

IN THE SUPREME COURT OF PAKISTAN

(Original Jurisdiction)

PRESENT:

**MR. JUSTICE IFTIKHAR MUHAMMAD CHAUDHRY, C.J
MR. JUSTICE IJAZ AHMED CHAUDHRY
MR. JUSTICE GULZAR AHMED**

CONSTITUTION PETITION NO. 37 OF 2012

(Petition Regarding Miserable Condition of the Schools)

For the Applicants

Mr. Nazir Ahmed Bhutta, ASC (*in CMA 1386/13*)
Nemo (*in CMA 300/13*)
Mr. Saleem Tariq Lone (*in CMA 11/13*)
Mr. Zulfiqar Hussain Noon (*in CMA 14/13*)

ON COURT NOTICE:

For ICT & Secy. CADD

Mr. Babar Ali, DAG
Mr. Muhammad Shahid Khan,
Mr. Miraj Muhammad Khan, AEA, CADD
Director Admn. FDE

For Govt. of Balochistan

Mr. Abdul Aziz Khan Khiljee, Addl. AG
Syed Nazir Shah, Dy. Sec.
Saleem Akhtar Ansari, Dir. Education

For Govt. of KPK

Mr. Naveed Akhtar, Addl. AG
Mr. Hidayat Ullah, SO (Litigation)

For Govt. of Sindh

Mr. Muhammad Qasim Mirjat, Addl. AG
Mr. Pervaiz Ahmad, Special Secretary Edu.

For Govt. of Punjab

Mr. Jawad Hassan, Addl. A.G.
Mr. Abrar Ahmad Mirza, Addl. Secy.
Rana Abdul Qayyum, Director
Raja Ikram Abbasi Law Officer

Date of hearing

: 12.06.2013

ORDER

IFTIKHAR MUHAMMAD CHAUDHRY, C.J. – Professor

Dr. Gulzar A. Niazi from USA wrote a letter dated 20.04.2012 to one of us (Chief Justice of Pakistan) which reads as under: -

"Attached is a picture from the front page of Daily Dawn dated April 20, 2012, that is not only shocking, horrible but full of shame.

Billions of rupees were spent to distribute laptops to students which is a unique example and the VC of Punjab University sanctioned 30 million rupees to distribute JUST 30 laptops by Nawaz Sharif.

But here is a heart breaking picture which shows that the government has totally failed in providing the basic education. Have you ever heard that students are being taught in a classroom in a graveyard?

What can you do; I guess nothing.

Respectfully,
Sd/-
Professor Dr. Gulzar Niazi"

The news report contained a picture from Gujranwala with the following footnote: -

"Gujranwala: Girls sit beside graves whilst taking a test during their daily classes in the graveyard here on Thursday. The government allocates less than four per cent of the budget more than 180 million people."

The above letter was ordered to be treated as a Constitution Petition under Article 184(3) of the Constitution and to be fixed in Court on 16.05.2012 and notices were issued to Chief Secretary, Secretary Education and learned Advocate General Punjab. The latter was directed to visit the Girls School shown in the picture and submit report.

2. On 07.06.2012, the learned Advocate General Punjab appeared and filed a report stating therein that the Government of Punjab had taken an initiative to provide adequate building facilities to

the schools, which were short of classrooms. He further stated that such school buildings had been identified throughout the Province and a considerable amount had been allocated for the purpose. Thereupon, he was directed to place on record district-wise complete details in that behalf. Furthermore, notices were ordered to be issued to the Chief Secretaries of the Provinces of Sindh, Khyber Pakhtunkhwa and Balochistan to submit comprehensive reports on the conditions of primary schools functioning in different parts of their respective Provinces as under: -

- (i) Whether sufficient accommodation is available in the constructed buildings?
- (ii) Whether adequate teaching staff and other facilities have been provided in schools?
- (iii) Whether the school buildings in remote areas are being used for other purposes i.e. as *Hujra*, *baithak/authak* and *Mehmankhana* of the local respectables?

3. On 08.08.2012, reports were submitted on behalf of the Provincial Governments and it was stated that the proposals for legislation of compulsory education in pursuance of Article 25A of the Constitution were under consideration of the Provincial Governments and the bills to the said effect were likely to be tabled before the Provincial Assemblies. However, the matter was adjourned to enable the Provincial Governments to reconsider the reports and put up a final report after attending to all aspects.

4. On 10.09.2012, another opportunity was granted to the Provincial Governments to file comprehensive reports after physical verification of schools by an officer not below the rank of Grade 20 posted in the Division.

5. On 05.10.2012, a report was submitted on behalf of the Province of Sindh, which showed that 165 schools were not being

used for education purposes. On the said date, the learned law officers as well as the departmental representatives of the Provinces were required to clarify whether the periodical reports submitted to the Government were prepared after physical inspection/spot verification.

6. On 02.11.2012, this Court directed the concerned Secretaries of the Provinces as well as the Chief Commissioner, Islamabad Capital Territory (ICT) to submit report on the following points: -

- (i) The steps which have been taken so far to enforce Article 25A of the Constitution?
- (ii) As to whether any enrolment of children aged 5 to 16 years has been made for the purpose of providing them education free of cost in terms of Article 25A of the Constitution?
- (iii) How many ghost schools have been identified in all the Provinces and what steps have been taken in this behalf?
- (iv) What steps have been taken to take over the possession of the school buildings, which are being used by influential persons for purposes other than education?

It was further directed that the reports must be based on a field survey duly authenticated by the competent authority considering that Article 25A of the Constitution has envisaged a Fundamental Right for the children of 5 to 16 years age to get free education.

7. On 13.12.2012, the requisite reports not having been submitted, the Chief Secretaries of all the Provinces, the Chief Commissioner, ICT and the Secretary, Capital Administration and Development Division (CADD), Government of Pakistan were again directed to submit comprehensive reports.

8. On 11.02.2013, the Court observed that all the reports filed by then, on the state of affairs of educational institutions were

incorrect and baseless, and only some credible information was received through the Coordinator, Sindh Rural Development Society. It was observed that ghost schools admittedly existed in all the Provinces and the properties owned by the schools were under illegal occupation, but no effective steps were being taken to redeem this situation. In this view of the matter, the Provincial Governments through Chief Secretaries or the Secretaries Education were directed to implement the orders of the Court in letter and spirit.

In view of importance of the matter, namely, receiving education is a Fundamental Right of every children particularly in view of article 25A of the Constitution, the District & Sessions Judges or the Additional District & Sessions Judges at the District/Tehsil/Taluqa Headquarters of all the Provinces including ICT were appointed as Commissions to carry out surveys of the schools functioning within their jurisdiction and determine: -

- (i) As to how many schools are functioning fully?
- (ii) As to how many ghost schools are in their districts?
- (iii) As to how much of the education funds are being spent for the purpose of imparting education to the children?
- (iv) As to what is the ratio of the children studying in their areas?
- (v) As to what are the reasons for encroachments of the said school buildings and why they are being used either as *Baithak/Uthak* or for the purpose of houses by occupying forcibly some portions of the same and why actions against encroachers have not been taken? and
- (vi) In case there exists litigation between education department(s) and private person(s), who had allegedly encroached upon the properties of schools, as to why the cases are not being expedited by the Courts, particularly, in view of the fact that if there is no stay order, why actions have not been taken and who are responsible for all these illegalities or irregularities?

It was also directed that the President or the Secretary General of the respective District/Tehsil Bar Association shall also be associated, if need be, while carrying out the physical inspection and preparation of reports. Moreover, the Chief Secretaries/Secretaries Education and the

District Education Officers were directed to extend full cooperation to the District & Sessions Judges in accomplishing the task assigned to them.

9. The Court, on receipt of voluminous reports from the judicial officers prepared after visiting all schools within their respective jurisdiction, *vide* order dated 10.06.2013, directed the concerned law officers to prepare summaries of the reports pertaining to their respective Province/Territory and answer, in positive or in the negative, the questions referred to the judicial officers, noted hereinabove.

I SALAMABAD

10. Raja Jawad Abbas Hassan, District & Sessions Judge-West and Syed Kausar Abbas Zaidi, District & Sessions Judge-East, Islamabad submitted a combined report, wherein it was stated that a team comprising four Additional District & Sessions Judges along with President and Secretary, District Bar Association, Islamabad was constituted to carry out the requisite exercise. In response to question No. 1, the learned District & Sessions Judges reported as under: -

- (i) According to the survey conducted by above said team, it was found that a total number of 383 schools only (excluding colleges) are functioning under Federal Directorate of Education in urban as well as rural areas of Islamabad Capital Territory. All the Schools were physically visited and verified by the Team members.
- (ii) Most of the schools in Federal Capital are in working condition, but there are quite a few schools where all the facilities are available as per requirement in full capacity. However, in most of the schools due to paucity of funds or lack of interest by the Federal Directorate of Education, the required facilities are lacking.
- (iii) Almost all the schools are working without full facilities and teaching staff is also deficient. Most of the schools have been up-graded but in papers only. The Principals/Headmasters/Headmistresses are facing difficulties in managing and running the schools with old staff and in the old buildings.

- (iv) There are some common problems of the schools in rural areas, like shortage of staff, shortage/non-availability of drinking water and non-availability of boundary walls. It is pertinent to mention here that in city schools teaching staff is surplus and the teachers who are residents of city area or from other areas of the country do not like to be posted in the rural areas, therefore, they manage by hook or by crook to remain in city. That shortage of staff can be dealt with by appointing local teachers in the rural areas.
- (v) Islamabad Model School for Boys (1-5) Mal, Federal Area, Islamabad is not working and its building is vacant because the same has been surrounded by Bahria Enclave, thus stopping the approach from three sides and no education activities are being carried out in that school.
- (vi) IMSB, (1-5) Rajwal, Federal Area, Islamabad although is working presently, but it is surrounded by Bahria Town and from all the sides by bulldozing and digging the land, access of students to this school has been made difficult rather impossible and if the situation is not handled in future, there is every likelihood of suspension of educational activities in the said school.
- (vii) IMSB (1-5) Dhoke Maie Nawab, Federal Area, Islamabad is being run in a temporary building. Original building of the school is surrounded by Bahria Town and access of children and staff was made impossible, hence a temporary building is in use of this school.

11. In response to question No. 2, it was stated that after physical verification of the schools, no ghost schools were found in the ICT.

12. As regards question No. 3, it was stated that as per details furnished by the Federal Directorate of Education, an amount of Rs.287,451,363/- was allocated during the financial year 2012-13 for running 383 schools in ICT. However, the ratio of funds being spent on education of children has not been given.

13. As regards question No. 4, it was stated that ratio of children studying in the Government Schools in ICT is very low as compared to those who are studying in private institutions, probably due to poor standards/performance of the Government owned schools. However, they did not give the exact figures in this behalf.

14. On question No. 5 pertaining to encroachments upon schools' premises, or the schools' buildings being used for purposes other than education, it was stated as under: -

(i) There is no boundary wall and passage to Dhola Syedan School.

(ii) The boundary wall of Phulgraan Girls School is deteriorated and passage is in such a miserable condition that in rainy days, children cannot go to school.

(iii) Phulgran Boys School is also in a very poor condition and its passage is also not useable.

(iv) There is no proper passage to approach IMCB, Bhimber Trar. This college is almost half a kilometer away from the road and during the rainy days it is not possible for children to reach the school.

(v) IMCG, Pind Malkan is also half kilometer away from the road and its passage is yet to be made. It is situated away from the village near a Nallah and the young girls have to go to school by foot and they always remain in danger while approaching the school, particularly during the rainy days the temporary passage to school becomes slippery and it makes impossible for the girls and teachers to reach the school.

15. Regarding question No. 6 pertaining to litigation concerning lands/properties of schools, it was stated that a civil suit is pending in a court of law regarding land of IMSG (1-5), **Pindor Syedan**, Federal Area, Islamabad. It was further stated that after obtaining details from the Federal Directorate of Education, the matter would be dealt with on merits and in accordance with law.

16. Mr. Babar Ali, learned Deputy Attorney General for Pakistan, by means of CMA No. 3748/2013, filed a report which contains a summary regarding the position of schools in ICT. According to this report, there are 1073 (383 Govt. Schools & 690 Private Schools), which are fully functional and there is no ghost school in ICT, whereas, 53 schools (on papers) are shown as upgraded schools in the summary. As regards budgetary allocation for the financial year 2012-2013, a sum of Rs.2,404.267 million was allocated

for schools in ICT. 2.5 million children of primary to secondary age group are out of schools. The learned law officer gave the following reasons for encroachments and lack of facilities in schools situated in ICT: -

- (i) Political & social power of land mafia as against the unprotected and weak local school administration.
- (ii) Absence of legal support in litigation.
- (iii) Lack of proper information and management system.

