were not eligible to receive that amount was returned by the Government from the other heads but not within terms of order dated 4.2.2020. Needless to mention that directions were issued that amount shall be recovered as land revenue arrears from the officers and

beneficiaries who received the amount beyond the jurisdiction without approval of competent authority."

67. In compliance of orders reports were submitted it was surfaced that secretaries' kids are getting scholarships out of way by the authority exercised by worthy Chief Minister Sindh from the principal amount which was to be invested. However, A.G. Sindh filed statement that in future Chief Minister Sindh will not exercise these powers and scholarship will be provided only to the poor and deserving students. It has further come on record that pursuant to orders of this Court Endowment Trust deed has been registered was registered and budget from one billion to two billion is increased, accordingly at present seven billion amount has been invested in profitable scheme. With regard to transparency in scholarships, mechanism was provided by this court that only IBA Karachi and IBA Sukkur will scrutinize the selection process of scholarship and on their recommendations only scholarship will be provided.

68. In C.P.No.D-2248 of 2013 etc. this Court was informed by the Universities that no Zakat is being paid to them for distribution amongst deserving students. It would be conducive to reproduce the order dated 07.09.2017 which reads as under:

"Learned counsel representing Sindh University Jamshoro, Peoples University of Medical & Health Sciences, Nawabshah, Mehran University of Engineering & Technology, Jamshoro and Sindh Agriculture University Tando Jam, as well representative of Veterinary University seek time to place on record reports with regard to receiving of funds from Zakat Council and distribution of the same amongst the deserving students. Counsel for Sufism University and Modern Sciences Bhit Shah present contends that since 2012 they have not received single pie on account of distribution to the deserving students from Zakat Council; counsel for University of Karachi, Dow University Consultant of Jinnah Sindh Medical University Karachi, also make same contention. Representative of IBA Sukkur contends that they have received Zakat fund from 2012 to 2015 and they have distributed the same as per criteria. Deputy Administrator Zakat is present on behalf of Sindh Zakat Council and files comments wherein it is contended that in pursuant of orders passed by this Court they floated summary to Chairman Zakat Council, but he turned down that summary with a note that High Court has no suo-moto jurisdiction; thereafter the matter was placed in 19th Meeting of Zakat Council wherein a decision was taken that;

"The Council noted that the judgment is almost non-implementable as the system of Zakat has nothing to do with higher education which is mostly a choice will of a student. The system of Zakat already adequately addresses the problems of deserving students by offering them stipend upto graduation level. The Council further decided to file a review petition / appeal against the judgment in the court of law. However, the council noted that compliance of parts of judgment i.e. payment of stipend to applicant and establishing of website has been done."

Prima facie, the Council claims that 'system of Zakat has nothing to do with higher education' although the Section-8 of the Sindh Zakat & Ushr Act, 2011 speaks about utilization of 'zakat' as:

"8. Utilization of Zakat Fund: The moneys in Zakat Fund shall be utilized for the following purposes, namely;-

a) assistance to the needy, the indigent and the poor particularly orphans and widows, the handicapped and the disabled, eligible to receive Zakat under Shariah for their subsistence or rehabilitation, either directly or indirectly through deeni madaris or educational, vocational or social institutions, public hospitals, charitable institutions and other institution providing health care:

From above, it is quite evident that in the list of utilization of Zakat the educational institution (s) have been mentioned in first-category without confining such help to a primary education therefore, stand of Council, including Chairman, Zakat prima facie is not only in against the spirit of Section-8 of the Act but also speaks volume that how efficiently the entrusted rather a sacred duty is being discharged.

*2. The present stand of the Council, including Chairman, Zakat is nothing but a *prima facie* summersault which will become quite evident from a referral to relevant portion of the order dated 22.12.2016 passed in CP No.D-2248 of 2013 which is:*

"2. Pursuant to orders dated 24.11.2016 and 15.12.2016, Kashif Siddiqui, District Zakat Officer (HQ) Karachi is present and categorically contends that they have directed to all District Zakat and Ushr Committees of Sindh Province for submission of record with regard to Zakat, allocated for payment to poor students; further contents that stipend for the period of 2011 to 2016 was about 40 crores, out of that about 23 crores were utilized for that purpose but remaining unutilized sum of about 17 crores were deposited in Account No.3. He admits that no such record is available at Head Office. ..

The above statement was / is always sufficient that during a period of six (06) years an amount of '40 crores was allocated for this purpose i.e help to poor which brings per year stipend as 'Rs.6.66 crores'; out of total amount of Rs.40 crores lion portion i.e Rs.23 crores remained 'unutilized'. Neither the Chairman, Zakat nor anybody else can claim that during such period no deserved student parted from education because of money. We would add that it is the absolute obligatory duty of the State (concerned department) that Zakat-fund reaches to every single deserved person even if he is at edge of DARYA-i-FARAT. We are also unable to understand that what else could be the best use of Zakat amount if a deserved poor, after education, can well be hoped to become a better citizen not for his family but for society as a whole. This was / is always in line with prime object of 'zakat' i.e 'rehabilitation'. The use of major portion of received Zakat-fund for education cannot be questioned as not in line with objectives of Zakat; we believed and yet believe it as a proper use but perhaps Chairman, Zakat wants an escape more particularly when this court only demanded a transparent mechanism to let every institution its share out of decided share which too with a control of Zakat department to satisfy itself that such amount was not given to blue-eyed but deserved one. However, it were the two regrettable admissions by District Zakat Officer (HQ) i.e:

- i) lapse of lion amount of stipend;
- ii) having no record;

which compelled this Court to pass the order dated 22.12.2016 with instructions as:

"3. Admittedly, Zakat and Ushr Committee / Department is not regulating their Website hence no such information is available on website which otherwise is requirement of today's world, therefore, Sindh Zakat Council shall establish their Website, specifying criterions for release of such amount particularly, for education purpose and they shall flash all details of steps taken by them with regard to (1) amount of zakat received by them from Federation, (2) procedure for payment of the said amount to needy / deserving students, (3) details, showing number of deserved students, amount paid stipend from Zakat under Zakat and Ushr Program so also names of their respective institutions / universities which however shall not display the names and identity of those students on website so as to avoid any complex or harm to dignity of such students. ...

however, said order was also not complied with in its letter and spirit except launching Website. We were unable to understand as to what has prevented the Council, including Chairman from letting the people know the criterion of claiming Zakat which otherwise is determined by principles of Islam? We were also unable to understand what prevented department from giving details of record of stipend amount paid couple with names of respective institutions/ universities. However, the Zakat-department did come forward with certain cheques, issued to students of higher-education institution which was never satisfying the purpose and object of 'zakat-fund', therefore, this Court had to pass order in question. The relevant para thereof reads as:-

"4. We may add that since, the Government is providing free education up-to intermediate level but from university level the students are liable to pay fee and since a considerable amount is being claimed to be provided out of "Zakat fund" for 'education' of deserved students, therefore, not only the judicial propriety but all logics and reasonableness demands that some of the Zakat amount / fund (department usually providing for education) should be allocated all public sector / government universities as well degree colleges on proportionate basis directly, not through the district Zakat Committees. The Vice Chancellors of all Universities are directed to constitute competent committees, with complete mechanism and guidelines for providing assistance on the account of Zakat to the deserving students. They shall also open a new window on their respective websites as well provide columns for such purpose in their prospectus, enabling the deserving students to apply as and when such assistance is required. The Chairman and Secretary Zakat & Ushr Councils; as well Vice Chancellors of all Universities (public sector) shall submit compliance report within two months".

3. The compliance of the above order has been declined by Committee in an arrogant manner while alleging the same as un-

implementable although it was confined to that stipend which is meant for poor / deserved students of educational institution even indirectly (through institution itself) as is permissible by Section-8 of the Act itself which seems to be in line with observation of this court, made in order dated 29.12.2012

"...The educational help must be given to one who deserves rather than the one who needs. In short, it is always better to shine a diamond rather than to labour on a 'coal' when ultimate object is to get 'lighting/shining'".

4. *The institution itself would be in a better position to select the deserved out of needy students hence the Act itself permitted such involvement of the institution. The order (s) of this court were however never meant to exclude share of students of primary and secondary level, therefore, *prima facie* orders were assuring the transparency as well stipend (for educational institution) to reach deserved through permissible indirect way.*

5. *Here, we shall also take note that the first it was the Chairman, Sindh Zakat council who passed following order on note, submitted before him for compliance of orders of this Court:*

*"The order of Sindh High Court is not legal. The Court has no jurisdiction to *Suo-Motto* took into the matter. There is opening of flood gates if we agree a policy has to be adopted by the Sindh Zakat Council. Then & there we can decide what appropriate decision we should take".*

6. *The Chairman was never competent to declare the order of this court as 'not legal/illegal' nor compliance of a lawful order can be declined by saying that either it would open flood-gates or on count of their deciding power which admittedly was in a manner that there was no 'record with Head quarter' of such sacred amount. We shall not hesitate for a single moment that if transparency and entitlement of a rightful person requires opening of flood-gates the same should not be delayed for a single moment. The opening and closing of flood-gate is always meant to avoid destruction. Every single penny of zakat-fund was / is always a trust and must reach to deserved. Every hand, involved in such process, must always be ready to ensure transparency in such process because such amount (zakat) is not from his personal pocket but entrusted by State.*

7. *Thus, the incompetent rather illegal assertion of Chairman, Zakat is quite strange particularly when thereby attempting to avoid a transparent criterion for distribution of such amount not to blue-eyed but 'deserving' which too while disputing the binding effect of the judgment of this Court before getting it reviewed or set-aside. Worth to add that such order was passed in presence of representative of Zakat department rather was a consequence of picture, painted by such official himself and record produced by him.*

8. *Since, the order was also challenged as being *suo-moto*, which plea was / is also entirely baseless because one of the pending petition (CP No.3651/2016) is with reference to Zakat-system and number of relief (s) have been sought which includes :-*

h) Direct to respondent no.3 to find out poorest students from entire province either they are studying in government based schools, colleges, universities or any private schools, colleges, or universities, such list may be provided to the respondent no.1 and 2 for disbursing the Zakat share as they continue their education;

i) Direct the respondent no.3 to direct all private schools, colleges, universities to give the admission share of 25% to the poor students without taking any penny , those evaluate by Zakat Committee;

j) Direct the respondent Nno.1 and 2 present stipends of past 10 years to till date before this honourable Court, simultaneously funds collected for Zakat from all, and its utilization person to person date by date, having complete record, it is right of mine under article 19-A of the Constitution of Pakistan;

The above should, for all, be sufficient that order (s) were never passed suo-moto but were result of pending petition (s) wherein such questions have been raised. In this petition the Secretary, Zakat & Ushr is respondent no.2 yet the Chairman, Zakat went on in challenging the jurisdiction and competence of this Court even without first looking at his own desk (office).

9. From above, it is quite evident that stand of the Chairman Zakat Council is not worth appreciating rather appears to be in violation of his obligations which is not only limited to assuring distribution of every single penny, so received in name of Zakat, to deserved person but includes giving due honour to court orders. *Prima facie*, this is a case of contempt. Accordingly, issue contempt notice against Chairman, Sindh Zakat Council and its members who attended last meeting (19th). Needless to mention that Provinces receive funds / zakat from the Federal pool and way of collecting zakat is the amount of citizens of Pakistan wherefrom Zakat is deducted on yearly basis and after collecting the same by the Federation. There is mechanism to distribute the same and thereafter the Provinces are required to distribute the same. Per Deputy Administrator Zakat there six (06) heads of Zakat and in these six heads the Zakat Council is working very effectively. Since as reports being received from different corners there are apparent gross negligence and irregularity while distributing the zakat; accordingly, we refer this matter to Director General NAB Sindh to probe into the issue and funds received by the Sindh Zakat Council from the Federal pool and distribution thereof from 2012 by the Provincial / District Zakat Council / Committees; if any irregularity is found the delinquent officer / official shall be dealt with in accordance with law.

69. In C.P. No.D-1817 of 2016 Re: **Manzoor Hussain Abro v. Province of Sindh** and others, keeping in view the difficulties of boys and girls aged about 15/16 years while shifting in other cities and staying alone there is not affordable even for lower-middle-class families, this Court passed Order dated: **31-07-2019** and **02.08.2019**, which resulted in approval and construction of **61** degree colleges in all Talukas of Sindh. The operative part of the Order dated: 02-08-2019 is reproduced as under:-

"At this juncture, paragraph Nos. 4 & 5 of a letter produced by Secretary School Education addressed to Chief Minister are that:

The spirit of the order of Supreme Court, and subsequently the High Court of Sindh, however required that such boards be constituted at the divisional and district level. For that, an institutional mechanism already exists. Under World Bank Assisted SERP II, District Education Plans were developed and for effective implementation, the Government of Sindh vide Nonfiction: No. SOIC-IVI/SGA&CD/4-26/11 dated 07 June, 2017 notified District Reform Oversight Committee (DROC) Annexure-C). Similarly, Divisional Reform Oversight Committees were also constituted at divisional level.

5. Now, that the World Bank assisted SERP II has been closed, the same Divisional/ District Over Sight Committees may be renamed as Divisional/ District Service Delivery/ Accreditation Committees with addition of one prominent educationist from civil society as their member. The committees so constituted shall work under the overall supervision and guidance of provincial service delivery commission/accreditation board which may be re-notified with the modification that the Minister for Education & Literacy may be made its Chairman, and in place of one educationist member from each district, it will have only two educationists from civil society at the provincial level to be nominated by the Minister for Education and Literacy, and Chief Program Manager of Reform Support Unit of SE&LD as its Member/ Secretary.

18. It is strange that despite categorical directions since five years no Accreditation/Service Delivery Commission Board has been notified though directives of Apex Court even are referred in above said letter. This, *prima facie*, shows the seriousness of quarter concerned in shouldering the collapsing education system. Further, suggestion by the Secretary that "Minister for Education & Literacy may be made its Chairman" is apparently not justified nor appears to be in line for which emphasis was given for such board. The manner in which things have been kept hanging despite directions of honourable Apex Court as well of this Court is not worth appreciating rather again speaks how quarter concerned is interested in reformation of collapsing education system. It is needless to add that role and importance of the board (accreditation) needs no further affirmation as already detailed in para 13 of order dated 20.09.2019, same shall be complied with in its letter and spirits.