17. To overcome the aforesaid problems and to secure the rights of children, he made the following suggestions: -

- (i) Uniformity of Education Policy in ICT on the pattern of Model Schools.
- (ii) Allocation of funds at least equivalent to 10% of GDP with gradual increase for education.
- (iii) Competitive process for recruitment of teachers with special quotas of rural areas.
- (iv) Discouragement of ad-hoc and daily wages system of employment of teachers.
- (v) The developed and planned city of Islamabad contains sector-wise educational plots. The Model School System be introduced in each Sector to cater for the requirements of the Sector. Besides, the same facility be provided in the rural areas.
- (vi) Sector-wise admission policy be introduced to provide education at doorstep.
- (vii) Transfer policy be prepared, introduced and enforced by the Directorate of Education.
- (viii) Pre-school education system be introduced.
- (ix) The functioning of the PIRA (Private Institutions Regulating Authority) to deal with the affairs of the private educational institutional has become virtually ineffective, so as to control fee structure and educational facilities to meet requirements of fair income group of people and to address requirements of depressed classes of poor children.
- (x) Priority of the Govt. should be fixed for the basic education.
- (xi) Necessary legislation for compulsory education with incentives and punitive action is required to be enacted.
- (xii) Education management needs to be strengthened with more capacity to monitor and take prompt decisions.
- (xiii) A National Commission for Primary to Matric Education be formed.

BALUCHISTAN

18. The information/data pertaining to all the districts in the Province of Baluchistan provided by all the District & Sessions Judges in the Baluchistan has been received from the Registrar, High Court of Baluchistan is as under: -

DERA ALLAH YAR

19. As per report of the District & Sessions Judge, Dera Allah Yar, 331 schools are fully functional, whereas 39 schools are non-functional and tentative ratio of the children studying in schools is 50% in the district. On question pertaining to encroachments upon schools' properties, or the schools' buildings being used for purposes other than education, it has been stated that some buildings have been encroached upon by unknown persons and police department due to inaction on the part of the Education Department. On the question pertaining to litigation concerning schools properties, it has been stated that no litigation is pending between the Education Department and private persons.

GWADAR

20. As per report of the District & Sessions Judge, Gwadar, out of total of 258 schools, 10 schools are non-functional, but there are no ghost schools in the district. A sum of Rs.262,256,300/- was allocated for education during the financial year, whereas 95 % of children are studying in the schools in the district. On question pertaining to encroachments upon schools' properties, or the schools' buildings being used for purposes other than education and the question pertaining to litigation concerning schools properties, it has been

stated that no encroachments have been made and no matter is pending before any court of law.

KALAT DIVISION AT MASTUNG

21. As per report of the District & Sessions Judge, Kalat Division at Mastung, 333 schools are fully functional whereas 22 schools are non-functional due to non-availability of building, non-availability of teachers despite existence of sanctioned posts, and non-enrolment of students. The ratio of children studying in schools in the district is given as 1:8. On question pertaining to encroachments upon schools' buildings, or the schools' buildings being used for purposes other than education, it has been stated that no encroachments have been made upon the schools properties and no litigation is pending between the Education Department and private persons. Most of the schools were found lacking basic facilities, e.g., SST Science and SST General teachers, classrooms, furniture, computer labs, halls, drinking water, bathrooms and sweepers. It is stated that 84% schools are not provided electricity, 52% do not have water, 53% are without boundary walls and 80% are without gas connection. It is further stated that all purchases of various articles, such as books, furniture, reading/writing materials, chalk, duster, takhti, slates, ink, tat, etc., are made at the Directorate level, and only non-development funds, i.e. pay and allowances, etc., are released to the DEOs, and no direct funds are released to them.

KHUZDAR

22. As per report of the District & Sessions Judge, Khuzdar, 609 schools are fully functional whereas 38 schools are non-functional and there are no ghost schools in the district. Only 22.5 % of children

are studying in the schools in the district. No school is used as baithak/authak and no litigation concerning schools properties is pending anywhere in the district. It is further stated that in view of the vast and tribal area and due to insufficient budget and vehicles, it is difficult to visit the schools and control absence of teachers.

KOHLU

23. The District & Sessions Judge, Kohlu, in his report forwarded to the Registrar, High Court of Balochistan, Quetta stated that the report prepared by the DEO Kohluhas is enclosed for necessary action. However, the report so received does not contain any Annexure. As regards physical inspection of the schools within the district, it was stated that it was practically impossible to physically inspect at a short notice all the 427 Government schools of Kohlu District, which are inaccessible on account of being situated in far-flung and mountainous areas.

LASBELLA At HUB

24. The District & Sessions Judge, Lasbella at Hub, in his report, stated that physical inspection of all the 557 schools in Lasbella District was not practically feasible in a couple of days. However, he transmitted the information provided by the District Education Officer Lasbella at Uthal, according to which a sum of Rs.506,191,037/- was allocated for education in the financial year 2012-2013, whereas ratio of the male and female children studying in schools in the district is 53% and 26% respectively. No school building is being used as baithak/authak, no encroachments upon schools' properties exist and no litigation concerning schools properties is pending before any forum.

LORALAI

25. The District & Sessions Judge, Loralai, in his report, mentioned that he deputed the Judicial Magistrates, Loralai and Duki, Assistant Commissioners, Bori and Duki to visit the schools within their respective areas and submit reports. He further stated that the reports received from the Judicial Magistrates, Loralai and Duki are forwarded. However, only the report of Judicial Magistrate, Loralai is annexed with the letter of the District & Sessions Judge. According to this report, 37 schools are fully functional whereas 4 schools are non-functional in the district. The report highlights problems being faced in the schools, such as lack of drinking water, glasses of windows and ventilators, boundary walls, etc. The report is silent with regard to other questions.

26. The report of the Judicial Magistrate, Duki is not enclosed with the letter of the District & Sessions Judge, Loralai. The reports from the Assistant Commissioners, Bori and Duki were not mentioned in the aforesaid letter.

MEKRAN AT TURBAT

27. The District & Sessions Judge, Mekran at Turbat, in his report, stated that he had surveyed the schools situated in District Kech and had enclosed the reports. However, only page 3 of the report is appended with the letter, according to which one case pertaining to Government Boys Primary School, Chahsar Turbat is pending in the Court of Qazi Turbat wherein no stay order has been passed. However, the Qazi Turbat has been directed to dispose of the case within one month positively. The report is silent with regard to other question.

NASIRABAD AT DERA MURAD JAMALI

28. As per report of the District & Sessions Judge Nasirabad at Dera Murad Jamali, 408 schools are fully functional whereas 33 schools are in the nature of ghost schools in the district. A sum of Rs.60/- is being paid to the students of 6th to 8th classes and a sum of Rs.100/- is being paid to the students of 9th and 10th classes by way of monthly scholarship. The ratio of children studying in the schools situated in urban and rural areas in the district is 55 % & 30% respectively. On question pertaining to encroachments upon schools' buildings, or the schools' buildings being used for purposes other than education, it has been mentioned that encroachment exists upon the Primary School Jongal Khan Umrani, one school is occupied by FC Forces and yet another is occupied by Flood affectees. No litigation pertaining to schools properties is pending before any forum. It is further stated that teachers were absent in 33 schools whereas six schools were closed due to non-posting of teachers.

NOSHKI

29. As per report of the District & Sessions Judge, Noshki, 14 out of 220 schools are non-functional, but there are no ghost schools in the district. A sum of Rs.341,373,000/- was allocated for education during the financial year. A total of 24828 children (14019 boys and 10808 girls) are studying in the schools. No encroachments exist upon schools properties and no school buildings are being used for purposes other than education. No litigation concerning schools properties is pending before any forum.

PANJGUR

30. As per report of the District & Sessions Judge Panjgur, 343 schools are fully functional and there are no ghost schools in the district. A sum of Rs.447,569,200/- was allocated for education during the financial year. The ratio of children studying in schools in the district is 89% boys and 80% girls. No encroachments exist upon schools properties and no school buildings are being used for purposes other than education. No litigation concerning schools properties is pending before any forum.

PISHIN

31. As per report of the District & Sessions Judge, Pishin, 875 schools are fully functional whereas 27 schools are non-functional in the district for reasons, such as, encroachments, posts of teachers lying vacant, etc. A sum of Rs.644,970,200/- was allocated for education during the financial year. A total of 68000 children are studying in the schools in the district. Encroachments upon schools' properties exist due to tribal dispute, the demand for a class-IV job in lieu of the school land provided by the private owners and inaction on the part of the Education Department. No litigation concerning schools properties is pending before any forum.

QUETTA

32. As per report of the District & Sessions Judge, Quetta, 552 schools are fully functional and one Middle School at Killi Taj Muhammad Hanna is non-functional and there are no ghost schools in the district. A sum of Rs.1,661,461,100/- & Rs.275,030 (for non development budget & development budget respectively) was allocated in this regard. The ratio of children studying in schools is given as 38% boys and 40% girls in Primary Schools, 22% boys and

23% girls in Middle Schools and 22% boys and 20% girls in High Schools. No encroachments exist upon schools properties and no school buildings are being used for purposes other than education. No litigation concerning schools properties is pending before any forum.

SIBI

33. As per report of the District & Sessions Judge, Sibi, out of total of 263 schools, 8 schools are non-functional whereas there are no ghost schools in the district. The report highlights certain major problems being faced in the schools of the area, such as, closure of schools due to tribal disputes, migration of people due to non-availability of water in Sunni and Shooran areas, absence of teachers, insecurity, non-maintenance of school buildings, etc. The report is silent about the other issues.

USTA MUHAMMAD

34. As per report of the District & Sessions Judge, Usta Muhammad, 274 out of 288 schools are fully functional whereas there are 7 ghost schools in the district. 75% children are studying in urban areas whereas 50% are studying in rural area. Four schools are forcibly occupied by the *zamindars*, but no action has been taken by the Education Department. No litigation concerning schools properties is pending before any forum. During survey of the schools, proxy teachers were found working in the schools. However, the report is silent with regard to the remaining issues.

35. It is pertinent to mention here that the District & Sessions Judges of 15 districts of Balochistan only submitted reports whereas no reports were received on behalf of the District & Sessions Judges of the remaining districts. However, the Secretary, Secondary Education

on behalf of the Chief Secretary, Government of Balochistan, Quetta furnished report in respect of 30 districts.

36. In respect of districts Chagai, Killa Abdullah, Killa Saifullah, Sherani, Musa Khail, Barkhan, Zhob, Ziarat, Dera Bugti, Jhall Magsi, Kachhi, Jaffarabad, Mastung, Kharan, Washuk and Awaran, the concerned District Education Officers have furnished cyclostyled reports wherein it has been certified that there are no ghost or non-functional schools in the said districts nor the premises of any school are being used as *Autak/Baithak* or have been occupied by any influential person. It is further certified therein that all the schools are functioning under the supervision and control of the Education Department. The reports are silent about the other issues. In respect of district Musa Khail, it has been added that Government Boys Primary School, Mohsan Abad Kingari is partly occupied (two rooms) by one Suleman Shah and a complaint is pending before the Provincial Mohtasib regarding said occupation. The reports of the Secretary, Secondary Education in respect of the remaining 15 districts are somewhat identical to the reports of the above mentioned 15 districts.

37. Mr. Babar Ali, learned Deputy Attorney General for Pakistan, by means of CMA 3748/2013, filed a summary regarding the schools in the Province of Balochistan. According to the said summary, number of total schools is 12388, number of fully functional schools in the Province is 12082, number of ghost schools is 7, number of occupied schools is 25, number of non-functional schools is 274, budgetary allocation is Rs.24067.00 million, reasons for non-functioning of schools include law and order in districts, such as Dera Bugti, Kohlu, Khuzdar, waran, Kharan, Washok, Mastung, Kalta, Naseerabad, Jaffarabad, Panjgur, Turbat and Gwadar; lack of transport

facilities for the female teachers, and non-availability of teachers, specially female teachers. To overcome the problems and issues confronting the schools in the Province of Balochistan, the learned law officer made the following suggestions/recommendations: -

- (i) The Department needs huge amount of funds for implementation of Article 25A of the Constitution.
- (ii) Decentralization of authority to the local and institutional level.
- (iii) Local administration to work with the Education Department to vacate occupied buildings.
- (iv) Funds to be allocated for shelterless schools.
- (v) Provision of transportation for female teachers.
- (vi) Upgradation of management facilities to monitor all schools effectively.

KHYBER PAKHTUNKHWA

38. The information/data pertaining to all the districts in the Province of Khyber Pakhtunkhwa provided by all the District & Sessions Judges in the Province vis-à-vis the above questions was received through the Registrar, Peshawar High Court. A summary of the district-wise information so provided is given as under: -

ABBOTTABAD

39. As per report of the District & Sessions Judge, Abbotabad, the District Education Officer (DEO) had mentioned in his report the number of schools, total enrolment of students and the expenditure incurred thereon, and that all the schools in the district are functional. It is further stated that as per information received from Earthquake Reconstruction & Rehabilitation Authority (ERRA), most of the schools were badly damaged in the earthquake of 2005 and have not yet been reconstructed, as such, students and teachers are facing great difficulties. No ghost school is found in the District except certain incomplete buildings. It is noteworthy that the report of the DEO upon

which the report of the D&SJ is based, is not appended with the letter of the District & Sessions Judge.