19. The above was, *prima facie*, a time gape arrangement least till active functioning of the accreditation board on Provincial and District levels but things again are found hanging as they were. Legally things could only be done as required by law to be done least objective should be kept alive even, if any, unrestrained policy / action is adopted / taken. Active involvement of board is required hence accreditation/ service delivery commission shall be headed by a nonpolitical and person having a big reputation/experience in education. Though previous orders show that there was suggestion that Mr. Nisar Ahmed Siddiqui, Vice Chancellor IBA will be the Chairman of Accreditation Board, however, Chief Secretary Sindh shall ensure that Mr. Siddiqui or Ms. Naheed Durrani who is concerned may be appointed as Chairman and Accreditation Board, as suggested, shall be established in all over the Districts within one month with compliance report".

70. It was transpired during proceedings of C.P. No.S-2116 of 2018 that *in the year 2017 amount of Rs.298,00,000/- were siphoned off by the officers of Endowment Department*, hence, it would be conducive to refer the order dated 11.02.2020, which is reproduced as under:

1. Pursuant to earlier order Mr. Ghulam Asghar Pathan, Amicus Curiae, submits his recommendations, DSP Preedy submits compliance report, Inspector Hajir a Usman submits report as well D.G. Social Welfare Department, D.G. Sindh Child Protection Authority (SCPA), AIGP Legal submit compliance report; taken on record.

2. Pursuant to order dated 04.02.2020 A.G. Sindh present contends that Chief Minister Sindh exercised powers under section 24 of the Sindh Civil Servant Act while accepting the summaries of individuals including Zafar Ahmed Siddiqui, President, PPPP District Central, Karachi, Alamuddin Bullo, Chairman, Anti-Corruption Establishment, Farooq Azam Memon, Secretary, Minority Affairs, Government of Sindh, Colonel Mujahid Hussain Mujahid, ACSO Bilawal House, Syed Manzoor Abbas, Secretary Katchi Abadies, Government of Sindh, Ms. Iffat Malik, Add. Secretary-II SGA&CD, and other civil servants to provide scholarships on meritorious basis; he further contends that order of this court reflects the names of those students who are getting education on scholarships through special summaries; they possess extraordinary merits hence they were qualified to get scholarships from the funds though he admit that as per upper limit of annual income of Rs.1.5 million as provided under the Endowment Fund Rules, all the persons as mentioned in order were not competent to receive the same. It is further contended that this is case of first impression yet Trust of endowment fund is not registered as well as Rules and Regulations are to be streamlined hence the approval of summaries were not result of any malfeasance or misfeasance, but result of misunderstanding. It is contended that the amount, released in favour of individuals, would be transferred to the endowment fund by the Finance Department, Government of Sindh, from other heads as principal amount of endowment fund cannot be utilized by any officer including the Board of Trustees. Deputy Secretary Finance present confirms that Rs.51 million will be transferred.

I would take no exception to desire of parents in seeing their children at top of every field. Such desire includes the best education but since classification of rich and poor is result of divine decision hence all can't be expected to have equal situation and circumstance in fulfilling such 'desire'. This happens to be one of the main objectives of a 'GOVERNMENT' to ensure a balance without letting the individuals to take the matters in their own hands. It is the desired balance which results into different legislation whereby concept of equity in a territory (society, state, country) is attempted. I would add that such attempt shall always fail if true enforcement is not intended. The 'intention' can't be seen but can only be concluded from the actions or omissions of one, required to prove his 'intention'. When it comes to government and officials thereof, the proof of their 'bona fide intention' is nothing but to strictly follow the required procedure, as laid down by relevant law. It got judicial enunciation as on the basis of maxim:

"acomune observantia non est recedendum"

"There should be no departure from common observance or usage."

The above settled principle needs to be followed strictly unless there is an abnormal situation, making the normal things abnormal. An abnormal circumstance may justify a deviation but that must always be subject to reasonable justification (reasoning).

The proposal, placed to a raised situation, directly relates to object of the Endowment Fund hence, it would be appropriate to refer paragraph Nos.4, 10 and 11 of order dated 06.12.2019, being explanatory to all this. The same reads as:-

"4. Since there are three categories of students in our country. First category students get education in private school(s)/college(s), whereas second category of students get admission in government school(s)/college(s) and third category of students get admission in Education Foundation and Endowment funded school(s)/college(s). The pain and agony of failure of government in public education system has also been acknowledged in the judgment of Honourable Supreme Court (2019 SCMR 1753) while acknowledging classification in education system which, regret to admit, has already sketched a thick line between upper and lower classes. The relevant portion, being conducive, is reproduced hereunder:-

"5..... Some of these schools with the quality of teaching faculty and facilities at their campuses charge handsome fees which only the affluent class can afford. These private schools can be classified as first tier schools. Application of Rule 7(3) on such schools would certainly have the effect of subsidizing the rich of the society. As for children of upper middle and middle class families there are private schools which can be classified as second tier schools. Many of these schools also impart good quality education. Their tuition fees are comparatively affordable, however, for middle class families who send their children to these schools, their budget gets affected when the tuition fee is raised phenomenally in an academic year. There are private schools that can be classified as third tier schools where only lower middle class families send their children. The education level of these schools is much better than most of the present day government schools. Hence private schools can be classified in three tiers that charge tuition fee ranging from Rs.1,000 to Rs.60,000 per month or thereabouts."

*The above picture is an admission of classification for an otherwise guaranteed fundamental right towards education which normally must be available to all regardless of their position in any of the classified class of families. It has also come on record that 50% students are studying in private schools and 50% are in government schools. Since, those falling under below poverty families, also are entitled for good quality education, therefore, a parallel education system under Sindh Education Foundation Act, 1991 was introduced partially funded by the World Bank. Thus, *prima facie*, in public sector schools there are two categories, one category is general and second category is special, which provides separate mechanism from primary to secondary under the Sindh Education Foundation Act, 1991 for the students, whose parents are falling within the category of "poverty" and of "under poverty".*

10. The Additional Secretary, Endowment Scholarship, College Education Department undertakes that department is going to register Endowment Fund as Trust as at present they have 247 Million for

yearly scholarship. The idea of registering Endowment Fund as trust is worth appreciation because the purpose and object of Endowment Fund is specified. Since many directions have been issued in presence of Mr. Faqir Muhammad Lakho and he, by his undertaking has taken responsibilities to comply with the orders towards a cause therefore, to avoid any failure judicial proprietary demands that he shall not be consigned any other post until further orders.

Needless to mention that the category as defined and adopted by Punjab Education Foundation and criteria must remain towards the poor class in the minority because the object is to ensure education to more deprived classes. Since there are many other donors who are providing scholarship, therefore, the Committee as formed above, shall also examine and collect the data with regard to all scholarships provided by the government as well by the institutions likewise COL, OGDCL and other petroleum and gas companies."

4. Now, I would revert to plea, taken by learned A.G. Sindh, whereby the approval of summaries for individuals (despite objection of the Department), have been attempted to be justified. The referred section (24 of Sindh Civil Servants Act, 1973) reads as:-

"24. Nothing in this Act or in any rule shall be construed to limit or abridge the power of Government to deal with the case of any civil servant in such manner as may appear to it to be just and adequate:

Provided that, where this Act or any rule is applicable to the case of a civil servant, the case shall not be dealt with in any manner less favorable to him than that provided by this Act or such rule"

The above provision is always confined to service matter (s) which shall not stand extended in personal financial need or problems of the civil servants. Since, the preamble of an 'enactment' is always the key thereof hence issue shall stand clarified from referral thereof which reads as:-

"WHEREAS, it is expedient to regulate by law, the appointment of persons to, and the terms and conditions of service of persons in the service of Pakistan in connection with the affairs of the Province of Sindh and provide for matters connected therewith or ancillary thereto."

Thus, I am not inclined to accept the plea that Government, per section 24 of Sindh Civil Servants Act, 1973, has unfettered powers to intervene in personal affair (s) / liabilities of civil servants because the status of civil servant never rips away the personal (private) status of a person nor allows a civil servant to take any undue benefit of his status (civil servant) to discharge his personal liabilities which do includes education of his children.

5. Be that as it may, it has an undeniable position that amount was allocated out of a specific 'FUND' which never allows such allocation beyond the limitations, provided for dealing with such 'FUND' and not otherwise, particularly when there had never been any abnormal circumstances justifying deviation from the normal course. At this juncture, Additional Secretary Endowment Funds submits notification dated 20.01.2003 which contains that "In partial modification to this department's earlier notification No.PA/AS/MISC-2002 dated 16.08.2002 the Board of Trustees to oversee the investment and take

care of the endowment funds created by the government for meritorious students from poor communities to continuous higher education in prestigious private institutions shall be headed by Education Minister in place of Mr. Shams QasimLakha, President Agha Khan University." By this notification Mr. Lakha President Agha Khan University was replaced by the Education Minister. Further notification dated 01.06.2018 shows criteria scholarships which are that:-

POWERS OF BOARD OF TRUSTEES

- i. To approve the scholarship to the deserving meritorious and needy students (res/renewal)
- ii. To allocate the number of seats to the institution enrolled in the SEEF
- iii. To formulate the policy for award of SEEF scholarship from time to time.
- iv. To recommend the nomination/removal of any person as or from member of board of trustees of SEEF
- v. To delegate powers to any of the member of the board of trustees.
- vi. To recommend/propose the allocation of funds to the government for enhancing the (not readable)
- vii. To award scholarship to the poor, needy and meritorious student at any stage of the (not readable)
- viii. To frame and amend the eligibility criteria for grant of endowment scholarship
- ix. To include any of the institute in the panel of SEEF
- x. To monitor the endowment fund account and to call bank statement of account at any time.
- xi. The board shall meet quarterly and quorum shall be at least five (5) from which one (not readable) outside from the government departments, whereas the member/secretary of the board (not readable) of the SEEF.

POWERS OF THE CHAIRMAN

Chairman shall have power:-

- i. To approve renewal case of any of the scholar on the recommendation of college education department if the scholar is fulfilling the required criteria and place the same case before the SEEF board of trustees meeting for post facto approval.
- ii. To call meeting of SEEF board of trustees at any time other than quarterly meeting.
- iii. To enquire any misappropriation at any stage
- iv. To appoint enquiry committee from conduct of enquiry in any case of SEEF
- v. To appoint an interview committee for conduct of interviews of the applicant in the institutions

- vi. To exercise the powers of the board of litigation/court matter*
- vii. To grant/approve the honoraria of any of the member of board of trustees as well as interview committee and supporting staff*
- viii. To check and monitor the co signatory for issuance of the cheques.*
- ix. To issue permission of issuance of cheques of approved cases/amount of the scholarships to the institution by the board of trustees of the SEEF.*

Even the referred notification (s), nowhere, permit the Government to allocate considerably huge amount for individuals on ground of good education record only use of every but is aimed to strictly examine every such request in accordance with object of the 'Endowment Fund' which, needless to add is aimed for specific class of people who even can't think of enrolling their children in first tier schooling system. I must add here that the ordinary meaning of the word 'fund' stands violated (frustrated) when the amount from such 'fund' is allowed to be used in such manner or fashion. The situation, surfaced, demands reproduction of ordinary meaning of the word 'FUND' which is:

"a sum of money saved or made available for a particular purpose."

6. *It is the particular purpose which always demands regulation of a 'FUND' to be dealt with in no other ways but specified one only. Regardless of every sympathy with the children (students) as well their innocence I find myself helpless to endorse such approval, particularly when:-*

- i) the individuals were not entitled, per quarter concerned;*
- ii) the quarter concerned did raise such specific objection;*
- iii) the approval is showing no legal justification in approval thereof which, otherwise, is requirement of every order.*
- iv) Referred summaries were rejected by the Board of Trustees.*

As regard non-establishing of Trust and framing of Rules, it would suffice to say that this had been the failure of the Government itself and they can't take an advantage of their own mistake (wrong). Even, otherwise, the 'object' of the 'FUND' had never been ambiguous.

7. *Even if all above are kept aside and bona fide of the Government is believed yet I find no legal escape to settled principle that 'Award of benefit to a person in violation of law would not attract principle of locus poenitentia (2011 SCMR 408), therefore, the Government can't avoid earlier order with regard to recovery of such amount. Now, it is the time to examine the proposal of payment of such amount through some other head. This proposal gives rise to certain proposition (s) which are:-*

"Whether the Government has power to use the amount from another head (believed to be specified for specific purpose) to pay such like amount?

Since, I am conscious of the fact that an illegality can't be undo with multiplicity thereof, therefore, the above proposition needs to be

explained by the Government before motivating this Court to modify its earlier order with regard to an amount of 'FUND'. Accordingly, the learned AG Sindh, shall satisfy this Court on said proposition.

8. When confronted, it is admitted by learned A.G. Sindh that through special summaries a sum of Rs.51.95 million from the allocation was released in favour of individuals. It is contended by learned A.G. Sindh that Chief Minister Sindh will not pass any new summary onwards and all scholarships would be dealt with by the Sukkur IBA and Karachi IBA Department to be regulated by the board of trustees. This open statement is welcomed with an addition that unless a wrong is owned there shall always be possibility of repeating thereof. The plea of bona fide (innocence), too shall loose its significance when the wrong is not owned. At this juncture learned A.G. Sindh submits undertaking which is that :-

"1. In so far as allegations that have been made from the endowment fund on the basis of special summaries (fifteen in number) approved pursuant to section 24 of the Sindh Civil Servant Rules 1973 it is respectfully submitted that as of the date hereof no special summaries allowing disbursement where the laid down criteria has not been met strictly shall be floated and approved.

(The commitment is taken on record as positive one with an addition that plea of section 24 stood answered in negation)

2. The funds that have been disbursed during the year 2016-2017 to 2019-2020 on the basis of special summaries amounting to Rs.51.955 million shall be credited by the government of Sindh to the endowment fund.

(This, however, shall be subject to an affirmative answer to framed proposition)

3. It is further respectfully submitted that another summary for scholarship from the endowment fund in the sum of Rs.7,113,264/- was approved by the chief minister on 21.12.2019. This amount, however has not been disbursed so far. If this honourable court is pleaded to permit to release of this amount it shall also be credited by the government of Sindh to the endowment fund.

(Any further release in consequence of any such approval (which, otherwise, undertook not to repeat), can't be allowed as same might result in allowing an illegality to cause its effects)

4. The government of Sindh further undertakes that the criteria for regulating the endowment fund for school education shall also be finalized at the earliest on the same lines as the endowment fund for college education."

(Welcomed, being in line with earlier orders of this Court as well objective of the 'Endowment Fund')

9. The endowment stood established decades earlier yet we, even, could not establish 'TRUST' nor could frame rules thereof rather things remained under dark which remains letting misuse of the fund. Here, I am again compelled to reiterate that a good must always be adopted / welcomed regardless of its root. The Punjab Educational Endowment

Fund (PEEF) is an example to appreciate that it even owning the students from all over Pakistan, including that of Sindh. It has got a mechanism and good publication is made time and again so as to let the deserved know his chances to continue higher education. A reflection thereof, being helpful, in dressing up the commitments / undertakings, is given below:-

(PEEF) صوبہ سندھ کے طلباء کیلئے اس کالرچ پروگرام برائے سال 2014-15

پنجاب ایجوکیشنل اند منٹ فنڈ (PEEF) نے صوبہ سندھ کے ذیین اور مستحق طلباء و طالبات کیلئے اس کالرچ مخفی کے ہیں۔ ان اس کالرچ کیلئے صوبہ سندھ کا ذمہ دہیں رکھنے والے ذیین اور مستحق طلباء و طالبات سے درخواستیں مطلوب ہیں۔ ایسے طلباء و طالبات جنہوں نے میک یا اترمیڈیٹ کا سالانہ امتحان 2014 صوبہ سندھ کے سرکاری تھکنی اداروں سے پاس کیا ہو اور مندرجہ ذیل شرائکا پورا ارتھے ہوں، درخواستیں دینے کے لیے:

- بڑا آف اترمیڈیٹ ایڈنیشنس کیشن BISE سندھ کے زیر انتظام منعقدہ سالانہ امتحان برائے اترمیڈیٹ (2014ء) میں کم از کم ساتھی نیمہ (60%) پر حاصل کئے ہوں۔
- درج بالا امتحان گورنمنٹ کے تعلیمی ادارے سے پاس کیا ہو۔
- صوبہ سندھ کا ذمہ دہیں کے حامل طلباء و طالبات ہوں۔
- کسی بھی کل وقتوں تعلیمی ادارے میں داخل ہو۔
- والدین کی کل ماہانہ آمدن 15,000 روپے سے زائد ہو۔
- گرینڈ 4-1 کے سرکاری ملازمین کے بیچے۔ 15,000 روپے مہانہ آمدن (اگر آمدن کا ذریعہ صرف تکواد ہے) کی شرط سے مستثنی ہیں۔
- پہلے سے کوئی اور وکیلی حاصل نہ کر رہے ہوں۔

طلباء و طالبات کیلئے ایک کو اس کالرچ کی مخفی کیا گیا ہے۔ ایسے طلباء و طالبات جو مندرجہ ذیل کیمپری سے تعلق رکھتے ہوں ایک کو اس کالرچ کیلئے درخواست دینے کے لیے:

- جیمیٹ طلباء (و طلباء و طالبات جن کے والدین قاتل پاچے ہیں)۔
- گرینڈ 4-1 (ایک تا چار) کے سرکاری ملازمین کے بیچے۔
- اکیتیٹ ماداہب سے تعلق رکھنے والے طلباء و طالبات۔
- ایکش (مخدوم) طلباء و طالبات۔

نوت:

ہر لالاڑ سے کمل پر شدہ درخواست معج کرانے کی آخری تاریخ 31-12-2014 ہے۔ اس کالرچ درخواست صرف موجود درخواست قائم پر قابل قبول ہوگی۔ اس کالرچ پر درخواست قائم متعلق دفتر یا دفتر PEEF کی ویب سائٹ www.peef.org.pk سے بھی حاصل کیا جاسکتا ہے۔

جزیئی معلومات کے لئے ان فون نمبر پر رابطہ کریں 021-99211221

یہ قارم صرف (فوکل آفس کا ایڈریس) آفس آف دی ایمیشل سیکرٹری (انڈ منٹ) ایجوکیشن ایڈنیشنسی ذپارٹمنٹ اولڈ کے ذی اے بلڈنگ، ہرڑ فور، منڈہ سیکرٹریٹ نمبر 3، کراچی کے ذریعہ میں معج کروایا جائے گا۔

(INF/KRY-3682/14)

دستخط..... سیکرٹری (ایجوکیشن)

آئمی پاکستان کوہنیات سے
آزاد ایک ریاست بنائیں

10. At this juncture Additional Secretary Endowment Fund contend that in Kasoor District of Punjab, 100 orphans/needy students of Sindh are getting education on Endowment Fund.

11. While appreciating the PEEF one shall have to acknowledge negligence of SEEF which includes surfacing of another example that in the year 2017 Rs.298,00,000/- were siphoned off by the officers of Endowment Department. Accordingly Chief Minister Sindh appointed Ms. Naheed S. Durrani as enquiry officer against Moazzam Ali Marri, Additional Secretary, College Department, Farid Ahmed Mughal Section Officer (BS-17) Endowment College Department, Gulzar Ahmed Memen, Private Secretary (BS-17) Section Officer, College Department

and they were suspended. Further it reflects that Endowment fund meant for deserving students for higher education, cheques were prepared in favour of Al-Tibri Medical College but name was shown as ISRA Islamic Foundation in order to usurp the amount and the amount was deposited in account opened by Ameer Ali in Dubai Islamic Bank. The amount of Al-Tibri Medical College was transferred in the fake ISRA Islamic Foundation. Such FIR bearing No.15/2018 w/s 409, 420, 468, 471, 34 PPC read with section 5(2) of the Prevention of Corruption Act 1947 was lodged. The matter was investigated by FIA as well enquiry was conducted and all accused, as named above, were sent up for trial. It is also revealed that major portion of the amount is seized by FIA. These facts also reflect serious embezzlement and illegality of endowment funds meant for deserving meritorious students of poor communities and orphans.

12. *Accordingly Secretary Colleges shall submit details whether that amount is received back by the endowment department or otherwise. In case such amount is seized, judicial propriety demands that FIA officials shall process the transfer of such amount to endowment fund because only after investment thereof the benefits could fall upon poor and orphan for higher studies. Thus issue notice to DAG who shall submit present status of in question criminal case and shall ensure that the amount involved in embezzlement is returned to the concerned department for proper use after due process. Secretary Colleges shall also submit details as to what departmental action has been taken against delinquent officials pursuant to the enquiry report which culminated while holding the delinquent officers in this malfeasance. To bring a full-stop to all such attempts as well materializing the undertakings of the Government, it is hoped that Chief Secretary shall ensure dressing up of the commitment / undertakings without much delay, preferably within two months, with compliance report as well as learned A.G. Sindh, being direct representative of the Government, hopefully, shall ensure compliance so as to be able to place a better statement on next date with regard to legislation of trust and establishment of school education endowment fund.*

13. *Additional Secretary Endowment fund shall ensure that separate website is launched in similar pattern as Endowment Department of Punjab Province which shows complete mechanism and criteria of endowment fund scholarships enabling the students to apply for scholarship.*

14. *It is germane to mention here that notification of 2013 reflects that Chairman of the Board of Trustees was president agha Khan University, therefore it would be pertinent to direct the Chief Secretary that in place of any other private university, president agha Khan University shall be nominated as member or Chairman of the board of trustees.*

15. *Further it reflects that seats allocation is not in accordance with the strength of students and faculties therefore universities which have various faculties and thousand numbers to provide higher education to common student in public sector thus there shall be sufficient increase in number of seats of those universities like Sindh University, Karachi University, Khairpur University, Shaheed Benazir Bhutto University, Larkana. The Board shall also include new steps as per modern system of the education and board shall keep in mind to fix structure of private*

sector and public sector and since this is public exchequer therefore if same course are available in public universities in that case number of students of private universities shall be reduced.

16. At this juncture Mr. Fariq Muhammad shows a letter which reflects that there is proposal to transfer him. Accordingly A.G. Sindh shall ensure communication of an, otherwise, clear order of this Court to quarter concerned so as to shut the plea of ignorance or misunderstanding in complying with specific direction for Mr. Faqeer Muhammad that he neither be transferred nor harassed until endowment trust is registered. Any deviation shall be a defiance of the order of this court and concerned person shall expose himself to contempt proceedings and consequence of making a contempt.

17. Reports of learned judges with regard to their visits of Orphanage Centers are received; taken on record. Learned Addl. A.G. Sindh present alongwith Secretary Health undertakes that all the lunatics, nestled in Dar-ul-Aman centers and Orphanage Centers, will be sent to the hospitals and in every district hospital there will be a separate ward with regard to differently abled persons and complete care and treatment will be provided in accordance with law. Secretary Health undertakes that complete mechanism and policy would be defined within one month, as well same will be implemented. Since this Court has provided hearing of issues relating to the scholarships of orphans, hence, for further examination of reports and hearing of orphanage centers and for compliance of orders regarding endowment funds, to come up on 13.04.2020 at 11.00 a.m. However, learned MIT shall ensure that the Magistrates having jurisdiction shall pay monthly visits to the Orphanage Centers, Sweet Homes and submit report through MIT.

18. Office shall bifurcate all reports in two parts with separate files, one part shall be made with regard to orphanage centers and second part shall be with regard to education endowment fund reports. Office shall communicate this order to Chief Secretary Sindh, Secretary Colleges, Secretary Social Welfare Department as well as A.G. Sindh. Learned MIT shall ensure compliance of this order.

SINDH TECHNICAL EDUCATION & VOCATIONAL TRAINING AUTHORITY(STEVT)

71. With regard to technical education, this Court pursuant to order dated 17.04.2023 in Crl. Misc. Application No. 284 of 2018, notification was submitted, being relevant same was reproduced herewith in order dated 17th May 2023:-

"Pursuant to order dated 17.04.2023 Secretary to Government of Sindh School Education& Literacy Department submitted his compliance report, which is reproduced herewith for ready reference:

"In compliance with the aforesaid order, this department has already constituted the Technical Working Committee vide Notification No.SELD/CA/533/ 2023 dated: 07.03.2023. Subsequently, the meeting, was held under the chairperson of the committee Chief Advisor (Curriculum Wing) School Education & Literacy Department, Government of Sindh. In this regard, the decisions / actions taken are as under:

1. *The subject "Internet of Things" will be introduced in 250 public sector High Schools from Grade-VI and later the number of schools and the courses offered in each school will be increased.*
2. *JICA will assist in alignment of topics of IOT according to the grades from VI - X and will facilitate the integration of topics in the existing ICT subject in grade VIVIII.*
3. *DCAR and Chief Advisor (Curriculum Wing) will conduct a follow-up meeting with relevant stakeholders, to explore suitable implementation and assessment mechanism.*
4. *JICA representative will share the Scheme of Studies.*
5. *The JOT course will start from coming academic cycle and will be offered simultaneously to students of grade-V1 under middle-tech stream and grade-IX students under matriculation.*
6. *SELD will explore technical support of private sector members, in creating pool of trainers and the training process will be cascaded to IT teachers in 250 schools.*
7. *The nomenclature / rules of relevant posts of technical education is under process in department which will be finalized and submitted further compliance report before long with the consultation of department of regulation wing of Govt. of Sindh and Finance Department.*

In view of above compliance report, it is prayed before this Hon'ble Court that the instant Cr. Misc. Application may kindly be disposed of in the interest of justice".

72. Accordingly, this order shall be complied with in its letter and spirit without fail. Secretary, Schools shall also ensure restoration of 3rd Component of Technical Education upto Metric level with syllabus in consultation with Technical Board. The Subject shall be included and computer Labs/ Workshops shall be established from upcoming Academic years of 2024-25 positively. In case of failure, austere action shall be taken against delinquent officer(s)/ official(s)

73. In Suit No. 1243 of 2015, the dated 26.05.2021, the M.D, STEVTA with regard to establishment of libraries in their Institutions and commencement of 04 years Science has stated before the Court as under:

18. *Managing Director STEVTA contends that pursuant to order of this Court they have established 25 libraries in their Institutions and are commencing four years Science Education affiliated with Universities from coming academic year in 25 colleges. This Court appreciate undertaking by M.D. STEVTA.*

ENCROACHMENT AND MUTATION OF LANDS DONATED FOR EDUCATIONAL PURPOSES

74. Another issue which requires serious notice by this Court is that the lands donated for Education purposes by the notes have either been encroached upon or mutations have been effected in the Record of Rights of such donated lands. This Court in Suit No. 1243 of 2015 passed the following order:

13. *The apex court in Suo Moto case of Miserable School Condition reported in 2014 SCMR 396 directed all the District & Sessions Judges to examine the schools and ensure that encroachment, if any, is removed. At this juncture, Intervener Zahid Hussain contends that there is illegal occupation of Government Primary Deeni Madrasa and Government High Schools Deeni Madrasa at Larkana. Needless to add that such directions, being specific, shall remain in field and a complaint regarding encroachment over school buildings etc would be enough for learned District & Sessions Judge(s) to entertain the same. Accordingly, District & Sessions Judge, Larkana shall examine the record by calling Deputy Commissioner and shall ensure that those encroachments are removed. Needless to mention that Education Department would be competent to move application with the District & Sessions Judges for removal of encroachments on their properties which, worth mentioning here, were / are always their bounden obligations.*

14. *Secretary Schools shall call report from all D.Os and submit report with regard to illegal occupation of their schools or construction raised by other departments in their boundaries. All District & Sessions Judges would be competent to receive applications from Education Department and any application endorsed/verified through Education Department with regard to illegal occupation of school and college properties, District & Sessions Judges would be competent to ensure that encroachment is removed.*

15. *With regard to survey of lands needless to mention that this pertains to middle, secondary, higher secondary colleges side.*

This Court further observed that:

12. *It has come on record that lands donated by notables for the education purpose like Tando Bagho High School and others in Sindh are not mutated in the record of rights. Such position, needless to add, may give rise to difficulties not only for the Education institution(s) but may also frustrate the purpose of 'donation' at any time, therefore, record needs to be maintained. Accordingly, all Deputy Commissioners alongwith D.Os shall call record from concerned Mukhtiarkars / Headmasters; issue directions for demarcation and shall ensure that lands provided on different times by different notables for spread of knowledge is secured/preserved and mutated in the record of rights in the name of Schools Education Department.*

UPGRADATION OF SCHOOLS FROM PRIMARY TO ELEMENTRY LEVEL, ELEMENTRY/MIDDLE TO HIGH SCHOOL LEVEL & HIGH SCHOOL TO HIGHER SCHOOL LEVEL

75. Due to the persistent and unceasing efforts of this Court, in a number of orders and judgments in different cases, at different benches, has meticulously

triumphed this long public desired and much anticipated issue of up-gradations of schools, for different levels of school education, i.e. primary to elementary, elementary/middle to high school level and from high to higher secondary level, the recent one while proceeding with C.P.No.D-218 of 2023, at Sindh High Court's Bench at Sukkur, first through initial order dated 09-02-2023, which is reproduced here for purpose of understanding;

"At the outset, petitioners contend that despite of guarantee provided under Article 25-A of Constitution of Islamic Republic of Pakistan, 1973 and legislation by the province of Sindh under "The Sindh Right of Children free and compulsory Education Act, 2013" state is responsible to provide free and best education to every student and such directions were already issued by this Court through different orders despite of that Boards in the name of sport, certificate, mark-sheet, scout and packa certificate, charging fees; they have issued circular whereby it has been directed that examination forms cannot be received unless the fees is paid.