BANNU

40. As per report of the District & Sessions Judge, Bannu, out of 1518 schools, 57 are non-functional, however, there is no ghost school in the District. An amount of Rs.32,045,071/- was allocated for education in the budget. The students presently studying and enrolled in both the male and female schools are 129,662. The Government Girls Middle School, Kotka Inam Gul Wazir Basia Khel was found without any teacher. Though record/registers for the year 2010 were available, but the current record was not available and according to the ADEO (Female) as well as Chowkidar, the teacher is on maternity leave and the remaining record is in her possession, and the students are being taught therein, however, no students were present in the schools. Most of the schools are built upon lands donated by private land owners who, considering it as their ownership, use the same premises after the school hours as baithak and have occupied forcibly some portions of the schools. The Education Officers submitted that they had issued notices to them and also stopped salaries of the Chowkidars who are unwilling to cooperate and actions are being taken against them. There is no litigation pending between private persons and the Education Department. There is extreme interference of political leaders and landowners found in the affairs of schools.

BATTAGRAM

41. As per report of the District & Sessions Judge, Battagram, due to the mountainous area of the district, with schools located at an altitude of 3000 feet to 15000 feet, physical examination of all the

schools was an extremely arduous task. There is no Additional District & Sessions Judge posted in the district, and hence it was impossible to physically verify all the 788 schools of the district, in the allotted time. However, some of the schools were visited and an impression was gathered that since the news of the impending survey had already reached most of the schools, therefore, most of the teachers were trying to manage their presence on duty. Despite this, a number of schools did not have the full strength of teachers. Some of the far off schools were found locked and were not functional. In some of the schools, proxy teachers were working at Rs.3000/- to Rs.4000/- a month. As per reports received from an NGO, a number of schools are not functioning fully. Some of the schools would fall within the definition of ghost schools as no building exists since after the earthquake. However, some of these destroyed schools are running in makeshift arrangement and there is a keen desire of the people that education is imparted to their children. This is evident from the number of children in the remotest parts of the area in extreme weather without any building or the children being taught on makeshift basis.

BUNER

42. As per report of the District & Sessions Judge, Buner, there are 791 Government schools in the district, out of which 777 are fully functional whereas remaining 14 are newly sanctioned and will be made functional in near future after fulfilment of the requirements. There is no ghost school, however, many schools buildings exist, the teacher are posted, but due to lack of devotion on the part of teachers, specially in the Girls Primary Schools, where female teachers remain absent from duty, the schools act merely as day-care centres. A sum

of Rs.1,041,141,459/- including annual salary expenditure of Rs.998,499,247/- and non-salary expenditure of Rs.42,642,212/- was allocated for education in the budget during the financial year. A list/table spreading over 18 pages showing the names of Secondary Schools with the number of teachers and students enrolment has been provided; however, the real answer, i.e., the ratio of children studying in schools in the District has not been provided. Lands for school are donated in consideration of class-IV jobs but some of the schools are encroached upon due to non-posting. The reason of encroachment upon the school buildings is stated to be the non-serious attitude of the Education Department, in acquiring the land legally, and their tendency of serving the interests of the influential persons, rather than protecting the interests of the education department. The details of litigation between the Education Department and the private persons is stated to have been provided by the Department as Annexure C to the report. However, surprisingly, no annexure is attached with the report.

43. It was stated that the SDEO Buner is not serious in taking action against female teachers and also pays no heed to proper postings of the teachers for reasons best known to him, therefore, the female teachers were facing hardships in transit from house to schools and it creates hurdle in performance of their duty. The officer does not visit schools to check their conditions and some of the schools have been encroached upon by the concerned *Chowkidars* or others. Further, a Senior Science Teacher is posted as SDEO (Male), which is reflective of posting of non-qualified persons at higher levels with political interference. The buildings of the schools are deteriorating.

Many teachers also complained about non-provision of proper infrastructure and dilapidated condition of the buildings.

CHARSADDA

44. As per report of the District & Sessions Judge, Charsadda, District Education Officers (Male/Female), Charsadda provided the details regarding number of schools, enrolment of students and strength of teaching staff in the district, according to which most of the schools in the district are fully functional. However, the Additional District & Sessions Judges, Charsadda, Tangi and Shabqadar, in their respective reports, stated that some schools were found closed and non-functional for the reason that the land donors had closed the schools because their family members were not employed in lieu of free donation of the lands for those schools. It is further stated that cases were registered against the concerned persons and most of the schools were re-opened and made functional. It is also stated that some of the schools are still non-functional due to dilapidated condition of school buildings or non-existence of boundary walls, etc. The teaching staff along with students of the above mentioned schools have been adjusted in some other schools due to precarious condition of the schools of the locality. It is further stated that the department has been directed to arrange funds for construction of boundary walls, and repair and maintenance works of the schools premises and to make the schools functional.

CHITRAL

45. As per report of the District & Sessions Judge, Chitral, there are 793 schools in the district with 73101 (39764 boys and 3336 girls) enrolled students and 2853 teachers in Government Schools.

There is no ghost school in the district. Amount of Rs.1,277,726,000/- was allocated for the district during the financial year. No school building/property of the Education Department has been encroached upon by any private person or land owner, and no litigation is pending in the district.

46. It was further stated that some schools were found closed and non-functional as the land donors had encroached upon the schools buildings for the reason that their family members were not employed in lieu of free donation of lands for those schools. Some schools have been re-opened as a result of cases registered against the concerned donors; however, some of the schools are still non-functional due to dilapidated condition of the buildings or non-existence of the boundary walls, etc. and the teaching staff along with students of those schools have been adjusted in some other schools due to precarious condition. The concerned department has been directed to reconstruct the boundary wall etc.

DERA ISMAIL KHAN

47. As per report of the District & Sessions Judge, DI Khan, the DEOs had mentioned in their reports that there are 1605 schools in the District out of which 11 schools were under encroachment, whereas during physical verification by the Additional District & Sessions Judge, 27 schools were found encroached upon by private persons or land owners, and in some of the cases, litigation is pending. Two schools were found closed by the land owners as mutations in favour of Education Department had not been attested, but the school buildings had been constructed thereupon. The cases regarding both these schools have been forwarded to the Anti-Corruption Department, D.I. Khan for probe and necessary legal action. In some of the areas,

the lady teachers engaged proxy teachers on payment of money to perform duty in their place. The official of Education Department informed that many schools are non-functional due to non-availability of teachers and political pressure. Some of the schools are non-functional because the buildings had been badly damaged or collapsed in the flood of 2010. Another reason for the deteriorating situation of Government schools situated in the far flung areas is that the teachers remain absent without sanctioned leave, but the officers of Education Department would not bother to take any action against them. Although sufficient staff (DEO and others) are posted in the district, but they do not perform their duties and instead are in the habit of visiting offices and residences of the political figures for prize postings. Thus, the figures regarding functional and non-functional schools of various categories, both male and female, furnished by the Education Department, were not correct. Various aspects of the functioning of the schools and the Education Department have been dealt with in the report in quite some detail. Finally, it has been suggested that if the Education Department is allowed to be monitored by the District Judiciary for a period of six months only, all irregularities and illegalities will be rectified and the non-functional and ghost schools will become functional and start imparting proper education to the students.

HANGU

48. As per report of the District & Sessions Judge, Hangu, there are 397 schools in the district, out of which 361 are functional, whereas 28 are non-functional. In addition to that, 34 schools were found closed. An amount of Rs.655,353,946/- was allocated for education in the budget during the financial year. The ratio of children

admitted in schools is approximately 50% on male side and 30% on female side. There is no ghost school in the entire district. Similarly, no school has been occupied by any private person. Rather, in many places, due to non-availability of building or for security reasons, the schools are functioning in private buildings provided free of rent by the locals. Only 2 schools have been occupied by the police or other forces. The concerned DEOs are actively pursuing these cases, with the quarters concerned for vacation of buildings so as to make the schools functional.

HARIPUR

49. As per report of the District & Sessions Judge, Haripur, out of 313 schools only three schools are non-functional, with no enrolment of students therein details whereof are given in the Annexure. Reportedly, the concerned ASDEO has taken steps to stop the monthly salary of the concerned staff and to functionalize the aforesaid schools. However, it is noteworthy that the Annexures referred to in the report of the District & Sessions Judge have not been attached with the report.

KARAK

50. As per report of the District & Sessions Judge, Karak, in most of the basic teaching units of the district, the situation is extremely alarming. Most of these schools are teaching institutions only in name, but virtually no student is being admitted there to seek education and the teaching staff is taking salary at home. There is no record of their daily attendance and no yardstick to measure the level of their efficiency and performance. The teachers, with the collusion of the concerned supervisory officials, either manage to mark proxies or

engage local substitutions, to whom they pay a portion of their salaries on monthly basis. The Head Teacher of each school, without any documentary proof and observance of codal formalities is paid Rs.7,000/- per annum per room as maintenance charges, but there is no solid proof and record either in office of the Head Teacher, the DEO concerned or the Head at district level to show as to how and under what criteria this public fund is being used. In the previous financial year, a sum of Rs.40 million was placed at the disposal of Parents Teacher Association (PTA), but surprisingly even the very PTA did not exist in the district nor is there any record of expenditure of the allocated public fund.

51. It is also submitted that if more time is given, the desired goal will be achieved in more effective and purposeful manner and authentic figures and statistics, which are now being just observed on analysis, will be provided.

KOHAT

52. As per report of the District & Sessions Judge, Kohat, there are 338 female and 481 male schools in the Government sector in the District. After physical inspection, it transpired that 3 schools were not functioning fully, whereas there were problems with regard to 29 schools. In the schools, which are presently non-functional, teachers/staff are posted who are drawing salaries. The budgetary allocation for the financial year for all public schools in the District was Rs.1,683,810,060/-. At present, the total enrolment of both male and female students in primary and secondary public schools is 113221, while that of the private schools is 25684. Thus, the ratio comes to 3:1. In most of the school under encroachment, the premises have not been legally handed over to Education Department and were

constructed on funds of the Senators disbursed during the 80's, as such the premises were not on record of Education Department. In absence of proper handing over and taking over by the Education Department, question of existence of sanctioned staff does not arise. In two of the schools, on account of pending litigation and recently decided Court matters, the private persons are in occupation.

KOHISTAN

53. As per report of the District & Sessions Judge, Kohistan, out of 1169 schools, 291 are functioning, whereas 407 in earthquake, 57 in floods and 139 in other incidents have been damaged, while 275 are non-functional due to non-availability of teachers. The conditions of female schools are more miserable inasmuch as out of 269 girls schools, only one school is fully functional, and all remaining schools are either completely or partly non-functional with the exception of 2/3 other schools. An amount of Rs.898,996,390/- was allocated for the district in the financial year 2012-13. The ratio of children studying in the District is the lowest in Pakistan. The buildings of the schools have not been encroached upon, but the teaching activities have been suffering due to non-availability of teaching staff despite their appointments and despite drawing salaries. As there is no encroachment, therefore, no litigation existed between the Education Department and private persons, and not a single case is pending in any Court.

LAKKI MARWAT

54. As per report of the District & Sessions Judge, Lakki Marwat, the middle, high and higher secondary schools are functional,

however, more than 50% of the primary schools are ghost schools/closed schools and the staff is getting salaries while sitting at their homes. The condition of the schools was found miserable. The students are made to sit on ground. The staff/teachers are not recruited on merits, rather on political and monetary considerations. Most of the primary schools are also built/sanctioned on political considerations and owners of the land are using the same as their houses/Baithaks and one of their relatives is getting salary as Chowkidar. A good number of school teachers are not performing their duties, rather doing their private businesses. The DEOs are appointed/posted under political influence or on monetary considerations who are reportedly involved in corrupt practices, causing loss of millions of rupees to the national exchequer. In town areas, the ratio of children studying in government and private schools is 50:50. In the rural area, the ratio of boys studying in the Government primary schools is about 30% while the ratio of girls studying in Government primary schools is less than 30%. In rural area, the ratio of girls studying in Government Middle and Government High schools is less than 10%. Just in the month of February about Rs.16,67,96,549/- were incurred on payment of salaries of the officials/staff of the education department.

DIR LOWER

55. As per report of the District & Sessions Judge, Dir Lower, there are 1571 schools in the District with a total of 394443 enrolled students and 6890 teachers, out of which 6 schools are non-operational being newly established. There are also 171 Government Maktab Primary Schools with 6520 enrolled students. The budgetary allocation for the year 2012-2013 is Rs.1,829,639,951/-. Due to

militancy, 100 schools (42 partially damaged and 58 fully damaged) were destroyed/damaged out of which 12 have been completely restored whereas 34 have been partially restored. The newly established schools will be functionalized at the beginning of new academic year.

56. It was also stated that the over all condition of education was found not so much bad and can be branded as satisfactory in the district. No school was found ghost and under unauthorized occupation or encroached upon by any agency or private individual.

MALAKAND

57. As per report of the District & Sessions Judge, Malakand, no ghost school exists in the District. Although schools are functioning, but overall situation is far from being satisfactory. Many schools have only one room. Most of the schools do not have benches, chairs and desks, and children sit on the ground in the open. Academically the children are very poor. The ratio of teachers in the government schools is 5 to 7 times more than teachers in the private schools, but even then the performance and feedback of private schools are far better. As per list provided, there are 43 total number of school in the district and there is no ghost school. Details about the number of schools, students, funds, etc., have been provided in a table annexed with the report. It has been further stated that the Government schools are being treated like orphans, rather worse than that.