Contention raised by petitioners is justified hence notification/circulars issued by the Boards of Secondary and Intermediate schools in all over Sindh are hereby suspended. They are directed that they shall accept the forms without any fee and no hurdle shall be created with regard to submission of examination form, this Court will examine this aspect finally after hearing them. In case of failure contempt proceedings shall be initiated against the Chairman of the Board. Needless to mention that this order will be applicable to the students of 9th to 12th who are getting education in government schools including SEF schools. In case if forms are collected by Head Masters and Principals with regard to examination fee, such amount shall be re-refunded to the students with acknowledgement receipt. Secretary Boards and Universities shall also ensure compliance.

Besides it has been contended that 101 High Schools were, upgraded as Higher Secondary School, SNE (s) are pending with the finance, department, however, finance department is reluctant to approve the same, though this Court already given directions on 13th December 2022, passed in IIInd Appeal No. 32/2017. Accordingly, finance secretary shall ensure that all summaries with regard to up gradation of High school(s), Primary and Middle schools moved by the education and literacy department, shall be approved within a week, in case of failure Finance Secretary shall appear in person with explanation.

Besides Secretary, Schools and Literacy department shall submit details of schools for up gradation from middle to high schools in all over Sindh. With regard to construction of school buildings, Additional Secretary Planning development and finance as well as Director General (PDR) shall be in attendance on the next date. Let copy of this order be communicated to Additional Advocate Genera. Sindh, for compliance.

76. That, thereafter, yet again on 15-03-2023 kept hammering on this issue of great public importance, the following order was passed, which is also reproduced herewith;

Pursuance to orders dated 09.02.2023 & 02.03.2023, learned AAG has filed notification dated 16.09.2021 regarding "The Sindh Right of Children to Free and Compulsory Education Act, 2013" and Rules, 2016. Needless to emphasis, that by order dated 13.02.2020 passed in 2nd Appeal No.32/2017, whereby directions were issued with regard to guidelines of such notification; however, paragraph of above notification reflects otherwise, to spirit of guidelines provided by this Court, in referred order, therefore Secretary (Education and Literacy Department) shall de-notify this notification and issue new notification within spirit of above referred order.

2. Besides, on behalf of Finance Department, learned AAG has submitted compliance report with regard to SNE(s) of upgraded 107 Higher Secondary Schools. Such statement is submitted with compliance report signed by Additional Secretary (PDF) School Education and Literacy Department, Government of Sindh, which speaks that Finance Department received total 111 proposals of SNE regarding upgraded Higher Secondary School from School Education and Literacy Department. After evaluating all proposals, 107 upgraded Higher Secondary Schools have been considered and provided SNE with financial implication of Rs.912.255 million per annum. Whereas, four Higher Secondary Schools have already been upgraded and provided SNE in last financial years 2020-21.

3. Accordingly, Secretary (Finance), Secretary (S&GAD), Secretary, School Education and Literacy Department and Chief Secretary Sindh shall ensure availability of budget and up-gradation of Higher Secondary Schools along-with SNE(s) in upcoming budget-2023-24.

4. Additional Secretary (PDF), School Education and Literacy Department, Government of Sindh, has submitted reply of show cause notice with details of upgraded schools from Primary to Middle & Middle to Higher Secondary Schools. Being relevant, such details are reproduced here as under;

S#	DISTRICT	PRIMARY SCHOOL TO MIDDLE SCHOOL	MIDDLE SCHOOL TO HIGH SCHOOL	HIGH SCHOOL TO HIGHER SECONDARY SCHOOL
01	Karachi Central	10	07	
02	Karachi Malir	21	23	02
03	Karachi Kemari	08	04	
04	Karachi South	07	08	
05	Karachi West	12	24	02
06	Karachi East	11	09	
07	Karachi Korangi	13	21	02
08	Hyderabad	16	12	
09	T.M Khan	14	14	00
10	Tando Allahyar	10	07	01
11	Badin	09	07	02
12	Thatta	14	04	01
13	Sujawal	14	07	00
14	Jamshoro	21	07	01
15	Matyari	10	15	02

16	Dadu	39		01
17	Mirpurkhas	12	10	02
18	Tharparkar	30	11	02
19	Umerkot	47	23	02
20	Shaheed Benazir Abad	32	20	02
21	Sanghar	19	16	02
22	Naushehra feroze	23	23	02
23	Sukkur	18	14	03
24	Khairpur	36	16	03
25	Ghotki	13	14	02
26	Larkana	30	29	01
27	Kamber	16	17	02
28	Shikarpur	25	14	01
29	Jacobabad	29	24	01
30	Kashmore	18	11	01
	Total	577	438	40

5. Accordingly, Secretary School Education and Literacy Department shall submit such summary to the Finance Department and Finance Department shall ensure that all SNE(s) are approved accordingly. Needless to mention, that due to increase of population, drop of ratio of children in Sindh is alarming and the approval SNE(s) SNE(s) cannot be withheld on the premise of financial implications as School education is constitutionally obligations of Province of Sindh; however, other expenditures in different projects can be reduced, therefore, on this excuse, this serious issue cannot be permitted as unaddressed, hence non-compliance may expose to the delinquents to the contempt proceedings.

6. With regard to shifting of Subject Specialists, Senior Subject Specialists from Higher Secondary Schools, this Court has already directed to Secretary School Education and Literacy Department to ensure that such SNE(s) are retrieved by the Higher Secondary Schools and shall ensure smooth functioning of Higher Secondary Schools having complete teaching faculty.

7. Petitioners have agitated that there is no Girls Higher Secondary School in Umerkot District, neither the School Department has properly realized non-availability of Girls Middle, High and Higher Secondary Schools in very district of Hon'ble Minister for Education & Literacy. Accordingly, Secretary School Education and Literacy Department shall constitute committees and said committees shall suggest up-gradation of Girls Schools from Primary level to Higher Secondary Schools as well as new schools keeping in view the ratio of the girls as per census within province of Sindh. Compliance report in this regard shall be filed within one month without fail.

To come up on 20.04.2023. Earlier orders shall remain in field until disposal of this petition.

77. That, thereafter, as recent as on 2 4-08-2023, Secretary Education & Literacy Department, Government of Sindh, has filed a categorical statement, wherein it has been stated that subsequent to the order passed by this Court, and a substantial amount of progress the context of up-gradation of schools has

been made, and as many as "**491 Schools**" in total, have been upgraded throughout the Province, which can be seen from the below reproduced, concluding paragraph of Secretary Education and Literacy Department's, compliance report referred above, also from the abstract table prepared for such purpose;

"That, Honourable Court is humbly requested that the proposal regarding the up- gradation of Schools from Middle/Elementary to High Schools and High Schools to Higher Secondary Schools including to SNE (New)2023-24 was got prepared by School Education & Literacy Department, and submitted to Finance Department. The same was considered/agreed by the Finance Department, accordingly and such compliance report has already been submitted by Finance Department. before Honourable Court. (Copies are annexed as Flag/A)"

Abstract Regarding Upgraded Schools in Sindh					
S#	Name of Region	Primary to Elementary	Elementary to High	High to Higher Secondary	Total
1	Karachi	0	36	13	49
2	Hyderabad	75	16	31	122
3	Mirpurkhas	111	30	20	161
4	Shaheed Benazirabad	22	9	25	56
5	Sukkur	26	14	34	74
6	Larkana	9	0	20	29
G.Total:-		243	105	143	491

ROLE OF DISTRICT JUDICIARY

78. In C.P.No.D-1817/2016 etc. this Court while elaborating the role of District judiciary for monitoring proper functioning of schools/colleges passed the following order:

It is strange that despite categorical directions since five years no Accreditation/Service Delivery Commission Board has been notified though directives of Apex Court even are referred in above said letter. This, *prima facie*, shows the seriousness of quarter concerned in shouldering the collapsing education system. Further, suggestion by the Secretary that "*Minister for Education & Literacy may be made its Chairman*" is apparently not justified nor appears to be in line for which emphasis was given for such *board*. The manner in which things have been kept *hanging* despite directions of honourable Apex Court as well of this Court is not worth appreciating rather again speaks how quarter concerned is interested in reformation of collapsing education system. It is needless to add that role and importance of the *board* (accreditation) needs no further affirmation as already detailed, however, it would be conducive to refer para 13 of order dated 20.09.2019 which is that:-

13. While parting we regretfully add that the accreditation board though was to be established right after announcement of the judgment of the apex court but only notification is issued (22nd November 2016) which too

after hammering of this court yet it is not functioning. The objective whereof per notification covers almost all spheres of education which are:-

- a) Develop quality assurance and accreditation system based on standing operating procedure for effective delivery of education service at primary, elementary, secondary, higher secondary and college level.
- b) Assure quality of education offered by education institution based on key performance indicators through effective internal and external processes focusing on outcomes and impact.
- c) Accredit delivery of services such as curriculum, classroom assessment, annual internal external examination and teacher preparation etc. based on quality assurance framework.
- d) Classroom assessment external examination and evaluation for assuring delivery of quality services,
- e) Monitor performance of the schools/colleges Education Department and its line departments including Directorate of Curriculum, Assessment and research, Provincial institute of teacher Education, Reform support unit, Sindh education Foundation, Sindh teacher Education Development Authority, Sindh text book Board and Directorate of School/college Education and their coordination.
- f) Ensure sustained culture of professionalism and accountability.

Accordingly, till the notification and proper functioning of Accreditation board, up-to district levels, we find it in all fairness that it would be appropriate to involve the District & Sessions Judge(s) for monitoring /supervision purpose. We therefore direct that in each district learned District & Sessions Judge shall form a committee at District level consisting on Deputy Commissioner, Director Schools, and three other members including President District Bar Associations purpose of monitoring.

- i) Proper functioning of the schools / colleges of public sector including Sindh Education Foundation Schools within their jurisdiction;
- ii) Attendance of the staff;
- iii) Utilization of funds;
- iv) Any encroachment or trespassing schools' property/building;
- v) Harassment or influence, if any, to the management of schools/colleges from any corner.

District and Sessions Judges shall call a meeting on every suitable day of every month and reports shall be submitted discussed and if it is found that there is any complaint of misuse of funds, encroachment, influence or harassment to school management etc then District and Sessions Judge shall be competent to report the mater to concerned quarter for initiating necessary action as per law, as well pass necessary orders. Besides learned District and Sessions Judge shall also direct magistrate

for surprise visits randomly or any complaint. Monthly reports shall be sent through MIT of this court who shall keep record separately.

EDUCATION REFORMS HEADED BY IQBAL HUSSAIN DURRANI

79. In Suit No.1243 of 2015, this Court passed Order dated **20-03-2020** as under:-

“6. *Without prejudice to referred defects*, the notification of *Committee* is welcomed. Needless to add that it is always the ‘*ToRs*’ which defines boundaries of the ‘*working field*’ of the ‘*Committee*’ therefore, the final ‘*ToRs*’, mentioned in the notification are referred hereunder:-

- i} To frame a policy of bringing improvement in *public sector education system*;
- ii) To ensure introduction of *modern education system* in public sector;
- iii) To apply to *bloom's taxonomy* stages based policy in public sector universities;
- iv) To submit quarterly compliance report through MIT of Honourable High Court of Sindh;
- v) In compliance of para No.5, the directions may be issued to *Secretary Colleges Education and Secondary School Education* for further necessary action”

7. The above ‘*ToRs*’ needs a little widening which, I believe, would be appreciated by the Chief Secretary The term-I regarding ‘*framing policies for improvement*’ would surely cover the ‘*second term*’ by introduction of online syllabus upto 12th classes by Text Board and *digital applications* for College and University education level, as is being done in modern world which shall also help students of the families having no permanent residence hence terms would also include active involvement and functioning of the ‘*non-formal education board*’. This Committee shall also ensure ‘*Educational Council*’, comprising on educationalist only in compliance of compulsory *Education Act, 2013*.

8. The third term of ‘*ToRs*’ shall, hopefully, meet its true objective i.e lessening the difference between standard of education between ‘*private*’ and ‘*public*’ sectors of education. All pubic educational systems shall review their present statures of syllabus (es) and shall bring it in line with *Bloom Taxonomy*.

9. The inclusion of clause-v in the *final ToRs* is an acknowledgment of classification between of education to school and college level; per clause v, the directions to respective Secretaries have also been issued therefore, to get maximum benefit of such position, it is important to add that *school education system* shall be consisting of **12 years education** as is in practice in all other provinces. The quarter concerned shall also ensure true compliance of the directives, given with regard to *bachelor and master degree (s)*.

10. Chief Secretary Sindh shall ensure to provide all required logistic support to this committee, particularly Chairman, including finance if any, shall be provided. Such direction shall be issued to Secretary Finance and Secretary General Administration. Secretary (G.A.) Services and General Administration Department shall provide/facilitate the Chairman of the Committee with logistic support. The Committee shall submit progress report through MIT of this Court. Learned Chairman would be competent to visit Universities of other Provinces alongwith members as per need.

11. Finance Secretary shall submit complete budget of non-formal schools allocated and released in last five years. Besides budget of libraries provided in last five years to education sector as well culture and Local Government. Director libraries, Culture Department shall be in attendance on next date. Focal Person of Chief Secretary shall ensure visits of libraries in education level and submit report on next date.

12. By earlier directions, Chief Secretary Sindh was directed to ensure that Council as per Compulsory Education Act 2013 is notified. This aspect shall be considered by the notified committee and term-iv of the ToRs shall include detail of compliance or otherwise."

80. Accordingly, a Committee, headed by Dr. Iqbal Hussain Durrani, after hectic efforts with all stakeholders, submitted report, which is complete picture of present status of education from primary to university level in whole Sindh. This Court passed following order in the light of the report:

"While finding serious flaws in public education sector in the Province, this Court directed the Chief Secretary Sindh to constitute a high powered Education Committee under the Chairmanship of Dr. Iqbal Hussain Durrani, Ex-Federal Secretary, so as to have something which could help the *public education system* in achieving what it **was** meant. Worth appreciating that while appreciating the orders of this Court, the Govt. of Sindh *did* issue the notifications of constitution of Committee and Sub-Committee for purpose of improving the standard of the education in *public sector*. I am conscious of the fact that '*the castles are not built in one day*' nor a collapsing system can be reshaped in days but proper planning and true implementation thereof is the only way of rectification and improvement. Worth adding that such constituted committee, for the first time, included all stake-holder(s) and even the help of the educationalists/experts were taken for preparing '*final report*' so as to find out *lacking* and ways to over-come the same. With worth appreciating *hectic* efforts of Education Committee headed by Dr. Iqbal Hussain Durrani and Sub-Committee(s), the final report was submitted on 26.03.2021. The '*acknowledgment*', detailed in such final report, being relevant to, *prima facie*, show back-ground thereof, is referred in terms of ToRs:-

"Working on any policy document is always a taxing job and undoubtedly development of this multi-layered education reform agenda was not possible without the team of diverse and committed professionals who prepared background papers and other commissioned inputs to inform the analysis. We would like to express our gratitude to the Members of the Core Committee, Chairmen and Members of the Sub-Committees.

The Sub-Committees played a key role in providing guidance and support at all stages of the Report's cycle and finally preparing think-pieces. We would like to thank each of its members for their time, energy and enthusiasm. Particular thanks go to the Chair of the Sub-Committees: Dr. Almina Pardhan, Mr. Ahmed Bukhsh Narejo, Mr. Baqar Abbas Naqvi, Dr. Saeeduddin, Dr. Abdul Qadeer Rajput, Dr. Madad Ali Shah, Dr. Muhammad Memon, Dr. Sheerin Narejo, Dr. Parveen Munshi, Mr. Abdul Kabir Kazi and Dr. Sarosh Lodhi.

Special thanks go to members of the expert panel, including Prof. Dr. Muhammad Memon, Dr. Fouzia Khan, Mr. Asadullah Abro, Prof. Dr. Tayyaba Zarif and the report consolidation team; Mr. Aamir Latif Siddiqui, Mr. Zahid Abbas Jatoi and Mr. Mubashir Mirza. We would like to extend our thanks to Mr. Ahmed Bukhsh Narejo, Secretary Education and Literacy Department for facilitating and providing support for compilation of this report.

The guiding principles of this report are derived from the terms of references provided by the Honourable High Court of Sindh. We are very grateful to the Honourable Court for the guidance and support provided during various proceedings.

2. The '*back-ground*', detailed in the report, does affirm the fact that public education system was / is requiring comprehensive work towards reformation / improvement thereof. The same (report) reads as:-

Following the submission of the progress reports to the Honourable High Court of Sindh dated 23-11-2020 and 11.1.2021, the report & review committees finalized the remaining five reports of the sub-committees. The reports of all the 11 sub-committees; Early Childhood Education (ECE); Elementary Education (Class I-VIII); Secondary and Higher Secondary Education (Class IX-XII); School Examination (Class IX-XII); Higher Education; Technical and Vocational Education; Teacher Education & Continuous Professional Development; Private Education; Non-Formal / Adult Education; Public Private Partnership (PPP) and Libraries, have been signed by the Chairpersons of the respective sub committees (**Annexure-I**). The reports have been

thoroughly examined specially with reference to the Honourable Court's orders.

Pakistan has, in general, been bracing a long-time crisis of access, quality and governance in education sector. Sindh, once a flag bearer in education and learning indicators, is of no exemption in bracing **the education crisis of even more deteriorating situation than other provinces of the country.** After 18th constitutional amendment, education becomes the provincial chapter for policy, planning and execution. The provincial government has introduced several reforms and initiatives, mainly relating to legislation, policy and planning and enhancing financial resources etc. to turn around the situation of access, quality and governance in education sector in Sindh, but after a decade of having education as the provincial subject and subsequent efforts made by the provincial government in the education sector, **there is much desired to be done for improvement in each sub-sector and thematic areas.**

On the directions of the Honourable High Court of Sindh that also showed its concern about the continuously deteriorating situation, particularly in public sector education in Sindh, the provincial government constituted a committee comprising heads of departments, universities, boards, allied institutes and education experts to frame a policy of bringing improvement in public education sector. The committee had a wide range of consultations by adopting/ expanding representation of different sections of the community and the society to be considered relevant stakeholders involved in education sector in Sindh. A consensus is being formulated for framing the provincial education policy framework on the basis of; Sub-sectoral and Thematic areas i.e. Early Childhood Education (ECE); Elementary Education (Class I-VIII); Secondary and Higher Secondary Education (Class IX-XII); School Examination (Class IX-XII); Higher Education; Technical and Vocational Education; Teacher Education & Continuous Professional Development; Private Education; Non-Formal/ Adult Education; Public Private Partnership (PPP) and Libraries. Each sub-sector envisages contextual course of cross-cutting themes such as vision, access, equity, quality, management and governance, accreditation and certification, institutional collaboration and network and integration of technology.

Bloom's Taxonomy of Educational Objectives (Remember, Understand, Apply, Analyze, Evaluate, Create) along with a matrix of cross-cutting themes (**Annexure-II**); and, Normative/ Social Learning

Framework along with 21st Century Learning Framework; Sustainable Development Goals 2030; Fourth Industrial Revolution; Provincial Acts (Curriculum Standards, Private Education, SHEC, STEDA, PPP, Free & Compulsory Education); School Education Sector Plan (2019-2024); Policies (ECCE, CPD, NFE); National Professional Standards for Teachers; Projects (ADB Assisted School Education Project and Others); and National Accreditation Standards for Teacher Education, etc. ”

3. The above, *prima facie*, shows that it (report-work) was not confined to early education *only* but all kind(s) of educational institution(s) from *early Childhood Education (ECE)* to *Higher Education, libraries* as well *Technical & Vocational Education* were examined which, I would say, was / is the demand of Article 37 of the Constitution. The work of the Committee as well that of its sub-committee(s) was / is aimed to build our nation because “*knowledge is power. Information is liberating. Education is premises of progress, in every society, in every family* (Kofi Annan). I believe it is not wise to stick with faults of past but better to work on rectification rather than moaning on faults of past. “**What you do today can improve all your tomorrows**” (Ralph Marston). The work is really admirable hence the same needs to be made part of today, particularly those pointing way-outs of all stages of our educational system.

4. The report shows that our educational system consists of eleven (11) sub-sectoral or thematic areas. Each of them has been defined under *Executive Summary* head as:-

5. Early Childhood Education (ECE)

The pre-primary education is acknowledged as *key-means* so as to develop a relation between child with schooling or books. The report shows recognition and introduction of different programmes and policies for ECE which, however, could not bring the desired result, therefore, report while dealing with such sub-sector suggests as:-

“To cope these challenges, the report outlines policy recommendations for ECE in public school system in Sindh; i) By 2030, ensuring equitable and adequate provision of school infrastructure with all ECE resource in all public primary schools and primary sections of post-primary schools, ii) Katchi classes to be gradually transformed into ECE in all public primary schools and primary sections of post-primary schools and no ‘katchi’ informal class after 2025, iii) ECE and/or ‘katchi’ students to formally be admitted and G.R. number be issued accordingly, iv) learning material and resources to be provided for both teachers and students in accordance with needs of ECE curriculum, v) ensuring qualified and dedicated human resource for teaching ECE in

public primary schools and sections and relevant SNE for ECE human resource will gradually be increased annually, vi) ECE teachers' courses to be introduced in accordance with ECE policy, standards and curriculum, vii) ECE recruitment policy also be reviewed in accordance with new ECE teachers' course/ certificates, viii) ensuring equitable access for specialized ECE course/ certificates all across the province as per market demand and ix) inter-departmental committee will be constituted for implementation of ECCE policy in Sindh"

Who can deny the importance of ECE because such age is the *foundation* of a superstructure which, *earlier*, known as '**tarbiat/training'**, therefore, inclusion of ECE in the report shows the seriousness thereof as well that of the Committee towards the assigned job.

6. Elementary Education (Class I-VIII)

This part shows number of Act (s) and policies, so passed for satisfying the constitutional obligations within meaning of Article 25-A of Constitution which could be appreciable only if satisfy the desired objects. While detailing all such positive steps, the Committee concludes as:-

"...The level of educational achievement in Sindh is overall low with persisting concerns about the quality of education. Student learning outcomes, tested through various assessments across grades, are poor. Teaching in the classroom mostly uses the rote memory approach, reducing the opportunity for higher order thinking to develop among children. Nonetheless, education outcomes do not appear to have improved significantly. Unless the system has the ability to implement, planning will not deliver the desired results. The sub-committee identifies key challenges as lack of key school-level ingredients for learning due to no use of Bloom Taxonomy of Learning Behaviours in teaching learning process; poor quality of teaching; large number of out-of-school children; multi-grade teaching; low school availability beyond primary education; missing basic facilities along with less financial allocation for the regular repair and maintenance of the schools; low participation and retention; insufficient, unreliable and scarcity of the education data (generally public sector school education data is available) for planning; less focused demand-side initiatives; GPI less than 1; urban rural disparity; low educational achievement of students with evidently low performance in language, mathematics and science at grade 5 and 8; teaching methods are often teacher-centered; no priority given to teacher education programs in recruitment process; corporal punishment; absence of inclusive education environment; lack of budget for the provision of

teaching learning material in the schools; lack of continuous professional development of teachers; no plan or strategy for reducing dropout; and lack of dedicated unit to carry out strategic planning, M&E and research functions. Based on gaps and challenges, the sub-committee proposes policy recommendations with a need to develop a comprehensive plan for increasing access to education beyond the primary level, reducing multi-grade teaching, decreasing dropout ratio and providing missing facilities along with provision of regular budgets for repair and maintenance. The committee also recommends to use Bloom Taxonomy of Learning Behaviours for the whole teaching learning process. Other key recommendations include establishment of a comprehensive integrated database system; Data collection of education indicators annually as well as real time basis; introduction of student tracking IDs; school infrastructure to meet evidence-based needs and ensure learning friendly environment; removal of redundancies from the system and also consolidate single room schools; meritorious recruitment of qualified teachers; Continuous Professional Development framework for teachers, head-teachers and administrators; Student curriculums will be improved with focus on local needs and global trends, inclusive education and life skills, gender equality, cultural diversity and citizenship; Provision of textbooks and learning materials based on the revised curriculum in appropriate languages; teacher education curriculum and programs will be aligned with student curriculum; school specific student assessment and reporting system; management mechanisms for performance and accountability of education system as well as personnel; improved efficacy and expansion of the EMO model; demand side incentive will be developed; a media awareness campaign for prohibiting corporal punishment, as per Sindh Prohibition of Corporal Punishment Act 2016; integrated strategy for bringing out of school children into formal education stream; strategy for enhancing capacity of teacher education institutes to provide professional and qualified teachers in accordance with market demand; implementation of CPD Strategic Plan for in-service teachers; and ensuring inclusive education environment in schools.”

7. I am conscious of the fact that unless the fault is known and acknowledged there can be no possibility of its being removed / corrected. Since, the Committee, *prima facie*, not only found lacking but also came forward with ways-out, therefore, it is the time to believe that same shall, in-shaa-Allah bring fruits.

Secondary/Higher Secondary Education (Class IX-XII)

For this, the Committee finds a:-

.....The sub-committee identifies key challenges as low enrolment due to less number of schools; outdated infrastructure along with budgetary and bureaucratic constraints; lack of integration of use of technology in teaching and learning process; disparities of access to education at gender, class, health levels; curriculum yet to be reviewed on basis of Bloom's Taxonomy of Educational Objectives along with transformation of all textbooks accordingly; absence of well-defined and easily understandable teachers' guide; unavailability of CPD mechanism for education reforms and initiatives; ineffective educational planning; absence of quality assurance mechanism and process at all levels; and no real/ modern assessment techniques and tools. The sub-committee also proposes key recommendations which include upgrading schools to sufficient level for increase in number of post-primary schools; integrating technology in academic and administrative matters; training of teachers' and linking promotion with completion of training; introducing a uniform and comprehensive policy for Quality Assurances; improving infrastructure of existing schools; rationalizing the existing staff and ensuring use of SESLOAF trained teachers for training of assessment.

8. School Examination (Class IX-XII)

Examination, I shall insist, was / is the ultimate test of knowing what *really* has been delivered. This, however, was never worked as should have been done hence lacking *normally* result in despair for those who strive hard because possibilities of cheating and other *ill* means allow big-pockets to tamper the merit. The report acknowledges as:-

"Examination is an integral part and a driving force of education system to assess students' academic achievements, evaluate system performance and provide insight for further improvement of teaching learning process. Examination system has changed substantially across the globe, however, it has not changed much in our context. It is also unfortunate that this sub-sector has never been made part of several education reform and initiatives taken by provincial and/or federal governments. As a result, the existing examination system has become stagnant and various critics indicate that the examination has promoted teacher-centric pedagogies, rote memorization, selective study of examination subjects, and cheating and other malpractices in examination. Hence, it necessitates

that the examination system must be transformed through automation to make it credible and align with the national and global educational standards underlying the learning framework of 21st Century and Sustainable Development Goals 2030. The report prepared by sub-committee narrates gaps and challenges of school examination system as a) lack of credibility and quality of examination; b) absence of quality assurance and control system/manual for both examination and affiliation of schools and colleges; c) lack of expertise for paper setting and moderating question papers; d) lack of items bank; e) question papers are set from the textbooks rather than the curriculum; f) lack of authentic assessment; g) ineffective marking key without scoring rubrics; h) lack of syllabus indicating specification of test based on the Bloom's Taxonomy of Educational Objectives; i) shortage of qualified staff, especially in the area of research and evaluation; j) limited control on examination centres; k) reluctance of senior teaching staff as examiners, head examiners and invigilators; l) external interference in the examination centres; m) absence of knowledge-based question papers; n) lack of integration of technology in examination; o) use of cheating and malpractice in examination; p) lack of transparency in examination results; and q) financial crisis due to non-reimbursement of exempted fees to the Educational Boards. The report also proposes policy direction to improve school examination system based on Bloom's Taxonomy of Educational Objectives. The policy directions emphasizes the need of transformation of examination system to be based on automation framework through effective integration of technology with policy goals including a) assessing students' higher order of cognitive skills; b) conducting curriculum-based examination; c) changing pattern of question papers; d) conducting fair and transparent examination; e) developing robust marking scheme and scoring rubrics; f) preparing transparent examination results, and g) conducting research in examination. The report provides recommendations (short-term and long-term) to bring reforms in school examination system. The short-term recommendations include a) to fill up vacant posts of Secretaries and Controller of Examinations immediately; to make the Board financially sustainable c) to develop Quality Assurance System (QAS) for examinations and assessment; d) to use Enterprise Resource Planning (ERP) to automate all functions of the Boards to enhance their institutional efficiency; e) to introduce online services including enrolment forms, examination forms etc.; f) to revise question papers structure/pattern with MCQs 30%, Constructed Response Questions (CRQs) / Short

Questions 30%, Extended Response Questions-ERPs) / **Long Questions 40% weightage**; g) to revise question papers based on knowledge (50%), Understanding (20%), and Application/Critical Thinking Skills (30%), with flexibility of change in the ratio from subject to subject and the extent of the higher order of cognitive skills; h) to use Optical Mark Recognition (OMR) to assess MCQs; i) to explore the opportunity for conducting examination in evening to avoid interruption in teaching and learning process; i) to use of CCTV Cameras for effective conduct of examination; j) to conduct training for teachers to develop items bank; k) to build institutional capacity of Board staff, paper setters, moderators and other examination staff for managing the examinations effectively and making assessment more valid and reliable; l) to make compulsory duty of examination and assessment staff; and to enhance security system to curb cheating and other malpractices in examination. The long-term recommendations include introduction of automation system in examination; establishment of IT laboratory with qualified IT staff; implementation of curriculum-based examination; development of central items bank and rubrics for making assessment authentic; use of e-marking for assessment of CRQ/short and ERQ/long answers; revival of research sections in the Boards for analysis of results etc.; capacity building and professional development of teachers, staff and others related to examination matters; development of online facilitation system which includes a dash board for facilitation, and verification of documents etc. and appointment of professional staff dealing with the automation of examination system.