58. It has been suggested that it should be made mandatory for each MNA & MPA to visit and prepare a list of at least 10 schools on monthly basis, and provide the detailed information to the concerned Head of department. Similarly, the District & Sessions Judge or Additional District & Sessions Judge should also pay a surprise visit to

ten schools and submit report in this behalf to the Registrar of the concerned High Court. It is further submitted that for the evaluation of teachers, there should be a strong system of check and balance, and also the conditional promotion. The Government should provide basic facilities i.e. benches, chairs, desks, fans, facility of drinking water, etc.

MANSEHRA & TOR GHAR

59. As per report of the District & Sessions Judge, Mansehra, the DEOs (Male and Female), Mansehra have submitted reports showing number of schools, total enrolment of students, expenditure incurred thereon. It was stated that all the schools in District, Mansehra are functional. Most of the schools were badly damaged in the earthquake of 2005, but construction work has not yet been started in a number of schools, whereas many schools have not been completely reconstructed. Therefore, students and teachers are facing great difficulty, however, no ghost school was found.

MARDAN

60. As per report of the District & Sessions Judge, Mardan, there is no ghost school in the entire District. There are 1737 schools out of which 24 schools are found as dysfunctional being illegally occupied by the locals. As per Annual Schools Census 2011-12, 341523 students are enrolled – 133410 female & 208113 male students. The information/data furnished by the courts revealed that court proceedings or litigation was no hurdle at all in the operation and functioning of the schools, for the reasons that no injunctive orders have been passed, which could prevent the utility and usage of the schools buildings. Funds are allocated @ Rs.7,000/- per room to each

school for maintenance & repair coupled with contingency, but pathetic condition of the structure and lack of civic facilities, such as water, washroom, etc., as observed during physical verification showed that the funds have not been utilized properly, which is indicative of lack of proper financial management and checks and balances.

NOWSHERA

61. As per report of the District & Sessions Judge, Nowshera, there are 9 Higher Secondary Schools, 63 High Schools, 48 Middle Schools and 431 Primary Schools for Boys; whereas, 7 Higher Secondary Schools, 29 High Schools, 44 Middle Schools, 326 Primary Schools, 3 JICA Model Schools and 18 Government Community Model Schools for Girls in the district, and all these schools are fully functional at present. There is no ghost school in the district. Total allocated funds for education are Rs.1,671,146,717/-. The ratio of children studying in Government Schools is 64.8% and that of the children studying in Private Schools is 35.2%. Only one case is pending in the Court of Civil Judge, Nowshera regarding Government Girls Middle School Khawrai for appointment against Class-IV vacancy. The concerned Civil Judge has been directed to decide the case expeditiously within one month.

PESHAWAR

62. As per report of the District & Sessions Judge, Peshawar, 1181 Government schools are functioning in the District. As per report of the DEOs, no ghost school exists in the District. However, during physical inspection, it was found that 3 schools were non-functional ever since their construction and 4 schools were closed due to non-availability of teaching staff. Budgetary allocation for the year 2012-13

was Rs.17,769,957,000/- (provincial) and Rs.45,725,414,130/- (Districts). 331094 students are enrolled in Government schools whereas 234604 students are enrolled in private schools. Some of the schools are in the occupation of land owners and as many as 13 cases are pending in different courts.

SHANGLA

63. The District & Sessions Judge, Shangla, instead of submitting a consolidated report, has forwarded the reports of Civil Judges Alpuri, Puran and Chakaisar. As per report of Civil Judge Puran, District Shangla, generally the schools in the area have shortage of rooms, furniture, clean drinking water, lightening and toilets. In Girls schools, the attendance of the teachers is very low and some of the schools are closed before the closing hours. Building of GMS, Kabalgram is completely occupied by Pak-Army; teachers and students have been shifted to GGPS, Kablagram, whereas, the students and teachers of GGPS, Kablagram were found absent. The GGPS, Kablagram and GGPS, Kohay can be termed as non-functional.

64. As per report of Civil Judge, Chakaisar, all the schools inspected are functional and detail of 32 schools has been provided. No ghost school is found during inspection. No school building is found to be used as home or Baithak. No litigation exists between the Education department and private persons.

65. As per report of Civil Judge, Alpuri, DEO submitted a certificate that there is no ghost, non-functional or encroached school in the whole District. However, during visit to accessible schools, it transpired that generally all the schools are either ghost, non-functional or encroached schools. Besides, a lot of schools were found

temporarily closed during duty hours. Details of 3 ghost, 4 permanent non-functional, 6 temporary closed schools and the absent teachers have been provided in the report.

SWABI

66. As per report of the District & Sessions Judge, Swabi, DEOs reported that all 1312 schools in the District are functioning and there is no ghost school in the District. However, during physical inspection, certain schools having proper buildings were found non-functional for want of any teachers, staff, students and furniture. As per Annual Schools Census 2011-12, 140990 students were found enrolled in the district, however, the number of non-enrolled students could not be ascertained due to lack of resources and non-cooperation of the executive agencies of the district. Total educational expenditure in the District is Rs.2,399,217,210/-. PTC/PTA funds including cash book, stock register, vouchers, etc., were checked in different schools, which showed receipt of funds by the schools and details of expenditure incurred. The teachers were found in regular practice of obtaining leave for no reason or absenting from duty; sometimes, even head of the school was found absent. The deteriorating conditions of the buildings of some schools, particularly Girls Schools were paid no attention by the respective DEOs. Despite availability of basic facilities in the schools, the same were not open to the students. However, no school was found being encroached upon or being used as Baithak/Authak or for residential purposes. No litigation is pending in the District before any court in Swabi. The DEOs openly complained about the political interference in the appointments and transfer of schools teachers through their high ups; pressure groups of teachers associated with their unions; shortage of teacher/staff of fresh

recruitment; and attachment of school teachers with the health department for the purposes of polio campaign particularly female teachers who were engaged for the far flung areas without any proper security. It was further stated in the report that during inspection certain irregularities in different schools e.g., absence of teachers, deteriorating conditions of the buildings, embezzlement of PTC/PTA funds, etc were noticed.

SWAT

67. As per report of District & Sessions Judge, Swat, no ghost school exists in the District, meaning thereby that all the schools mentioned in the reports of the DEOs (Male/Female) are in existence on the spot, however, 83 schools are found non-functional due to non-availability/absence of teachers, for want of proper handing and taking over procedure, illegal occupation, or having been damaged by storm or destroyed by militants, which needed immediate repair. The details regarding total number of schools, children enrolled, ratio of students, allocation of funds and expenditure made have not been provided.

TANK

68. As per report of the District & Sessions Judge, Tank, there are 211 primary schools, 27 middle schools, 24 high schools and one higher secondary school for boys; 136 primary schools, 13 middle schools and 6 high schools for girls in the District. There is no ghost school; however, 4 male and 30 female schools are non-functional. Three schools are encroached upon by private individuals. No school was found under any litigation. The entire District, excluding some portion of Jatatar and Kundian Qanoongo Circles, is semi-tribal or tribal area and due to security problems not easily accessible, as such,

teachers seldom dare to go to schools. Except for certain usual problems, there are no visible illegalities or irregularities in the schools, however, there are general complaint of substitution, i.e. the actual teachers, specially, females have arranged some locals for duty at their place. On female side, irregularities at primary level especially in posting, transfer/adjustment are common. In most of the cases, postings are made in the school beyond sanctioned strength on the pretext of adjustments whereas other schools are left vacant/without teachers. No vigilant interest and attention on the part of education authorities was found and they are responsible for irregularities.

DIR UPPER

69. As per report of the District & Sessions Judge, Dir Upper, there are 942 schools in the District with a total of 190927 enrolled students and 5991 teachers. Most of the children go to schools. Total educational expenditure for the District is Rs.112,606,128/- per month. The Government Primary School, Jatkol situated in Sub-Division Sheringal is functional in a Masjid as the said school building has been occupied by the person whose father had donated the landed property for the school and he, as per decision of High Court, was appointed as Chowkidar in the office of SDEO(M), Sub-Division Wari Dir Upper, but he wants to be posted at the Jatkol Primary School. The building of the Government High School in Dir Town was given on lease to Fatima Model School and the said school is functional. The Government Middle School situated at Dobando Dera is occupied by the security forces for operational purposes against militancy. There is no litigation pending in the District between Education Department and any private person.

70. The learned Additional Advocate General, Khyber Pakhtunkhwa prepared and filed a summary/comparative chart of the reports furnished by the learned Judicial Officers and the Government of Khyber Pakhtunkhwa as under: -

S.No	District	Judicial Report	Govt. Report	Deference
1	Timergara	No ghost school, all schools are functional	Eight schools are non functional due to non availability of teachers	-8 Schools
2	Mansehra	All Schools are functional	One school non functional due to court case	-1
3	Chitral	All Schools are functional	All School are functional	Nil
4	Nowshera	All School are opened to interference by the judicial officers	Eight Schools due to disputes with land owners	-8
5	Karak	All School are functional	All Schools are functional	Nil
6	Tank	Thirty four Schools are closed due to different reasons	One School	+33
7	Kohistan	Nine Schools have been specified to be non functional rest are not in good conditions	Eighteen Schools are non functional due to non availability of staff	-9
8	Mardan	Twenty four Schools are closed due to land disputes	One male School	+23
9	Swabi	Fourteen Schools are closed	Two	+12
10	Abbottabad	Nil	Nil	Nil
11	D.I.Khan	Twenty seven Schools are closed	Two	+25
12	Hangu	Report is not clear	28	-28
13	Kohat	Nil	Nil	Nil
14	Malakand	Nil	Nil	Nil
15	Peshawar	Seven Schools are closed	Eight	-1
16	Battagram	Report is not clear	Nil	Nil
17	Banu	Eight Schools are mentioned but when minutely read, four schools appear to be non functional	Four	Nil
18	Bunir	Report ambiguous	Four	-4
19	Swat	Lengthily list of non	Fourteen	-14

		functional schools is given but stricto sensu they are not non functional		
20	Shangla	Three ghost Schools and four non functional	Nil	+7
21	Dir Lower	Nil	Nil	Nil
22	Lakki Marwat	Report ambiguous 50% Schools have been reported as ghost/closed Schools but without furnishing details	Nil	Nil
23	Dir Upper	Nil	Nil	Nil
24	Haripur	Three	Nil	+3
25	Charsadda	Thirteen	Nine	+4
	Grand Total	142	108	34

71. The learned law officer stated that as per the report of Judicial Officers, the number of non-functional schools is on a higher scale as compared to the reports furnished on behalf of the Provincial Government. However, he stated that learned Judicial Officers in many cases reported as non-functional those schools which were temporarily found closed due to any trivial reason. In so stating, the learned law officer clarified that the Government is not defending the temporary closure of any school and that any lapse in the performance of duty by any functionary will be dealt with in accordance with law and smooth running of schools will be ensured. He stated that action in some of the cases is already under process. According to the learned law officer, the non-functioning of schools in the Province of Khyber Pakhtunkhwa, was mainly due to following reasons: -

- (i) Law and order situation due to militancy;
- (ii) Shortage of staff in some far flung districts; and
- (iii) Disputes with land owners.

He also stated that the Government has already undertaken to meet the deficiency of teaching staff by proposing amendments in the Rules/Policy regarding backward districts and that the disputes with

the land owners are being settled on priority basis. He further stated that there is a progressive increase in the budgetary allocation for education over the past few years. Furthermore, after insertion of Article 25A in the Constitution, the Provincial Government has already drafted a bill to meet the requirements of said Article, which will be passed by the Provincial Government in due course of time.

THE PROVINCE OF THE PUNJAB

72. The information/data pertaining to all the districts in the Province of Punjab provided by all the District & Sessions Judges in the Punjab has been received from the Registrar, Lahore High Court is as under: -

ATTOCK

73. As per report of the District & Sessions Judge, Attock, 1265 schools (837 Primary, 200 Elementary, 206 High and 22 Higher Secondary schools) are fully functional and there are no ghost school in the district. A sum of Rs.3,116.043 million was allocated during the financial year for the district, whereas 95% of children in the district are studying in schools. Two rooms of Government Girls High School, Pind Fateh, Tehsil Fatehjang are occupied by one Iqbal due to negligence of the local school administration and School Management Committee (SMC). The encroachment issue of 4 schools was settled by the Judicial Officers, whereas encroachment matters of 26 were directed to be fixed as court cases before the Addl. District & Sessions Judges with a direction for proper follow-up thereof. Six cases are pending – 2 before the Lahore High Court, Rawalpindi Bench and 4 before the Civil Courts. The latter have been directed to decide the same within a period of 2 months.