A sense of fair and transparent *examination system* shall surely ensure competition and shall deter the *ill-minds* from prejudice our educational system which, *normally*, is not meant to produce *degree holders* but skilled and qualified bodies.

Higher Education

The pillar of social stability, sustainability and active engagement in the global knowledge economy is a well-educated proletariat. As a result, most countries have set goals to increase the share of the population with higher education and/or broaden access to higher education for individuals that are under-represented because of socio-economic status, race, ethnicity, religion, age, gender, [dis]ability or location. Formal education in Pakistan is being offered at various level from school to university level. Globalization in higher education resulted in an increase of universities .The number of universities in Pakistan increased dramatically by

2020. There are around 200 Universities (public & private) as compared to two in 1947. Furthermore public sector is traditionally considered as the major provider of higher education but this scenario changed consequently growth of higher education institutions complemented with the increase of the private sector, sets the stage for a wide range & type of education. The sub-committee discussed the potential areas for policy formulation as review of number of universities along with their categorization, enrolment with identification of universities having low participation rate; access to higher education with focus on gender equity and equality; quality of higher education; existence of indigenous research; outcome based higher education and its alignment with Bloom's Taxonomy of Education Objectives; introduction of online education; framework for reform/ revamp in higher education for dealing with matters of governance, management, university culture and environment, attitude of high authorities/ bodies, infrastructure, curriculum, learning material, linkages, research and innovation. For this purpose, five key thematic areas were identified for policy recommendations which include governance, access, quality, equity & finance and innovation & relevance. The sub-committee identifies key gaps and challenges as a) discrepancies in model acts of both private and public sector universities; b) insufficient provision of funds to universities and DAIs; c) inappropriate grant mechanism; d) lack of ambitions to focus on the research, innovation, commercialization, and its relevance for achieving economic gains and employment in exploring the benefits gained from science to be at the forefront of national and global competition for new and advanced technologies and other innovations; e) Complicated mechanism of quality assurance (internal) and (External) with more focus on documentation and no follow-up timelines; f) disintegration of goals of access and successful participation of learners; g) lack of application and relevancy of learning outcomes due to content based learning behavior; h) absence of online education and i) issues relating to the defined roles of HEC Pakistan and HEC Sindh in lieu of 18th Constitutional amendment. The sub-committee proposes key policy recommendation including a) review of model acts for private and public sector universities in consultation with experts and stakeholders; b) provision of sufficient funds to the universities and DAIs based on a revised grant mechanism in connection with strong quality assurance mechanism; c) introduction of innovative system based on a well-developed enabling environment, featuring stable macro-economic, institutional, and regulatory frameworks

prioritizing innovation directed towards societal challenges; d) ensuring innovation and relevancy policy support through regulatory framework, economic and fiscal instrument, demand support, regional innovation strategy and networking, trade policy, capacity building and information provision, and information & cultural instruments; e) Realistic Reforms by Development of Framework on Quality; f) Accreditation procedure must for open & virtual models; g) development of a feedback system from HEC on the documents submitted for quality assurance so that the lapses, strengths and weaknesses can be identified by the HEIs and those lapses and weaknesses can be reconsidered and worked on in order to avoid those in their future practices; h) Access to higher learning should be made possible to all regardless of race, ethnicity, gender, economic or social class, age, language, religion, location or [dis]abilities; i) International mobility, exchanges and cross-border education activities must integrate the twin goals of increased access and equitable participation; j) indigenous research/individuals & problems as an important variable affecting the link of indigenous people with society , community & mainstream industry; k) Outcome based Higher Education and alignment with Bloom's Taxonomy of Educational Objectives'; l) Online Education; m) Framework of Reform at Higher Education/ Revamping in Higher Education and n) Collaboration with HEC and its Policies after 18th Amendment.

9. Technical and Vocational Education

None can deny the importance of TVET for progress of a country. This has also been covered in the report in detail which says:-

Technical Education & Vocational Training (TVET) has far-reaching benefits in development of workforce and making nations to compete in the global workplace and achieving social and economic gains. Out of total Pakistani labour force, around 70%-80% is comprised of skilled youth which is either trained by formal TVET institutes or they gained skills from informal sector (Ustad-Shagird System) with highest employment rate. The remaining 20-30% of workforce is coming from general education with comparatively lesser employment rate. Approximately 200,000 jobs annually are created / available for skilled youth in various private and public sector industries, enterprises and government organizations in Sindh. Whereas, the entire TVET sector in Sindh is producing a maximum of 94,315 skilled workers annually through 287 public (including 252 STEVTA

institutes) and 387 private institutes in over 150 trades / technologies.....In addition to Sindh TEVTA, there are two public sector testing & certification bodies in the province i.e. Sindh Board of Technical Education with a mandate to affiliate, conduct examination and certification of public and private training institutes in technical education stream; and Trade Testing Board Sindh with a mandate to perform same business for vocational stream. The report identifies gaps and challenges in sub-sector as; i) difficulty in decision making due to colossal STEVTA Board of Governors (currently 19 members, 02 MPAs, 06 secretaries, 05 industrialists, 01 each from agriculturist, Mehran University of Engineering, NAVTTC, MD STEVTA); ii) the SBTE Board not having representation of MD STEVTA, NAVTTC, BBSUTSD, Mehran& NED Engineering Universities, the most relevant organizations; iii) lack of coordination between two parallel bodies operating in Sindh i.e. the Board of Technical Education and Trade Testing Board; iv) no rationalization of programs offered in public sector TVET institutes located within close vicinity i.e. 5-10 km of radius, resulting low enrolment in each one; v) Non-compliance of terms and conditions of appointment of Managing Director under STEVTA Act; vi) No minimum standard / criteria for establishing a new or upgrading an existing institute; vii) no effective / mandatory registration & affiliation system for private institutes; viii) no systemic institute-industrial-linkage and On-Job-Training arrangement for quality training and greater employability of skilled youth; ix) Insufficient human resource at STEVTA due to 40%+ vacant teaching positions with no recruitments since 2012 creating huge vacuum and organizational imbalance. x) teachers working at irrelevant technology positions and administrative positions; xi) irrelevant and outdated programs resulted low participation of female; xii) non-availability of market driven programs such as Robotics, Artificial Intelligence, Big Data, Mechatronics, and Heavy Machine Operations etc.; xiii) maximum capacity of existing TVET institutes (public and private) to provide 50% of the annual demand of skilled workers; xiv) less government investment and more donor funded programs; xv) no certification and recognition system for informally skilled youth in Sindh (Ustad-Shagrid-System); xvi) lack of infrastructure facilities, resources and equipment for TVET learning environment; xvii) low participation ratio of skilled youth of Sindh in overseas job markets as compared to other provinces (9.1% Sindh, 29.7% KP and 50% Punjab), due to no-structured link of TVET institutes with overseas employment promoters; xviii) less number of apprenticeship

training in Sindh (1,500 apprentices trained as compared to 45,000 apprentices in Punjab); xix) No third stream of education as Matric-Tech as an option for students who are not interested in science or humanities education groups; and xx) old and traditional mechanism of budget and fund provision proving not effective for successful TVET activities. On basis of gaps and challenges, the report finds key recommendations as; i) Review and amendment in existing rules and regulations for authorizing STEVTA for control on the transfer, posting, promotions and appointment of BS-17 and above staff (Civil and Public Servants to make it autonomous in performing its functions; ii) proposal of merging TTB with SBTE under the administrative control of STEVTA (as of Punjab model); iii) re-composition of SBTE Board; iv) Introduction of shared funding-governance model for apprenticeship through effective collaboration with private sector and industry (on pattern of federal government); v) all non-functional institutes to be operated under Public-Private-Partnership; vi) Ensuring of compliance of tenure and terms & conditions of appointment of MD-STEVTA; vii) immediate recruitment at vacant posts through 3rd party; viii) no teachers to be posted on administrative posts; ix) a robust and machine based M&E system for staff and institutes (public and private); x) regulate mandatory registration and quality assurance mechanism of private training institutes in Sindh; xi) ensuring minimum infrastructure facilities, resources and equipment in TVET institutes; xii) rationalization and consolidation of TVET institutes located within close vicinity (5-10 km); xiii) all TVET institutes to be linked with relevant industry in the vicinity through modern apprenticeship schemes for practical work / OJT; xiv) Introduction of Smart-Lab and Smart Classroom concept, in case no industry exists in close vicinity; xv) within three years all its existing training programs to be transferred into modern national CBT System on the pattern of Punjab and KP TEVTA; xvi) Introduction of Matric-Tech as third stream of education for greater employability of youth and image building of TVET sector on the patter of Federal and KP governments; xvii) enhancement of the quality of examination & certification by SBTE and TTB at the level of international repute; xviii) establishment of production-cum-training facilities & introduce local handi-craft trades like pottery, wood-work, Bengal making, Ajrak & Rilli making etc.; xix) introduction of mandatory licensing ®istration of skilled workers in across Sindh for ensuring quality assurance mechanism; xx) Provision of budget and finances in accordance

with STEVTA Act to make authority financially autonomous;

10. We, normally, complain of unemployment but the report itself indicates that approximately 200,000 jobs annually become available under such head but what such education institution (s) produce *annually* is 94,315 which, too, with not that standard as is demand of the globe. The proposal (s), I believe, if are worked on shall not only produce qualified skilled persons but shall surely provide them an opportunity of earning livelihood.

Teacher Education and Continuous Professional Development

Needful to add that since spreading of the education (*Ilm*) is not possible without a 'USTAD'/Teacher who, all over the globe, is recognized with respect. Our religion gives the '*Ustad*' the most respect by giving him the status of '*Ruhani/spiritual father*' therefore, there can't be and shouldn't be any compromise over qualities of a teacher/*Ustad*. This aspect, even, has properly been covered in the report. The report shows efforts of Sindh government but concludes as:-

.. Some other key gaps of teacher education and CPD were included; i) lack of vision of teacher education and CPD, ii) disconnect between pre-service and in-service teacher education, iii) disconnect between theory and practice, iv) weak link between schools and teacher education institutions, v) teaching profession is not considered as the first choice of many fresh graduates, vi) recruitment rules and policy is not specific to teacher education programs only; vii) teachers' lack of academic and professional competencies, viii) teachers' pedagogies focus on developing students' lower order of cognitive skills-rote learning, ix) teacher teach textbooks rather than curriculum, x) lack of teachers' access to curriculum, syllabus and scheme of studies, xi) inadequate provision of libraries and laboratories, xii) lack of financial sustainability, xiii) lack of integration of technology in teacher education and CPD, xiv) disconnect between CPD and career progression of teachers and others, xv) lack of coordination between various institutions, xvi) non-serious attitude of teachers and others about in-service or CPD activities, xvii) non-existence of teacher educators preparation programs and xviii) lack of incentives to teachers and others to attend CPD programs as part of their career ladder and progression. Some key policy directions emerged from the situation analysis which include; i) to ensure use of *Revised Bloom's Taxonomy of Educational Objectives (Remember, Understand, Apply, Analyze, Evaluate and Create)* in classroom teaching learning process; ii) to introduce

teachers' performance appraisal system on basis of use Revised Bloom's Taxonomy of Educational Objectives (Remember, Understand, Apply, Analyze, Evaluate and Create) in classroom teaching learning process; iii) to align teacher education with rapidly changing education scenario and the contextual needs, ii) to attract best graduates to join teaching profession, iii) to provide access of technology to prospective teachers and teacher educators, iv) to link CPD with teachers' and others' career progression, v) to contribute towards teaching profession and career growth of the educational practitioners, and vi) update/restructure teacher education institutions. Teacher education and CPD programs need to be transformed in light of globalization, technological advancements, Learning Framework of the 21st Century, Sustainable Development Goals 2030 and rapidly changing education scenario in the country, in general and Sindh province, in particular. The overall recommendations emerging from the review of teacher education and CPD programs include; i) update vision and mission of teacher education and CPD programs for raising standards and align with the international standards, ii) rationalize the deployment of specialist teacher educators, iii) upgrade the 'Elementary Colleges of Education' as Colleges of Education', iv) restructure the 'Provincial Institute of Teacher Education' as an 'Academy of Educational Leadership and Development', v) make CPD programs mandatory for all teachers, education managers and others for their promotion and career growth, vi) develop professional relationships between schools and teacher education institutions and universities, vii) create institutional collaboration and networking, and viii) prepare prospective teachers as 'reflective practitioners' and 'pedagogical leaders'.

Private Education

For this, the Committee while detailing the private education as:-

To ensure the quality of education in Private Schools and Colleges, a Private Institutions Management and Quality Assurance Board has been constituted. At DRIPIS a complaint Centre is established and the DRIPIS also received complain from students', parents, civil society and teachers of private institutions. The committee identifies gaps and challenges for administrative and academic matters including a) ineffective implementation of The Sindh Private Education Institutions (Regulation & Control) Ordinance 2001, Amendment Act-2003 and Rules 2005 & amended Rules 2020; b) issues of rationalization and maintaining of the fee structure at institutions; c) appointment of Non-Professional

teachers at low salary by the institutions and in some cases without issuing proper appointment orders / terms and conditions; d) without prior notice shutdown of Private institutions functioning in rented buildings; e) non submission of Annual report / general information to the registering authority including annual audit report, admission policy, detail of 10% free ship and P.T.A meetings as required by the law; f) issues in disbursement of scholarship or allowing free ship to students' by the Private Institution; g) monitoring and Maintaining Quality Assurance as Vehicle for the Officer in Provincial & Regional Directorates not available; h) payment issues of remuneration to members of inspection committee; i) assistance to polio teams, measles teams, de-worming teams and typhoid during the campaign; and j) assistance to election commission in the election for verification and finalization of polling stations in the private institutions. The sub-committee proposes key policy recommendations categorization of private institutions according to the facilities available in the institutions; Development of Quality Assurance Setup & Manual; Amendments in Rules and Procedures for free ship/scholarship to be awarded by the private institutions to the deserving students' and 10% Free-ship to be funded by the government to the private institutions at the rate of approved fee structure; DIRPIs for both private schools and colleges; and PPP model for 4000 non-functional government schools.

11. Amendments in Rules & Procedure for free ship / scholarship and 10% free-ship shall surely help poor student (s) to study in private sector which, otherwise, was / is the obligation of the private education sector, therefore, work on such aspect needs acceleration.

Non-Formal/ Adult Education

We, normally, do not hear about Non-formal / Adult education but the report shows that :

... To expand the access landscape of education delivery to deprived sections of the society, there seems a dire need of Non Formal Education System which can supplement to the mainstream education sector. For this purpose, Sindh has necessary legislative (*Sindh Non Formal Education Policy 2017*) and institutional structure and framework (*Directorate of Literacy and Non Formal Education*) for imparting education delivery to the out of school children in the province through non formal approach and alternate learning paths. Sindh has comparatively large number of learning centers, 3896, for providing access to education to 157,469 learners for NFE primary level. Sindh has also

planned to enhance the number of NFE and ALP learning centers to 20,588 for expanding yearly capacity for the access to education to 617,661 children and youth of the province till 2024. The Directorate of Literacy & NFE has categorized curricula and related textbooks into four education and literacy programs: a) NFBE/ ALP (Primary); b) NFBE/ ALP (Elementary); c) Adult Literacy; and d) Integrated Literacy & skill programs for Agriculture, Livestock and Masonry. It is apprised that the said curricula have/are being developed using Blooms' Taxonomy as a guiding principle. The three year-long accelerated curriculum (Primary) i.e. (1) Package A (kacchi& one class); (2) Package B (two & three class); and (3) Package C (four & five class) is a condensed form of five-year long primary education to accommodate the learning needs of multi-age children. Majority of these children have either been out of school or have dropped out at various stages. The curriculum allows the learners to follow the pace of their cognitive development and complete their primary school education in three years. The report finds key challenges and gaps for not acquiring desired results under non-formal education regime. They include; i) limited functional ability of the NFE institutional governance structure which lacks technical and professional competency, ii) challenges of institutional capacity in data management, reporting and data analysis, maintenance and operations of the database system; iii) most of NFE programs and interventions are project driven funded by donors/ development partners with short term targets and unsustainable interventions, iv) staff capacity development programs, plans and resources are not considered a regular and systematic activity to be accounted for a regular/ current budgetary allocations, v) government budget and finance allocation and support are too sufficient to implement NFE programs and interventions (the budgetary support for regular NFE establishment has historically been around 2-3% of total education budget), vi) community unawareness about demand driven learning programs along with life skills education through NFE schemes, vii) lack to develop strong coordination with relevant stakeholders including community and NFE target population, viii) lack of involvement of the relevant directorates and allied institutions in NFE activities, ix) marginal private sector participation and collaboration in NFE programs and interventions, and x) no innovative approaches including use of social media and ICT in NFE activities. The government, being aware of the gaps and weaknesses in the existing system, is devising strategies for promoting basic education on priority. For this purpose, the report outlines some policy recommendations to be used for short-term,

medium-term and long-term planning; i) review of NFE institutional governance structure in accordance with institutional role as envisaged in NFE policy 2017, ii) enhancing institutional ability not only for administrative nature work, but also capacity of technical and professional competency for the functions and activities relating to academic and learning attributes, iii) enhancing institutional capacity in data management, reporting and data analysis, maintenance and operations of the database system under NF-EMIS, iv) introduction of robust and fully functioning monitoring, evaluation and research system for monitoring progress of staff, programs, partners, registered NFE providers, projects etc., v) innovative and need based education and literacy programs for out-of-school children and illiterate youth and adults, vi) integration of technical and vocational skills in all NFE programs to benefit youth and prepare them for continuing education and skills attainment, vii) Priority to the geographical areas having most number of OOSC for establishment of NFE learning centers, viii) Implementation of Bloom Taxonomy stages in all NFE and ALP learning activities including curriculum development, textbook material development, classroom delivery, assessment, CPD of teachers/facilitators, monitoring of service delivery etc., ix) the robust and holistic training/ CPD for NFE teachers, x) Introduction of Non-Formal Education Assessment System (NFEAS) for assessment and certification of NFE/ ALP through 3rd party assessment system, xi) ensuring adequate financial resources with gradually enhancement to, at least 10% of the total education budget till 2030, xii) budget allocation for NFE and ALP, within next three years, on recurrent side, xiii) priority to wealth quantile (poorest to richest), location (rural to urban-having most number of OOSC) and sex (girls to boys) in four strands of NFE policy, xiv) accreditation, certification and equivalence system for all NFE and ALP programs for admission in formal education, professional, technical and vocational trades and for job provisions in general, skill-based and life learning fields, business and industry, xv) enhancement of private sector participation and collaboration in NFE programs and interventions will be enhanced, xvi) Public Private Partnership (PPP) for NFE programs and projects, and xvii) innovative approaches including use of social media and ICT with broad objectives of awareness, orientation and service delivery will be used to expand reach out to the potential NFE learners.

81. In this connection, this Court already, while hearing C.P.No.D-1117 of 2012, of this High Court's Bench at Sukkur, vide order dated 16-03-2023, has given directions with regard to formation of committee for formulating policy in respect of non-formal education; order dated. 16-03-2023, is hereby reproduced for ready reference;

"Learned AAG files statement with certain documents with regard to non-formal schools, that report also includes vacant position of 50 and budget of 63.33 M. Needless to mention that majority of population are living under the poverty line as well as due to flood issues and because of their shifting from one place to another place, their kids suffers education, hence non-formal scheme can rescue them. Accordingly, Secretary Schools and Literacy Department shall form a committee comprising of competent officers and shall ensure functionality of non-formal schools in its letter and spirit. With regard to non-formal schools comprehensive policy shall be framed by education department and the said committee, shall Include Dr. Muhammad Memon, Iqbal Durrani and two more members. The said committee shall be provided from education department, every support to work out the Issue and submit recommendations.

With regard to the present petition, learned AAG seeks time. Adjourned to a date in office."

Public-Private Partnership (PPP)

The PPP has been playing its vital role in education system. This, too, has been discussed and says:-

... The PPP concept got its originality into a semi-autonomous agency in the shape of Sindh Education Foundation (SEF), Even at present date, the Foundation is functioning in full throttle and providing education to almost half a million children (450,000 students) through different Public-Private Partnership initiatives in SEF assisted 1845 schools. Sindh Education Foundation (SEF) has been a pioneer in effectively engaging the private sector and communities in government school revival through the Adopt-A-School-Program (AASP). The program facilitates private sector and civil society to adopt public or government run schools and undertake educational improvements for children. The program has made significant progress in quantitative and qualitative terms; starting out in 1998, AASP is now supporting 582 Govt. schools with the help of 102 school adopters in 18 districts of the province benefiting over 131,000 children and approximately 4981 teachers reflecting the growing interest and inclination of the civil society and the private sector in the revival of public sector education. The more advance concept of PPP in education sector outlines in the Education Management Organization (EMO)

reform as introduced in 2014 after Sindh Public Private Partnership (PPP) Act was passed in 2010. The EMO initiative aims to establish government partnerships with credible Education Management Organizations from private sector to manage and improve the functioning of public schools. The private partner gets the reimbursable amount of expenditures incurred as agreed financial proposal and verified by a third party i.e. Independent Auditor for carrying out learning activities in the contracted school(s) while receives its management fee on basis of its score achieved in Key Performance Indicators (KPIs) as evaluated by a third party i.e. Independent Expert in each quarterly performance report. Under EMO model, five (5) rounds of procurement, so far, have been completed for 139 schools in 6 districts i.e. Sukkur, Khairpur, Larkana, Kamber Shahdadkot, Dadu and Karachi. Seven (7) credible Education Management Organizations (EMOs) have been selected, after a competitive process of outsourcing management and operations of these 139 schools, of which 68 schools are reconstructed under Sindh Basic Education Program (SBEP) scheme and 71 schools are nearby to these SBEP schools. The number of beneficiary reaches 70,000 children. A PPP has also been made for one Teacher Training Institute in Karachi, on the above mentioned model and procedure. The institute, in its full strength, will produce 120 prospective teachers' graduates along with providing CPD to 60 in-service teachers every year. Other gaps have been identified as i) PPP initiative for schools only whereas no PPP for other departments and government bodies / attached departments of the education sector including college education, higher education, technical education, non-formal education, early childhood education and special education; ii) strengthening of the PPP node of School Education and Literacy Department has been a challenge for many years; iii) lack of coordination and/or confidence between EMOs and local administration minimizing effectiveness of the EMO reform; iv) no culture and plans of research on impact analysis of PPP intervention; v) less attraction for private sector to make more healthy competition and speedy engagement; vi) lack of certain government machinery support and facilitation for PPP programs and projects (both SEF assisted and EMO managed) adds challenges to the effectiveness and success of the partners' efforts; and vii) despite evidence of potential to scale up the per child subsidy based model, it couldn't be scale up quickly with an emerging market demand in Sindh (Punjab Education Foundation (PEF), established in same year of SEF, expands its beneficiary scale to 3 million children); **In light of the situation analysis and gaps**

& challenges, key recommendations pertinent to cross-cutting areas including access, quality, governance, financing, international commitments, legislation, policies, research, equity and systems are given as follows; i) development of a holistic PPP policy for education sector on the parameters to define the legal regime, administrative and approval processes involved, powers held by the government agency, type of government support and other related matters; ii) in order to be more responsive to the needs to the province, more partnerships to be made with the private sector by outsourcing them the management of the school with accountable for improvement for the Student Learning Outcomes (SLOs) while retaining the financial responsibility with the government; iii) consultation for large schools under per child subsidy model; iv) expansion of philanthropic participation under Adopt a School Program initiative; v) the PPP management solution for 'Teachers Training Institutes' (TTI) across the province to make optimal use of the public resources; vi) testing systems (including teachers and students assessments) to be outsourced through PPPs; options to use PPPs for other sub-sectors of education including higher education, college education, non-formal education, technical and vocational education, early childhood education and special education; vii) a digitized "One Window" at department level linked with other departments / allied institutions to assist partners in all matters for timely issue management; and strengthen government role as regulator and improve its 'Governance' function while focus more on Public-Private Partnerships frameworks for implementation.

Libraries

Library has been placed at *last* which however is undeniably is important part of the educational system because without books there can be no concept of *education* which is, rightly, shown as gateways to knowledge and culture. Right words have been chosen to describe the role and importance of library as:-

... The resources and services they offer create opportunities for learning, support literacy and education, and help shape the new ideas and perspectives that are central to a creative and innovative society. The sub-committee on Libraries collected data/ statistics of libraries in School, Colleges, Universities and Public with reference to Infrastructure, Budget and Human Resources. Four categories of libraries were identified as culture and public libraries; local bodies (Govt.); academic libraries and children libraries. The current administrative cum

legislative structure in Libraries across Sindh was discussed and reviewed. It was discussed to instigate the love of books and reading activities in the kids and the ideas for learning activities, kids' games, kids' small theatres and other academic activities for the kinds to be done in libraries. The sub-committee proposes key recommendations as a) enactment of library legislation to provide a legal foundation to the library system in Sindh Province for the development and growth of Public Libraries and also establishment of a Sindh Library Board OR Authority to provide advisory, administrative guideline and approve appointments on reporting library departments; b) GoS annual financial contribution per capita in the range of PKR 50 per capita for establishment and growth of public library system in the Province; c) introduction of a three tier Library System to be established in next two years; d) proposing model library spaces along with capacity at each tier.

12. The referral to above was / is meant to show that it was / is the serious work by the Committee and its sub-committee (s) which, *prima facie*, have helped us in identifying the lacking in our *Educational System* which, too, with suggestions towards bringing it in line with *globe* so that we could hope that our public education system, *hopefully*, shall not remain in third tier and our children (as most of them are dependent upon public sector) will enjoy good quality education under *best least better teacher* (s).

13. At this juncture it would be relevant to reproduce relevant portion of proposals for betterment of education and to bring the education of public sector in Sindh to higher level to compete with other Provinces thereby enabling the parents to dream of best education for their children which, *normally*, is claimed by private sector only.

14. This court highly appreciates Dr. Iqbal Hussain Durrani, Chairman of Education Committee and other Members particularly Dr. Muhammad Memon, Chairman, B.I.S.E. Hyderabad and Mr. Asad Abro, Head of Reform Support Unit (Education Department), who with all their expertise and by precious time worked with dedication in order to serve this Province, without any remuneration. This is the work which was / is to operate as a **back-bone** of the nation, therefore, such *sincere* effort (s), I admit, can't be appreciated in words but if (work) is owned by quarter concerned, *hopefully*, shall bring the desired results. The Committee, per report, is of the view that there shall be established a **Sindh Education Policy Oversight Council** to monitor the Public Sector Education to overcome the shortcomings as pointed out by the Education Committee. Such recommendations are that :-

"OVERALL IMPLEMENTATION STRATEGY

Proposal for the Establishment of Sindh Education Policy Oversight Council:

Introduction

A policy development cycle of the education sector entails various stages; Analysis, Planning, Implementation and Evaluation. After completion of the first stage, the committee constituted by the Honorable High Court of Sindh has proposed key policy recommendations for the improvement of education sector in Sindh. Based on these recommendations, each stakeholder will work on stage 2 and 3 (i.e. planning and implementation), but the past experiences show that Sindh has encountered challenges related to the fourth stage of policy cycle (i.e. monitoring & evaluation) and it has become the most common factor for not achieving the desired outcomes of the policy initiatives.