BAHAWALNAGAR

74. As per report of the District & Sessions Judge, Bahawalnagar, 2231 schools are fully functional, whereas 43 schools are non-functional due to transfer of single teacher or the building after its construction not having been handed over to Education Department, however, there is no ghost school in the district. A sum of Rs.4,539.721 million was allocated during the financial year 2012-13 for the running of schools while the ratio of the children studying in the schools in the district is 87%. As regards encroachments, it has been stated that due to lack of interest of the school administration/Education Department, the authorities in many cases did not know the exact area of the schools. However, certain encroachments upon school premises were got removed through the Revenue Department. Two cases are pending in different courts without any stay order and directions have been issued to the concerned courts to expedite the proceedings of the cases.

BAHAWALPUR

75. As per report of the District & Sessions Judge, Bahawalpur, 2122 schools (1961 Primary/Elementary and 116 High/Higher Secondary schools) are fully functional. The ratio of the children studying in the schools is 99.93%. Budgetary allocation is not mentioned in the report. Regarding encroachments, it has been stated that no school building is being used as a Baithak/Authak or for residential purposes, however, portions of three schools are illegally occupied and cases of property of four school buildings against the encroachers are being pursued whereas no action has been initiated by the Education Department against the encroachment of two schools. The education department authorities, in their reports, stated that no

ghost schools exist in the district, however, the District & Sessions Judge in his remarks stated that there are two ghost schools, whereas there are four shelterless schools and eight schools are under encroachment. One case is pending before Civil Judge 1st Class, and another case is pending before the Additional District & Sessions Judge, Bahawalpur.

BHAKKAR

76. As per report of the District & Sessions Judge, Bhakkar, 1337 schools are fully functional, whereas 3 schools are in the nature of ghost schools. A sum of Rs.41,892,018/- was allocated for the purpose during the financial year whereas 98.64% children are studying in the schools. 18 schools were found to be partly encroached upon by some private individuals out of which one was got vacated. One case is pending before the Lahore High Court, Lahore, namely, Writ Petitions No.2015 & 2016 of 2003, one is pending before the Assistant Commissioner, Bhakkar and two are pending with the Civil Courts. However, no stay order has been issued, but the Education Department has not got vacated the schools from the encroachers.

CHAKWAL

77. As per report of the District & Sessions Judge, Chakwal, 802 schools are functional, 7 semi-functional and 6 schools are in the nature of ghost schools in the district. A sum of Rs.218,387,045/- was allocated during the financial year 2012-13. Encroachments exist in 23 schools. Three cases are pending before civil courts and one before the Assistant Commissioner, Talagang, District Chakwal. Reasons for delay in disposal of cases are non-appearance of the counsel for parties and lack of interest on the part of Education Department.

CHINIOT

78. As per report of the District & Sessions Judge, Chiniot, 899 schools are fully functional and there is no ghost school in the area. A sum of Rs.1,27,25,64,843/- was allocated for the running of these schools. On the encroachments issue, it is stated that some of the schools were found partly encroached by some individuals, which were got removed and at present no encroachment exists in any school. No case is pending before any Court.

D.G. KHAN

79. According to the report of the District & Sessions Judge, D.G. Khan, 2044 schools are fully functional and there are 2 ghost schools in the district, however, Inspection of schools situated in interior tribal area could not be carried out due to security problems. Budgetary allocation and ratio of children studying in the schools are not mentioned. It has been stated that encroachments exist in three schools. Two cases concerning schools properties are pending before the Lahore High Court, Multan Bench, Multan whereas one is pending in the civil court.

FAISALABAD

80. As per report of the District & Sessions Judge, Faisalabad, 2135 schools are fully functional and there is no ghost school in the district. A sum of Rs.9,333,860,143/- was allocated for the purpose of imparting education during the financial year whereas 96.5% children are studying in the schools. Encroachments exist in some of the schools, *inter alia*, due to non-sanction of mutations of schools properties. One case is pending before the Supreme Court and two are

cases pending before the District Judiciary, who have been directed to decide the case at the earliest.

GUJRANWALA

81. As per report of the District & Sessions Judge, Gujranwala, 1671 schools are fully functional and 8 schools are in the nature of ghost schools. A sum of Rs.6,829,015,000/- was allocated for running of the schools in the district during the financial year. Ratio of children studying in schools has not been mentioned. Encroachments exist on 58 schools, however, the Education Department had not initiated any proceedings against the encroachers. Two civil suits regarding encroachment of schools properties are pending before the Civil Court, however, there is no mention of stay order issued by the court.

GUJRAT

82. As per report of the District & Sessions Judge, Gujrat, 909 schools are fully functional in the district whereas there are no ghost schools as such. Funds allocated and ratio of children studying in the schools in the area have not been mentioned in the report. It has been stated that there were some encroachments made by private individuals on the property of schools for which Education Department had not initiated any legal proceedings. Five cases are stated to be pending, but the report does not contain the details thereof.

HAFIZABAD

83. As per report of the District & Sessions Judge, Hafizabad, 900 schools are fully functional and 6 are non-functional in the district and there are not ghost schools in the area. A sum of Rs.1639.888 million was allocated in the budget for running of schools and 92% of children are studying in the schools. Students – teachers ratio is 34:1.

No encroachment is found in the schools. Three cases are pending before the Civil Courts filed in the year 2010 and 2012 in which main buildings of the schools are not under dispute, and the schools are properly working.

JHANG

84. As per report of the District & Sessions Judge, Jhang, 1665 schools are fully functional and there are no ghost schools as such in the district. An amount of Rs.61.158 million was allocated for the purpose of running of schools during the financial year and 87% of children are studying in the schools. Neither any encroachment exists on the schools properties nor is any litigation concerning schools found in the district.

JHELUM

85. As per report of the District & Sessions Judge, Jhelum, 873 schools are fully functional whereas there are no ghost schools in the district. An amount of Rs.2,464,927,610/- was allocated in the budget of the schools and 85% children of the area are studying in the schools. The administration of 5 schools complained of encroachments made by different persons on the schools property, but no action was taken by the Education Department. Three civil suits filed by private persons against the Province of Punjab and District Collector are pending adjudication in the Civil Courts. In one case, the school administration is alleged to have encroached upon property of private persons. Direction for early disposal of the cases has already been issued.

KASUR

86. As per report of the District & Sessions Judge, Kasur, 1620 schools are fully functional and there are no ghost schools as such in the district. An amount of Rs.3823.920 million was allocated in the budget for the schools whereas 93% children of the area are studying in the schools. Encroachments exist on schools properties for the reason, *inter alia*, that in one case the land donated for the school was not got mutated in favour of the Education Department, whereas in other cases, influential/criminal people have encroached upon the schools property completely or partly and the Education as well as the Revenue Department remained inactive to get the same removed. Only one case is pending before a Civil Court, which has been undertaken to be decided on the next date, i.e. 25.3.2013.

KHANEWAL

87. As per report of the District & Sessions Judge, Khanewal, 1600 schools are fully functional whereas no ghost school exists in the area. An amount of Rs.4630.010 million was allocated in the financial year 2012-13 for running of the schools while 96% children are studying in the schools in the this area. Encroachments exist on schools properties, either because of non-transfer of the property in question in favour of the Education Department due to inaction on the part of the Department. Ten civil suits were pending before the Civil Courts, out of which 2 have been finally decided and there is no stay order issued in the remaining cases. No concrete steps are being taken by the Education Department against the encroachers.

KHUSHAB

88. As per report of the District & Sessions Judge, Khushab, 1037 schools are fully functional and three schools are in the nature of ghost schools. An amount of Rs.3,776,671,000/- was allocated in the budget for the schools and 96.54% children of the area are studying in the schools. Encroachments exist on 14 schools properties due to lack of interest of the Education Department, improper demarcation of school property and non-availability of boundary walls of the schools. However, during physical verification, encroachments upon 12 schools were got removed. Two civil suits are pending before the Civil Courts and the reason for delay is the continuous strike of the bar, however, the concerned courts have been directed to expedite the cases.

LAHORE

89. As per report of the District & Sessions Judge, Lahore, 1205 schools are fully functional whereas 6 schools are in the nature of ghost schools. An amount of Rs.1200 million was allocated in the budget for education in this district and 76% children are studying in the schools in the district. Encroachments exist on schools properties mainly due to inaction on the part of the Department. Twelve cases are pending adjudication before the Civil Courts and Additional District & Sessions Judges who have been directed to decide the same expeditiously keeping in view the directions of the Supreme Court. It is further stated that four cases are pending before the Supreme Court and the Lahore High Court, Lahore.

LAYYAH

90. As per report of the District & Sessions Judge, Layyah, 1668 schools are fully functional and there is no ghost school in the

district. An amount of Rs.3,51,20,33,400/- was allocated in the budget for education and 95.37% children are studying in the schools in the area. Encroachments exist on 10 schools properties due to inaction on the part of the Education Department. However, during physical verification, encroachments were got removed from some of the schools by the judicial officers at the spot and in some matters the demarcation was required to be carried out. A case of encroachment by different persons upon the property of Govt. Elementary School, Chak No. 136/TDA was pending before DCO whereas a civil suit regarding Govt. Boys Primary school 293-TDA was pending in the Civil Court and no stay order has been passed in this case. However, direction has been issued to expedite disposal of these cases.

LODHRAN

91. As per report of the District & Sessions Judge, Lodhran, 797 schools are fully functional whereas there are no ghost schools in the district. An amount of Rs.3.82 million was allocated in the budget for education and 83% children are studying in schools in the area. Partial encroachments exist upon the properties of schools due to inaction on the part of the Education Department. Eight cases were pending out of which three have been decided and the remaining 5 have been undertaken to be decided expeditiously.

MANDI BAHAUDDIN

92. As per report of the District & Sessions Judge, Mandi Bahauddin, 987 schools are fully functional whereas there are no ghost schools as such in the district. An amount of Rs.12.010 million was allocated in the budget for education during the financial year 2012-13 and 90% children are studying in schools in the district. Partial

encroachments exist upon 12 schools by private persons mainly because of political influence of the encroachers and the inaction on the part of the Education Department. Two out of five cases have been decided by the civil courts and direction for expeditious decision of remaining three cases has already been issued.

MIANWALI

93. As per report of the District & Sessions Judge, Mianwali 1140 schools are fully functional, whereas there are no ghost schools in the district. An amount of Rs.2,601,975,523/- was allocated in the budget for education in the district during the financial year and ratio of children who are studying in the schools in the district is 93%. Encroachments exist upon the schools properties due to inaction on the part of the Education Department, however, no school was being used as Baithak/Authak or residence. Four civil suits, one civil appeal and one criminal case FIR No. 177/2012 u/s 447/427 PPC registered with Police Station Qamar Mushani against one Shafi Ullah are pending adjudication before different courts, however, there is no mention of any stay order having been issued by the courts in any matter.

MULTAN

94. As per report of the District & Sessions Judge, Multan, 1434 schools are fully functional whereas there are no ghost schools as such in the district. An amount of Rs.5,120.448 million was allocated in the budget for education in the district during the financial year. As regards the ratio of children studying in the schools, it has been stated that 300,000 students are studying in Government schools and more than 120,000 are studying in private schools. Encroachments exist upon schools properties due to inaction of the

Education and the Revenue Departments. One case is pending before the Settlement and Rehabilitation Commissioner, one before the Additional Commissioner (Revenue), two before the DCO and two before the Civil Courts. However, there is no mention of issuance of any injunctive order in any of the above cases.

MUZAFFARGARH

95. As per report of the District & Sessions Judge, Muzaffargarh, 2089 schools are fully functional and 24 schools are in the nature of ghost schools in the district. An amount of Rs. 233.522 million was allocated in the budget for education in the district and 100 % children are studying in the schools in the area. Encroachments existed upon three schools' buildings due to inaction on the part of Education Department, but the same were got cleared from the encroachers through the DCO, Muzaffargarh. Nine cases are pending pertaining to schools properties and the concerned courts have been directed to expedite the same.

NANKANA SAHIB

96. As per report of the District & Sessions Judge, Nankana Sahib, 734 schools are fully functional and there are no ghost schools in the district. An amount of Rs.2308.953 million was allocated in the budget for education in the district during the financial year, and the ratio of children studying in the schools is 95.8 %. Portions of about 10 schools are reported to be under illegal occupation of different persons and are being used as cattleshed, but none of the schools is being used as Baithak/Authak. The Education Department did not initiate action to remove the encroachments. Two civil suits claimed by

Education Department were not found to be pending before any court, thus, there is no litigation concerning the schools in the district.

NAROWAL

97. As per report of the District & Sessions Judge, Narowal, 1280 schools are fully functional and 14 schools are in the nature of ghost schools. An amount of Rs.1,384,384,080/- was allocated in the budget for education in the district during the financial year and 97.72 % children are studying in the schools in the district. Encroachments by influential persons upon schools' properties were found and the same were got cleared through the local administration except one Masjid Maktab School at Takkiya plot Jandarwal, Tehsil and District Narowal encroached by two individuals who had tied their cattle and placed dung cakes and the same happened due to inaction of the Education Department. The report is silent about litigation concerning properties of schools in the district.