Keeping in view the gap analysis of policy interventions and implementation framework, it is strongly recommended that an oversight structure may be established with a mandate to collect and analyze the progress on the proposed policy recommendations for improving access, quality and governance in Sindh education sector. For this purpose, a high-powered "*Sindh Education Policy Oversight Council*" has been proposed having a precise and specific mandate of regular monitoring and support for effective implementation of the proposed key policy recommendations. However, the respective departments will be solely responsible for planning and implementation of the policy recommendations as per their mandate.

The Secretariat of the Sindh Education Policy Oversight Council will be located in the Reform Support Unit of School Education & Literacy Department, Government of Sindh for an oversight of the implementation of key recommendations in the education sector.

Composition of Sindh Education Policy Oversight Council:

The proposed structure of the high-powered 'Sindh Education Policy Oversight Council' is as follows:

• The Chief Secretary Sindh	Chairperson
• Secretary, School Education and Literacy Department, Government of Sindh	Member/ Secretary
• Secretary, Universities and Boards (U&B) Department, Government of Sindh	Member
• Secretary, Sindh Higher Education Commission (SHEC)	Member
• Secretary, College Education Department, Government of Sindh	Member
• Secretary, Culture Department, Government of Sindh	Member
• Secretary, Local Government Department, Government of Sindh	Member
• Managing Director, Sindh Education Foundation	Member
• Managing Director, STEVTA	Member
• Two educationists (General and Technical Education)	Members

The Secretary School Education and Literacy Department, Government of Sindh will be notified as a 'Focal Person' for communication, coordination, and correspondence with a mandate given by the Council. The proposed Secretariat will be at Reform Support Unit, School Education and Literacy Department and will have separate designated staff from School Education and Literacy Department for administrative and technical support to establish database administration, progress analysis, expert advice and counter emerging challenges.

Terms of Reference (ToRs)

The key responsibilities of the council are given below;

- To structure monitoring and analytical framework for tracking the progress of the implementation of policy recommendations/ initiatives.
- To hold quarterly meetings of the council.
- To regularly monitor and review the activities under policy recommendations and submit the quarterly reports based on the progress report submitted by the respective departments.
- To propose corrective measures for effective implementation of the policy recommendations (wherever necessary).
- To develop a dashboard for monitoring progress with access to all the concerned quarters.
- To communicate and coordinate through the Secretary School Education and Literacy Department, Government of Sindh on behalf of the Sindh Education Policy Oversight Council regarding the proposed actions.

C O N C L U S I O N

An extensive review of the various policy reform initiatives and a long consultative process with the key stakeholders suggest several factors responsible for the colossal challenges and chronic problems which have badly affected education access, quality, and good governance. During the consultative dialogues, absence of effective monitoring mechanism for the implementation of the policy recommendations has been identified a key determinant of failure of the policy action. Keeping in view the past experiences, a principle of consolidation, strengthening institutional capacity, effective coordination, good governance and smart implementation and effective monitoring framework was adopted to formulate an education policy reform in Sindh. This policy report covers eleven (11) education sub-sectors and various cross-cutting themes within a broader framework of Bloom's Taxonomy of Educational Objectives and normative and legal framework of education system in Sindh (Annexure-I).

The final report comprising key policy recommendations of eleven (11) sub-sectors and themes of the education sector, is hereby submitted before the Honorable Court for appropriate orders. The policy recommendations have been supplemented with the implementation strategies augmented by a proposed structure of 'Sindh Education Policy Oversight Council' as a high-powered oversight body to monitor the implementation of key education policy reform initiatives which has been endorsed by the Education Committee. This framework will ensure coherence across the sub-sector goals and a clear route for effective implementation of the education reform initiatives.

The policy recommendations as envisaged in this report may not be considered as an alternate to existing education policies and plans but a supplementary tool and resource for bringing about improvement in education system. We hope this report would be helpful to the planners, policy makers and would yield the desired results to ensure inclusive and equitable quality education for all and promote critical thinking, creativity, and lifelong learning culture in the education institutions. We are very grateful to the Honorable Court for the guidance and support provided during the critical deliberations and proceedings for formulation of education policy reforms.

Dated 15-03-2021

DR. IQBAL HUSSAIN DURRANI
Chairman Education Committee
Karachi."

82. The '**issue involved**' is of such importance and *vitality* that it can *safely* be said as nothing short of our '**future**' which, *undeniably*, rests on '**knowledge and skills'** of *generation (s)* and because of this sole reason all, including Islam, insists on '*Ilam* (education)' for all. Every single effort in this regard is always worth appreciating and a *positive* step must not be delayed merely for *monetary*

question *even*. Most of the composition of the **Council** is based on government Official (s) who are *always* believed to provide their *best* for betterment of their *next generation* hence it is believed that they, if entrusted with such *vital* assignment, shall *surely* provide their best within their *best* skills and expertise.

83. Accordingly, Chief Secretary shall ensure that Durrani Committee report is being implemented in its letter and spirit within one year, positively from primary to University and from Technical Education to Libraries. Chief Secretary Sindh shall also ensure that that Sindh Education Policy Oversight Council is notified by the Government of Sindh within a period of fifteen days after completing all requisite formalities. In the end, I would add that worth appreciating guidelines (recommendations) that have come on surface through the *final report*, covering all stage (s) of our educational system, as well assistance provided by Mr. Ahmed Bux Narejo, Secretary School Education during the course of hearing, but since I am *quite* conscious that such labour should receive its *due* therefore, it would be in all fairness to have view (s) of all key-Secretaries of Government of Sindh i.e. ***Finance; Universities & Boards; Colleges & Schools; M.D., STEVTA:*** on final report so as to provide any further *ease* in achieving the objectives. Copies of Final report be provided to all said Secretaries who shall ensure their appearance on next date with their view so as to make the path a little *easy*. Since, the work was / is for the public sector education system therefore the copies thereof be also sent to Directorate(s) of Primary, Secondary Education of all Divisions, Higher Secondary Schools, Directorates of all Colleges, Vice Chancellors of all public Universities; for their information till the Council is notified and starts working.

84. Taking stock of above discussion and before concluding, it would be conducive the reiterate worth appreciating report submitted by Education committee headed by **Dr. Iqbal Hussain Durrani** “**Overall Implementation Strategy**” made part of Order dated 06.05.2021 passed in **Mashal case** *ibid* to make part of this order as well for compliance and observance as follows:-

COMPLIANCE OF COURT DIRECTIONS

85. Needless to mention here, that verdicts always uphold the principle of the rule of law, which means that all individuals, regardless of their social status or influence, are subject to the same set of laws and will receive fair and impartial treatment; besides verdicts play a crucial role in safeguarding individual rights and liberties. Courts have the power to interpret and enforce constitutional rights, civil rights, and human rights. However, when *decisions*

are not complied with, it weakens public trust in the legal system and undermines the authority of the courts. Non-compliance perpetuates injustice, allowing wrongdoers to escape accountability and prolongs the suffering of victims. Moreover, it hinders the development of legal precedent, creates uncertainty in the law, and can damage the reputations and relationships of those involved. Hence, verdicts should be complied with in its true letter and spirit without fail. In case of failure, individuals must be accountable for their wrongdoings as accountability is crucial for building and maintaining public trust and a positive reputation. Organizations and institutions that demonstrate accountability in their actions and decisions are more likely to be trusted by the public, stakeholders, and the community; besides, it enhances credibility and contributes to long-term success. When individuals are accountable for their roles and responsibilities, it helps in identifying resource needs, setting priorities, and making informed decisions regarding resource allocation. This leads to optimal utilization of time, finances, manpower, and other resources. **In such circumstances, Secretary Education is directed to ensure compliance of verdicts issued constantly by the Courts; besides accountability of those individuals, who have their roles and responsibilities in providing better and adequate education without fail and compliance report in this regard shall be placed before the Bench for perusal in Chambers. Carelessness and inattentiveness shall not be tolerated in any manner.**

86. In view of above circumstances, instant petition stands disposed of. For understanding and familiar compliance, directions issued hereinabove are reproduced hereunder for compliance:-

- ❖ The government shall take effective measures for launching literacy awareness and convincing to parents programs, immediately through modern technologies including seminars etc.
- ❖ Secretary Education is strictly directed to sanction the SNEs of all those schools which have been closed due to expiry, retirement of teachers or any other reason, make these schools functional by allocating their SEMIS code and posting of teachers and submit report accordingly. Accordingly, Finance department shall approve all summaries regarding SNE(s) of education department. Secretary Finance shall also restore all deleted SNE(s) in schools(s) and College(s) and same shall be shifted to the respective Divisions.
- ❖ Secretary Education is strictly directed to recruit/appoint teachers transparently and merit-based according to need for making functional the closed schools especially those schools that have been closed due to non-availability of teachers. All vacant seats of teachers shall be filled preferably within a period of **two months** and a report shall be

submitted to the effect that schools closed due to non-posting of teachers (for any reason) have been made functional.

- ❖ Chief Secretary shall constitute a committee including Secretaries School(s), College(s) and all other stakeholders, who shall work on the needs of schools as per digital/computerized census of 2023 and shall increase the number of teacher(s)/subject specialist(s)/ lecturer(s) with the approval of SNEs, keeping in view the statements ratio within six months without fail.
- ❖ Secretary Education is directed to take rapid and swift initiatives to start the process of recruitment of non-teaching staff along with recruitment of teaching staff, according to need on emergent basis.
- ❖ Secretary Schools shall ensure that all school(s) as upgraded are having SNEs, they shall submit with the Finance Department within **one month** without fail, thereafter Finance Department shall ensure approval of SNEs within one month after receiving the proposal.
- ❖ Secretary Education is directed to make atmosphere fair by directing all the heads of schools to ensure physical activities as mentioned above with coordination of Ministry of Sports and Youth affairs, for arranging sports gala, talent hunt event etcetera and revive scouts in all High schools to Higher Secondary.
- ❖ Secretary College Education and the Secretary Finance shall ensure that the budget allocation and release is targeted at the completion of a project before moving on to the next one.
- ❖ Secretary Finance, Chief Engineers and Finance Department shall ensure that funds available in the heads, not required for immediate use and those in routine lapse every year, shall be transferred in M&R. Needless to add that such work (M&R) be not delayed rather be taken up while keeping conditions thereof as well need so as to avoid any misuse of such fund on account of entry / introduction of any hidden hand.
- ❖ Secretary Education is directed to start immediate work of **maintenance and repair** of damaged/dangerous schools, availability of furniture; conduct audit regarding distribution of funds allocated in this regard; besides nearest paths going towards schools and submit such report in this regard within stipulated period without fail.
- ❖ Secretary Colleges and Secretary Universities shall ensure that education system of the Sindh does meet with required standard of *World* and above referred *decision* and *directives* are complied with in its letter and spirit and failure in this regard shall not be tolerated. We, needless to add, are not supposed to educate people for a *limited* area but for the whole *globe*. Courses of all degrees as detailed above and mechanism in this behalf shall be converted from two years to four years by including all relevant subjects. Secretary Colleges and Universities ensure compliance in letter and spirit.

- ❖ Secretary, Schools shall also ensure restoration of 3rd Component of Technical Education upto Metric level with syllabus in consultation with Technical Board.
- ❖ Chief Secretary Sindh shall ensure implementation of Durrani Committee as per implementation Council on quarterly basis through MIT-II.
- ❖ To ensure emergent **recruitment** process for appointment of teachers along with non-teaching staff transparently and **merit-based** according to need for making **functional** the **closed schools** especially those schools that have been closed due to non-availability of **teachers** and **complete this process preferably** within a period of **two months** without any further delay;
- ❖ To **ensure** all **closed schools** comes within the definition of **deleted/missing** or **otherwise** make **functional**, immediately by posting teaching as well non-teaching staff;
- ❖ To **ensure sanction** of SNEs of all those schools which have been **closed due to** retirement of teachers or any other reason, make these schools **functional** by allocating their **SEMIS** code and posting of teachers swiftly within short span of time and report be submitted accordingly;
- ❖ To **ensure** renovation/ repair work of **damaged/dangerous** schools; besides *nearest* paths going **towards** schools and submit such report in this regard without fail;
- ❖ To ensure that **directions** passed herein and earlier are **complied** with in its **true letter and spirit without fail**; besides **accountability** of those individuals, who have their roles and **responsibilities** in providing better and adequate education; besides conduct audit of funds distributed at the level of Divisions, Districts and Talukas, and **compliance report** in this regard shall be **placed** before the **Bench** for perusal in **Chambers** and if deem appropriate, auxiliary directions be issued for strict compliance.
- ❖ To **ensure** that schools are **upgraded**. In addition, by providing **digital** education as required;
- ❖ To ensure use of information technology must be included in the curriculum of the students, alongside trained to the teachers regarding information technology;
- ❖ To ensure that all the libraries should be updated and regularly opened for all the readers, researchers and students having computers with internet facility and access of renowned digital libraries without fail and report in this regard shall also be submitted for its perusal;
- ❖ To **ensure** that **education** should be accessible to all individuals without discrimination, regardless of their *race, ethnicity, sex, disability, socioeconomic background, or any other characteristic*;
- ❖ To ensure *enhancement* of **scholarship** facility and keep eagle eye upon its distribution in **transparent** manner subject to compulsory audit and also ensure that each and every **student** must be **enrolled**; besides

Headmasters must secure attendance of students and submit monthly report to DEO concerned regarding attendance sheet.

- ❖ To take initiatives and necessary measures for installation of solar-panels at the schools for uninterrupted power supply with basic facilities i.e. furniture, drinking water coolers and toilets etc, and make sure that funds issued in this regard are auditible;
- ❖ It is important for students of the Province to have a high-quality education because it makes sure that students are not only prepared for assessments and tests, but it also ensures that the students grow intellectually, socially, emotionally, and physically in ways that allow them to be active members in the world they live in;

87. In terms of above this petition is allowed/disposed off. Copy of this judgment be communicated to all concerned department. Chief Secretary Sindh shall ensure compliance without fail. Copy shall be communicated to all judges of District judiciary for strict compliance.

88. Office. Learned Registrar shall ensure compliance and report in this regard be submitted towards directions issued herein for disposing of this petition within stipulated time as mentioned for perusal in chamber without fail; besides translation of the judgment in Sindhi, in Urdu.

JUDGE

JUDGE