OKARA

98. As per report of the District & Sessions Judge, Okara, 1671 schools are fully functional and there are no ghost schools as such in the district. An amount of Rs.2,399.085 million was allocated in the budget for education in the district during the financial year. Ratio of children studying in the school has not been mentioned in the report. Encroachments upon some of the schools' properties were found due to inaction of the Education Department, but the same were got vacated from the encroachers. Four civil suits without any stay order are pending adjudication between private persons and Education Department, but the schools were functioning in the said buildings.

PAKPATTAN

99. As per report of the District & Sessions Judge, Pakpattan, 910 schools are fully functional and there are no ghost schools as such in the district. An amount of Rs.2,132.215 million was allocated in the budget for running of schools in the area and the ratio of children studying in schools is 63.07 %. Encroachments upon some of the schools' properties by local people were found due to inaction of the Education Department, but no school building was being used as Baithak/Authak and the illegal possessions were got removed through the DCO Pakpattan Sharif. A civil suit pertaining to the property of Government Girls High School, 66/EB, Tehsil Arifwala is pending before the Civil Court in which stay was vacated whereas one matter is pending before the Board of Revenue, Punjab and the DCO Pakpattan Sharif has been required to pursue the said matter.

RAHIM YAR KHAN

100. As per report of the District & Sessions Judge, Rahim Yar Khan, 37 shelterless/non-functional schools, 25 non-functional due to non-availability of teachers, 884 schools without electricity, 435 without boundary walls, 180 schools without toilets, 110 shelterless but functional, 13 schools shifted to other places or merged with other schools, 22 schools in rented buildings, 117 schools with dangerous buildings, 4 schools under part-encroachment, 2 fully encroached schools, 4 facing litigation exist in the district whereas land of 46 schools has not been mutated in favour of the Education Department. However, the report does not mention the budgetary allocation and the ratio of the school going children in the district. As regards the encroachments issue, it has been stated that a committee be formed to work out concrete proposals to remove illegal possessions and to

provide missing facilities to all the schools. It was further stated that the ban imposed by the Election Commission of Pakistan on development activities ought not to be treated as a hurdle in the provision of missing facilities or addressing the miserable conditions of schools. Utilization of funds for these purposes cannot be taken as initiating new schemes within the contemplation of ECP directive considering the sanctity attached to the educational institutions and no political motive or agenda ought to be attributed to the execution of schools related works.

RAJANPUR

101. As per report of the District & Sessions Judge, Rajanpur, 490 schools are fully functional in the district whereas there are no ghost schools as such. An amount of Rs.248,317,620/- was allocated in the budget for education in the district during the financial year whereas 32 % boys and 24% girls of the age of 4 to 13 years in the district are studying in the schools. Encroachments upon some of the schools' buildings by private persons were found due to inaction of the Education Department, but the same were got removed at the spot. No case concerning schools properties is pending before any forum.

RAWALPINDI

102. As per report of the District & Sessions Judge, Rawalpindi, 1993 schools are fully functional but 10 schools located in hard areas are not functional due to non-enrolment of students as people have migrated to urban areas of the district, however, there are no ghost schools as such. In all, 30 schools are lying vacant due to above reason or having been merged into other schools as per policy of the Government. An amount of Rs.5,790,942,000/- was allocated in the

budget for education in the district during the financial year. 70.5% children are studying in Provincial Government schools whereas 29.5% are studying in private schools or in the Federal Government schools. Encroachments upon some of the schools buildings exist mainly due to disputes of demarcation, but none of the schools was being used for Baithak/Authak. 16 cases were pending in different courts including the Lahore High Court, Rawalpindi Bench, and the Revenue Courts. In 5 cases, status quo order has been issued against the Education Department while in 3 cases status quo order has been issued in favour of the Department. The learned District & Sessions Judge has issued direction to Civil/Revenue Courts to expedite the disposal of such cases.

SAHIWAL

103. As per report of the District & Sessions Judge, Sahiwal, 1204 schools are fully functional and there are no ghost schools in the district. An amount of Rs.359,790,696/- was allocated for education in the district during the financial year and 98 % children in the district are studying in the schools. As regards encroachments upon schools' buildings, it has been stated that some portions of property of four schools were occupied illegally by some individuals, which were got vacated. The property of two schools was in possession of the Govt. Departments (Janbaz Force and Food Department). Three civil suits are pending adjudication.

SARGODHA

104. As per report of the District & Sessions Judge, Sargodha, 2042 schools are fully functional and there are no ghost schools as such. An amount of Rs.5,573.137 million was allocated for education in

the district during the financial year and the ratio of children who are studying in the schools in the district is 43 %. Encroachments exist upon 87 schools made by influential and the people neighbouring the schools premises due to inaction on the part of the Education Department to take legal action against encroachers. Five cases were pending adjudication between Education Department and private persons involving encroachments upon the schools properties. The concerned Courts have been directed to decide the same as quickly as possible.

SHEIKHUPURA

105. As per report of District & Sessions Judge, Sheikhpura, as a whole there are 1597 Government schools, out of which 1426 schools are fully functional while 130 schools were merged with other schools, and there are 41 non-functional schools in the district, but there are no ghost schools as such. An amount of Rs.3,412.515 million was allocated for education in the district during the financial year and 85 % children are studying in the schools. As regards encroachments upon schools' buildings', it has been stated that 11 schools were under illegal occupation and five of the encroachers were facing criminal cases side by side civil cases whereas in two matters, civil suits were pending in the Civil Courts. The Courts have been directed to be brought on the fast track cases.

SIALKOT

106. As per report of the District & Sessions Judge, Sialkot, 1992 schools are fully functional whereas 6 schools which are in the nature of ghost schools. An amount of Rs. 5,650,173,009/- was allocated for education in the district during the financial year and 20%

children are studying in the schools. All the schools in the rural areas are in dilapidated condition. 90% of the schools were without furniture and the remaining schools were having furniture of cheap quality, which was arranged by the teachers by collecting Rs.20/- from each student on account of Farogh-e-Taleem Fund. Students were sitting on the ground with fertilizer plastic bags underneath. 90% of the students had no books. The teachers did not give the appearance becoming of a teacher to be a role model for the students. Most of the officials of the Education Department were not visiting the schools. Furthermore, they had no control over the teachers/staff due to frequent political intervention, or blackmailing through anti-corruption department. From that point of view, none of the Government schools could be termed as properly functional. As regards encroachments upon schools' buildings', it has been stated that most of the encroachments were found due to negligence of Education Department. In response to question regarding litigation concerning properties of school, it has been stated that five civil suits are pending adjudication between the private individuals and the Education Department before civil courts, which will be decided within a shortest possible time.

TOBA TEK SINGH

107. As per report of the District & Sessions Judge, Toba Tek Singh, 1199 schools are fully functional whereas there are no ghost schools in the district. An amount of Rs. 3,698,229,200/- was allocated for education in the district during the financial year and 99.64 % children are studying in the schools. As regards encroachments upon schools' buildings', it has been stated that 29 schools were found encroached. Two civil cases concerning properties of schools are pending before the Civil Courts. The Education

Department was not pursuing the encroachment cases diligently. The DCO and the Education Department have been directed to remove the encroachments.

VEHARI

108. As per report of the District & Sessions Judge, Vehari, 1562 schools are fully functional whereas there are no ghost schools in the district. An amount of Rs. 2,321,821,479/- was allocated for education in the district during the financial year. It is stated that the ratio of children studying in the schools is given in Annexure-C, however, no Annexure has been attached with the report. As regards encroachments upon schools' lands/buildings, it has been stated that 45 schools were found under illegal occupation of different people due to inaction on the part of the Education Department. However, 37 schools were got vacated by the Assistant Commissioner on the request of the Education Department. Civil Revision No. 77-D of 2008 with status quo order is pending before Lahore High Court, Multan Bench and two cases are pending without issuance of status quo order with the Member, Board of Revenue, Lahore.

109. Mr. Babar Ali, learned Deputy Attorney General for Pakistan, by means of CMA 3748/2013, filed a summary on the conditions of schools in the Province of the Punjab. According to the said summary, there are 57814 fully functional schools whereas there is no ghost school as such in the Province, but some of the schools are non-functional due to shortage of teaching staff and lack of communication/infrastructure. As regards ratio of children studying in schools in the Province, it is stated that only 20% of the children of the age group of 5-16 years are studying in schools. It is further stated that to implement Article 25A, more funds are required for recruitment

of teachers, however, the newly elected Government has shown commitment to focus on education. On the question pertaining to encroachments upon the schools properties, the learned law officer stated that encroachments are partially due to the following reasons: -

- (i) Commercial interests in the urban area.
- (ii) Social power and control of landlords in the rural area.
- (iii) Ambiguous ownership documents.
- (iv) Political and social power of land mafia versus unprotected weak local school administration.
- (v) Weak legal support in litigation wing.
- (vi) Lack of proper management information system.

110. To overcome the aforesaid problems and address the issues so pointed out, the learned law officer made the following suggestions/recommendations: -

- (i) The Government may be required to allocate huge amount of money for realization of Article 25A.
- (ii) The private sector has to be promoted to share the burden.
- (iii) Household based taxation for education needs to be introduced in the Local Government System to increase resources to be utilized.
- (iv) Necessary legislation for compulsory education with a regime of incentives and punitive actions requires to be enacted.
- (v) Education management needs to be strengthened with more capacity to monitor and take prompt decision/action.
- (vi) Management Information System should be IT based.
- (vii) Decentralization of authority at the local and institutional level.

PROVINCE OF SINDH

111. The information/data pertaining to all the districts in the Province of Sindh provided by all the District & Sessions Judges in the Sindh received from the Registrar, High Court of Sindh is as under: -

BADIN

112. As per report of the District & Sessions Judge, Badin, 2897 schools are fully functional, whereas 294 schools are in the nature of ghost schools. A sum of Rs.41,731,669/- was allocated for education

during the financial year and 57.6% of children are studying in the schools in the district. The reason for encroachments on the schools properties is due to inaction on the part of higher authorities of the Education Department. The encroachers are either high Government officials or influential persons of the locality, as such, no action against them has been taken and no litigation is pending in this regard.

BENAZIRABAD

113. As per report of the District & Sessions Judge, Benazirabad, out of 2720 schools, 2365 schools are fully functional, 202 schools were non-functional and 355 schools are in the nature of ghost schools. A sum of Rs.62,688,000/- against SMC funds and Rs.57,111,500/- against regular budget was allocated during the financial year, whereas 53 % of children are studying in the schools in the district. Encroachments exist on the properties of 112 School by influential persons and villagers. On the question pertaining to litigation concerning schools lands, it has been stated that 2 matters are pending in the courts in this regard.

DADU

114. As per report of the District & Sessions Judge, Dadu, 1924 schools are fully functional, whereas 271 schools are ghost schools in the district. A sum of Rs.407,862,000/- was allocated for education during the financial year, whereas 46% of children are studying in schools in the district. The reasons for encroachments on the schools properties are that the schools were not functioning regularly and lack of interest on the part of the officials of the Education Department. Encroachers are influential persons of locality, as such no action was taken by the Department against them and no legal proceedings were

initiated. No litigation is pending between the Education Department and private persons who had allegedly encroached upon the properties of schools.

GHOTKI

115. As per report of the District & Sessions Judge, Ghotki, 1833 schools are fully functional, 189 schools are non-functional, 48 are ghost schools and 24 are in the nature of occupied schools in the district. An amount of Rs.1,213,170,370/-was allocated for education during the financial year. As regards ratio of children studying in schools, 70% students are shown present whereas 43% are shown absent. Some of the schools have been encroached upon by private persons, Police Department and NADRA, however, some of the schools were got vacated and possession thereof was handed over to the Education Department. No litigation exists in the district.

HYDERABAD

116. The District & Sessions Judge, Hyderabad has stated in the report that as per Education Department, there are 983 Primary & Elementary Schools and 97 Secondary & Higher Secondary Schools. It has been stated that according to the report of the Education Department, there are no ghost schools in the district. The District & Sessions Judge has further stated that ghost schools have been noticed in the area by the judicial officers in their reports, however, the said reports are not enclosed with the report of the District & Sessions Judge. It has been stated that the schools are in miserable condition due to mismanagement, inasmuch as there was no water and no washrooms. Schools buildings are not maintained. Schools are established in the Ahatas (bounded premises) meant for visitors in the

villages. Some were being used as cattle ponds. The Education Department made certain schools functional by temporarily bringing children and students from the villages or from other schools. Untrained and uneducated persons were working as teachers.

JACOBABAD

117. As per report of the District & Sessions Judge, Jacobabad, 952 schools are fully functional whereas 328 schools are non-functional and 191 are in the nature of ghost schools in the district. 73 schools of Taluka Thul mentioned in the list provided by the Education Department were not traced out for survey. As regards the amount of funds being spent for imparting education to the children, it is stated that SMC funds of Rs.22,000/- for each Primary School, Rs.50,000/- for each Middle School and Rs.100,000/- for each Higher Secondary Schools have been allocated for the purpose. However, as per report of DEO, Jacobabad, no such fund has been released by Reform Support Unit during year 2012. The number of students is 176,149 and the ratio of school going children in the district is 78.63%. Encroachments exist on 52 schools, but no action has been initiated by the Education Department. A portion of school land measuring 2000 square feet was forcibly occupied by the then DEO, namely, Mr. Shan Muhammad Brohi who built a mini-bungalow therein, which was found to have been sealed by NAB authorities while probing into the alleged bogus appointments by said DEO as per letter No. DC/JB/296/2013 dated 6.3.2013.

118. The District & Sessions Judge Jacobabad further stated that a large number of schools were found to be without electricity, drinking water, washrooms, sweeper, peon and the buildings of most

of the schools were found in dilapidated condition and not suitable for education. He further remarked that the supervisory staff of the Education Department never visit the schools and the feasibility reports for construction of schools are prepared according to the wishes of the local land lords/political figure. Five schools, namely, Government Boys Primary School, Government Boys Middle School, Government Boys High School, Dost Muhammad Sarki, Government Girls Primary School and Government Girls Middle School, Dost Muhammad Fazlani have been established in a village of about ten houses with an area of 20 Ghuntas. The District & Sessions Judge has further remarked as under: -

(i) Out of above five schools only one school GBPS Dost Muhammad Sarki was functioning, while GGMS Dost Muhammad Fazlani and GBHS Dost Muhammad Sarki were said to be under construction.

(ii) Another school namely, Govt. Girls middle School Special Force consisting of five rooms was constructed with estimated costs of Rs.15,00,000/- (Fifteen lacs) wherein the school functioned for few years but later on the school was shifted to the building of Govt. (b) primary school Rahim Bux Soomro where it is running in evening shift and the building constructed for the said school is lying vacant un-attended, for which, the education department is responsible for preparing feasibility report for the place where they are unable to educate female children and a probe is required, for taking necessary action against the responsible officers, as such in future the public money be utilized properly."

(iii) Another school, namely, Govt. Middle School Rahim Bux Soomro upgraded to Govt. High School Ahmed Mian Soomro in year-1995 and 08 rooms were constructed with estimated costs of Rs.19,87,950/-, which too remained un-attended and in damaged condition, for which, probe is also required. It is also main reason behind the above number of schools shown by the education department being non-functional."

(iv) During survey it was also found that the transfers and postings of the teaching staff are not proportionate to the number of students, but it appears that the transfers and postings are being made under the influence of teachers' union or otherwise.

The District & Sessions Judge has concluded that loss of public money as depicted from the above mentioned facts requires attention by the Education Department.

JAMSHORO

119. As per report of the District & Sessions Judge, Jamshoro, out of a total of 918 schools, 698 schools are fully functional, 145 schools are non-functional and 71 ghost schools in the district. A sum of Rs.137,075,991/-was allocated for education during the financial year. 43.5% children are studying in the schools in the district. Encroachments exist upon four schools properties, whereas one case is pending.

120. As regards condition of schools as observed during physical survey conducted with the assistance of Additional District & Sessions Judges Kotri and Sehwin and President & General Secretary of the District Bar Association, the District & Sessions Judge Jamshoro at Kotri stated that 71 ghost schools were found while 145 schools were found closed. He further stated that a large number of school were found without electricity, drinking water, washrooms and proper furniture. Maintenance and repair work of the schools buildings was not done since long and most of the school buildings were found in dilapidated condition, which showed that funds allocated for the said purpose were not being utilized properly. Some of the schools were under-staffed whereas others were over-staffed. Some schools were found closed due to flood and consequential migration of the people of the locality. The transfers and postings of the officers of the Education Department appear to be made under political influence. He has concluded that if an honest audit of the accounts of the Education

Department is conducted, it would reveal huge corruption and mismanagement.

KARACHI CENTRAL

121. As per report of the District & Sessions Judge, Karachi Central, 706 schools are fully functional, whereas there is no ghost school in the district. A sum of Rs.4,480,884,922/- was allocated for education during the financial year. The number of children of the age group between 5 to 16 years is 269,279 whereas the number of children enrolled in the schools is 124,244; thus, ratio of children studying in schools is 47.73%. On encroachments issue, it has been stated that two schools are partly encroached upon, however, no action has been taken by the Education Department except reporting to high-ups. No school is being used as *baithak/authak* and no litigation concerning schools properties is pending before any forum.

KARACHI MALIR

122. As per report of the District & Sessions Judge, Malir, (Karachi), 612 schools are fully functional, whereas there are three ghost schools in the district. A sum of Rs.1,204,359,561/- was allocated for education during the financial year. Ratio of children studying in schools is 20%. There are also 56 KMC schools and all of them are fully functional. A sum of Rs.8,490,979/- was allocated for education during the financial year. Ratio of children studying in KMC schools is 19%. Encroachments exist on one Government school and three KMC schools. The reasons for encroachments are inaction and lack of interest on the part of the officials of the Education Department and political influence. In one case, FIR No.40/2008 under section 448/511/427 PPC was registered at P.S. Sukhun, but no progress is

known to the Education Department. Two schools, namely, GGPS Lala Abad and GBPS Future Colony were encroached upon by the local persons, however, the same were restored to the Education Department.

KARACHI EAST

123. The Additional District & Sessions Judge, Karachi East, stated that as per information provided by the Secretary, Education Department, Government of Sindh, there are 574 schools, out of which three schools are temporarily closed. However, the details of schools provided by the Education Department did not match with the record of the Reforms Support Unit, which showed that the total number of schools is 739. Though the Education Department reported that there were no ghost schools in the district, but during physical verification, the Department failed to identify 12 schools whereas 20 schools were found to be non-functional.

124. As per initial information, a sum of Rs.28,172,000/- was allocated for education during the financial year. However, upon calling the details, it was found that a sum of Rs.2,170,110,072/- was allocated for the purpose, which showed a major discrepancy.

125. One Abdul Rehman Khan, General Secretary, Taleem Bachao Action Committee submitted application alleging therein that the Department has empowered non-gazetted staff to exercise the powers of Drawing & Disbursing Officer and besides, one DDO has been assigned several DDOs' assignment against the rules and regulations without any checks and balance system in place.

126. The ratio of children studying in the schools in the district was not available with the Education Department, however, the relevant information was obtained from NADRA, according to which it

is 33.13%. As regards encroachments issue, the Education Department stated that no encroachments exist upon any of the schools, however, during physical verification, 20 schools were found to be encroached. On the litigation issue, the Education Department stated that no case is pending before any forum, however, during physical verification, the Headmasters of seven schools informed that litigation is pending before different forums.

KARACHI SOUTH

127. As per report of the District & Sessions Judge, Karachi South, out of 427 schools, 376 are fully functional whereas 49 schools seem to be ghost schools in the district. As regards the allocation of fund, it was stated that a sum of Rs. 22000/- per school was allocated as per information gathered from departmental authorities, however, the schools/department authorities failed to provide any official document showing the allocation of funds and did not show the details of expenditure. The ratio of children studying in the schools in the district is 40.6%. On encroachments issue, it has been stated that a portion of GBPS, Genu Bai G. Allana, U.C. 2, Lyari, was found to have been encroached upon by U.C. 1, Agra Taj Colony, however, no action was taken by the departmental authorities. On the litigation issue, it was stated that no case is pending before any forum.

128. During physical verification, it was observed that the department is suffering from mismanagement and maladministration, inasmuch as a number of teachers were on the pay rolls of the department, but no record pertaining to their appointment/posting was provided by the department. Similarly, no record pertaining to repair and renovation of the schools buildings was made available.

Furthermore, the schools buildings were found in a worst condition, which is not suitable for imparting education to the children.

KARACHI WEST

129. As per report of the District & Sessions Judge, Karachi West, 405 schools are fully functional whereas there are 12 ghost schools and a sum of Rs.1,455,907,241/- was allocated for education during the financial year. The ratio of children studying in schools is 31.15%. However, the above figures given by the District & Sessions Judge do not tally with the figures given by the judicial officers of the district through whom the exercise was got carried out. A perusal of the data attached with the report of the District & Sessions Judge showed that there are 464 schools in the district, out of which 14 schools are partially functional, 22 schools are non-functional and 6 are ghost schools in the district. Furthermore, a sum of Rs. 1,459,569,038/- was allocated for education during the financial year. The District & Sessions Judge further stated that as per NADRA, record, 195,870 children are enrolled in schools and ratio of children studying in schools is 31.15%. As regards the reasons for encroachments, it has been stated that due to lack of will of the Heads of the schools and political pressure, no action has been taken. As per report of the department, no case is pending.

130. The judicial officers noticed lack of electricity, drinking water, washrooms and proper furniture. Maintenance and repair work of the schools buildings was not done since long and most of the school buildings were found in dangerous condition, which showed that funds allocated for the said purpose were not being utilized properly.

KASHMORE AT KANDHKOT

131. As per report of the District & Sessions Judge, Kashmore at Kandhkot, out of 1579 schools, 1294 are functional and 285 are non-functional schools and there are no ghost schools in the district. As regards the allocation of fund, it has been stated that SMC funds per year, (1) Rs.22000/- for Primary Schools, (2) Rs.50,000/- for Middle Schools, (3) Rs.100,000/- for High & Higher Secondary Schools (total funds of the district are Rs.30,152,000/-) were allocated, however, no record for utilizing the said funds was produced during the visit of schools. 67% children are studying in the schools in the district. 23 schools have been encroached and are being used for residential purposes, whereas 7 encroached schools are being used as *baithak/authak*. Schools are sanctioned unnecessarily in small villages and school buildings are encroached upon by *Waderas*. Due to political reasons, no action has been taken against them. No litigation concerning schools properties is pending before any forum.

KHAIRPUR MIR'S

132. As per report of the District & Sessions Judge, Khairpur Mir's, out of 3490 schools, 3381 schools are fully functional, 125 are non-functional schools having been closed for different reasons, many schools are without buildings, and are being run in other schools buildings, a large number of schools were short of furniture, fixtures, staff, however, there are no ghost schools in the district. Ratio of children studying in schools is 35% in the district. As regards allocation of funds for the purpose, it has been stated that SMC funds per year, (1) Rs.22000/- for Primary Schools, (2) Rs.50,000/- for Middle Schools, (3) Rs.100,000/- for High & Higher Secondary Schools (total funds of the district are Rs.2,681,272,860/-) were allocated.

Survey of the schools revealed that 11 schools have been encroached upon, however, encroachments upon three schools were got removed through the Court orders. It was further stated that two schools have been occupied by the owners of the land donated by them for establishing schools, who were demanding jobs in lieu of the land provided by them. Three schools were being used by influential persons for *baithak*/personal use, which were got vacated by the department. The main reasons for encroachments are lack of will on the part of the departmental authorities and political pressure. On litigation concerning schools properties, it has been stated that 2 cases are pending in the court of law.

LARKANA

133. As per report of the District & Sessions Judge, Larkana, 1356 schools are fully functional, 15 schools are non-functional, however, there are no ghost schools in the district. A sum of Rs.24,135,342/-was allocated for education during the financial year. The ratio of children studying in schools is 51.67% in the district. As regards the encroachments issue, it has been stated that 10 schools are encroached by landowners, 3 by influential persons, 3 by police, 1 by Rangers and 11 by others, thus in all 28 schools have been encroached. On litigation issue, it has been stated that no litigation exists between education department and private persons at the district level. However, the High Court of Sindh, Circuit Court, Larkana, through its combined order on petitions of plot donors has directed the plot donors to submit details of record and has also directed the Education Department to process their cases for their appointment in lieu of plots donated by them.

MATIARI

134. As per report of the District & Sessions Judge, Matiari, out of 990 schools, 853 are fully functional whereas 137 closed/non-functional schools in whole District (92 in Taluka Matiari, 11 in Taluka Hala and 34 in Taluka Saeedabad). As regards allocation of funds for the purpose, it has been stated that for welfare of schools, Rs.22,000/- for each Primary Schools, Rs.50,000/- for each Middle Schools and Rs.100,000/- for each High & Higher Secondary Schools have been provided, whereas total funds have been provided under five heads, namely, (1) School Specific Budget amounting to Rs.84,000,000/-, (2) SMC Funds amounting to Rs.26,218,000/-, (3) Stipends to Girls from class 6 to 10 amounting to Rs.17,887,200/-, (4) Free Text Books amounting to Rs.26,376,300/- and (5) SERP(TOP) amounting to Rs.100,000,000/-, totalling Rs.254,481,500/- for the financial year. 35% of children are studying in the schools in the district.

135. During survey by the Judicial Officers no High School or Secondary School found encroached in the District Matiari; however, encroachments exist in 6 Primary Schools. The common reason over the encroachment of the said schools is that due to no availability of the teachers the Villagers occupied it. Some of the Schools found constructed in the area where there is no population and those Schools are also occupied by the adjoining Zamindars. No action taken by the local administration or by the Education Department in this regard.

No litigation is pending in the Courts at District Matiari. However, the Education Department informed that a School namely Government Girls Community Primary School, Bakhar Jamali situated in Taluka Saeedabad is under litigation between the private person and the

Education Department before the High Court of Sindh Hyderabad Circuit [*Sujawal Jamali v. The Secretary Education and Literacy Government of Sindh Karachi* (C.P NO. D-149 of 2010)].

MIRPURKHAS

136. As per report of the District & Sessions Judge, Mirpurkhas, 1774 schools are fully functional and 24 schools are those which are ghost schools in the district. As regards the allocation of funds, it has been stated that Rs. 2,251,770,459/- was allocated in this regard, whereas 15.5% boys and 8.6% girls are studying in the schools in the district. On question pertaining to encroachments upon schools' buildings, or the schools' buildings being used for purposes other than education, it has been stated that encroachments exist in 3 schools. On the question pertaining to litigation concerning schools lands, it has been stated that 2 cases are pending in the court of law.

NAUSHARO FEROZE

137. As per report of the District & Sessions Judge Nausharo Feroze, out of 2473 schools, 2278 are fully functional and 195 are non-functional. However no ghost school exists in the District. A sum of Rs.3,231,842,760/- was allocated for education during the financial year. The ratio of children enrolled and getting education in Government schools has not been given. On the question pertaining to litigation concerning schools lands, it has been stated that 1 case is pending in the court of law. On question pertaining to encroachments upon schools' buildings, or the schools' buildings being used for purposes other than education, no answer has been given.

SANGHAR

138. As per report of the District & Sessions Judge, Sanghar, out of 3188 schools, 2873 are fully functional whereas 315 are in the nature of ghost schools. A sum of Rs.2,881,266,770/- was allocated for education during the financial year, whereas 71.83% of children are studying in the schools in the district. Encroachments exist upon land/buildings of 17 schools. On the question pertaining to litigation concerning schools lands, it has been stated that 6 matters pertaining to litigation are pending in the courts.

SUKKUR

139. As per report of the District & Sessions Judge, Sukkur, out of 1335 schools, 1193 are fully functional, 13 are partly functional and 108 are closed school, whereas there are no ghost school in the area. As regards allocation of funds for the purpose, it has been stated that SMC funds per year, (1) Rs.22,000/- for Primary Schools, (2) Rs.50,000/- for Middle Schools, (3) Rs.100,000/- for High & Higher Secondary Schools (total funds of the district are Rs.1,616,780,890/-) were allocated. The ratio of children studying in the schools in the district is 28.068%. The encroachments exist in 21 schools and the reasons for such encroachments are that some of the schools have been built on the land donated by persons of the locality and due to non-appointment of their person they have occupied the same, some of the schools buildings have been occupied by the powerful persons of the locality and used as baithak/authak, and some of the schools buildings have been using for other purpose due to lack of interest of education specially in rural areas. The Education department though got registered FIRs against the said persons but due to their political influence the concerned authorities are reluctant to get the same

vacated. However, no civil litigation between the education department and the private persons before the courts.

140. During visit of Additional District & Sessions Judge, Sukkur two schools were got vacated peacefully. It was further stated that during physical verification, it was found that conditions of the schools were deplorable having least basic facilities. Some of the schools are shelter less and require proper building. Heavy budget is shown to have been allocated against non-salary expenditure, but it appears that same is not being used for providing basic facilities in the schools. The buildings require repair, furniture, drinking water and appointment of teachers against vacant posts. It was also suggested that if judicial officers are deputed to do surprise visit of the schools every month, the deplorable condition of education can be changed.

TANDO ALLAHYAR

141. As per report of the District & Sessions Judge, Tando Allahyar, there are 843 schools in the district out of which 803 are fully functional whereas 40 are closed/ghost schools. A sum of Rs.49,339,420/- was allocated for education during the financial year. On litigation issue, it has been stated that no case is pending before any forum.

TANDO MUHAMMAD KHAN

142. As per report of the District & Sessions Judge, Tando Muhammad Khan, out of 1191 schools, 1187 schools are fully functional and 4 schools are non-functional, whereas there are no ghost schools in the district. A sum of Rs.24,652,000/- was allocated for education during the financial year, whereas 30% children are studying in the schools in the district. Encroachments exist on ten

schools land. On the question pertaining to litigation concerning schools lands, it has been stated that no litigation exists in this regard.

143. During inspection of the schools of Taluka Bulri Shah Kareem, it was observed that 27 Boys Primary Schools in the remote areas were closed temporarily due to political influence, however, the same were made functional. The teachers found absent without sanctioned leave were ordered to be proceeded under the disciplinary rules by the concerned DEOs. The SMC funds are being misused and in a vast majority of schools, no proper record is maintained at the school level and no such record was found with the Heads of schools. DEO informed that such funds are directly transferred to the concerned SMC bank accounts of each school are placed at the disposal of Chairmen who are private persons of concerned villages and are almost politically designated persons. The concerned Head of the school being Secretary of SMC has no decisive role as such the role of Chairman may be eliminated and/or instead the SMC funds may be allocated through Education Department at district level for utilization/monitoring and audit.

THARPARKER At MITHI

144. As per report of the District & Sessions Judge, Tharparker at Mithi, 3307 schools are fully functional, 858 schools are non-functional and no ghost school in the district. A sum of Rs.139,327,702/- as salary and Rs.63,180,000/- as non-salary was allocated for education during the financial year, whereas ratio of children going schools is 70% in the district. However, it has been pointed out that the ratio determined by education department is not correct and as observed during physical verification, it may be 50%. Encroachments existed in 18 schools, however, in addition to these 18

schools, some of the schools were temporarily occupied which were got vacated by the Education Department. One old hostel of GHSS, Chachro is in the possession of Rangers and the Deputy Commissioner is required to vacate it. The play-ground of GHSS, Islamkot was in occupation of some individuals and task is assigned to Deputy Commissioner for demarcation and restoration, if any. On the question pertaining to litigation concerning schools lands, it has been stated that no litigation exists in this regard.

145. It is also mentioned that teachers used to come late, some of the teachers/Head masters were absent without sanctioned leave, there were excess postings in some of the schools, some of the schools buildings were in poor condition, there were deficiencies with regard to class-rooms, toilets, libraries, etc.,

146. It has been stated that there is no shortage of male teachers in the district but due to mismanagement of Education Department, some of the teachers are posted in excess obliging the influential, therefore, the remote areas are not fed-up with teachers. The conduct of the officers of District Administration has made the education system barren. It has been suggested that if the children of all the officers of education department be bound down to get their education in Government schools it would improve the education system. The SMC funds are misused and mostly the concerned Heads of the school do not know the aims and objects of the scheme. The committees so constituted are also not vigilant, as there is great apprehension that the committees are constituted on the basis of favouritism in order to put cover upon ill working of the Education Department. The school buildings are constructed on the quotas of Parliamentarian, therefore in some areas there are too many schools

in other areas there is no school building. The required furniture is also not provided to those schools. Thus, the DEOs, etc., seem to be quite negligence and instrumental in the hands of the influentials. In the female section, the teachers are mostly posted in town, cities and the villages, therefore, the rural side/katcha areas are suffering from education disaster. In order to create grounds for establishment of schools, excessive enrolment is shown, when in fact there was no need of construction of additional classes/building. As such, Government exchequer has been badly misused and the Education Works Department is also not discharging its duties properly. The attendance was very poor in the schools and the reason disclosed was that elder/nek-merd of the area had died which was flimsy. A complaint was also received from a social worker about mismanagement, corruption and fake results. It was also disclosed that Reform Support Unit is working under the World Bank which provides stipend to every female student from class VI to X through money order but no student was reportedly receiving the said stipend.

THATHA

147. As per report of the District & Sessions Judge, Thatha, out of 3316 schools, 2383 schools are fully functional and 883 schools are closed whereas there are 14 ghosts schools in the district. As regards the allocation of fund, it has been stated that Rs.350,428,190/- (non-salary) was allocated in the budget for the financial year 2012-13, whereas ratio of children going to schools is 66.4% in the district. Encroachments exist in 36 schools out of which 6 have got vacated. The main reason for encroachments is the delinquency and ignorance on the part of Education Department. On the question pertaining to

litigation concerning schools lands, it has been stated that no litigation exists in the district.

148. Reportedly 247 computers, 56 UPS and 47 Printers were supplied of the schools of the whole district but on physical verification except 6-8 computers at Government Girls High Schools Ghara, no computer was found by the judicial officers, however, in the meeting, the officials of Education Department took brazen faced statement that all computers/equipment are available at the schools. On specific query about the availability of the computers at Government Boys High School Sonda, the officials admitted that computers at the said school had been stolen but no action was made in that context. SMC funds were neither properly utilized nor any proper accounts have been maintained by the schools and no audit report has been furnished by the department. The budget under the heads stationary, class material and co-curricular activities does not seem to have been properly utilized and/or misappropriated. Some of the schools were found closed during physical inspection, but in the account books the schools were shown as functional and funds were shown to have been allocated.

UMERKOT

149. As per report of the District & Sessions Judge, Umerkot, there are 2735 schools in the district, out of which 1980 schools are fully functional, 755 are non-functional, however there is no ghost school. An amount of Rs.986,346,988/- was allocated for education during the financial, whereas ratio of children studying in the schools is 34.92% in the district. The encroachments exist in 3 school, out of which GBPS, Mushtaque Ahmed Qaimkhani and GGPS Niaz Ali Kapri have been occupied by the influential persons due to political backing

and without any solid reason, and education authorities have failed to initiate action against them apprehending reprisal. Whereas, GGMS, Chhor Old has been occupied by the ISI due to non-availability of their building. No case is pending in any court of law between Education authorities and encroachers because the authorities of education Department, due to political influence, are unable to file complaints against influential persons or get schools vacated.

150. Mr. Muhammad Kassim Mir Jat, Additional Advocate General Sindh, by means of CMA 3799/2013, filed a summary on the conditions of schools in the Province of Sindh. According to the said summary, 46288 schools are fully functional in the Province and there is no ghost school as such, though some of the schools are not fully functional. He has described the following reasons for non-functioning of schools and encroachments upon the premises of the schools in the Province of Sindh: -

- (i) Law and order situation and tribal disputes.
- (ii) Migration due to floods.
- (iii) Schools in katcha areas.
- (iv) Shortage of teaching staff.
- (v) Lack of facilities, i.e. building, light, furniture, bath/rooms, roads, etc.
- (vi) Ownership disputes.
- (vii) Social power and political influence.
- (viii) Reluctance of lady teachers to leave their home towns.

151. To address and resolve the above issues, the learned law officer has made the following suggestions: -

- (i) Education budget allocation is to be enhanced.
- (ii) Appointments be made strictly on merit.
- (iii) Separation of teaching staff and administration.
- (iv) Decentralization of powers of appointment, posting, transfer and disciplinary action in accordance with service rules.
- (v) Improve the private sector, in order to raise funds and provide facilities.
- (vi) Training of staff and physical supervision from Union Council level to divisional level by higher authorities.
- (vii) Monthly inspection reports of schools by concerned officers.

- (viii) The representatives of people MPAs and MNAs are to be advised to participate in improvement of educational system within their respective constituencies.

152. We have perused the reports of the DEOs and the District & Sessions Judges as well as the summaries prepared by the law officers. While the reports are deficient in many respects, yet as much of the conditions prevalent in schools all over the country has come on record by means of those reports is far from being termed as satisfactory. At any rate, the reports bring out following issues, challenges and problems confronting the schools throughout the length and breadth of the country: -

- (1) The staff/teachers are not recruited on merits, rather on political and monetary considerations. Untrained and uneducated persons were working as teachers. Similarly, transfers and postings of teachers as well as the officers of the Education Department are made under political considerations and under influence of pressure groups of teachers associated with the unions;
- (2) Some of the schools were under-staffed whereas others were over-staffed;
- (3) Due to absence of fresh recruitments, there is shortage of teachers. Besides, the school teachers are attached with the health department for the purposes of polio campaign, particularly female teachers and are also deployed on election duty;
- (4) There is no record of daily attendance of teachers and no yardstick is available to measure the level of efficiency and performance of teaching staff. The teachers, in collusion with the concerned supervisory staff, either manage to mark proxies or engage local substitutions on payment of money;
- (5) The teachers were found in regular practice of obtaining leave for no reason or absenting from duty; and in some cases, even head of the school was found absent;

- (6) The teachers did not give the appearance becoming of a teacher to be a role model for the students;
- (7) Most of the officials of the Education Department were not found visiting the schools. Furthermore, they had no control over the teachers/staff due to frequent political intervention, or blackmailing through anti-corruption department;
- (8) In some areas, the Head Teacher of the school, without any documentary proof and observance of codal formalities is paid Rs.7,000/- per annum per room as maintenance charges, but there is no solid proof and record either in office of the concerned Head Teacher, the DEO concerned or the Head at district level to show as to how and under what criteria this public fund is being used;
- (9) In one case, a sum of Rs.40 million was placed at the disposal of Parents Teacher Association (PTA) during the previous financial year, but surprisingly even the very PTA did not exist in the district nor is there any record of expenditure of the allocated public fund. Thus, funds are not being utilized properly, which is indicative of lack of proper financial management and absence of any checks and balances within the department. It was suggested that if a proper audit of the accounts of the Education Department is conducted, it would reveal huge corruption and mismanagement;
- (10) Encroachments exist upon a large number of schools buildings/properties, however, no concrete steps are being taken by the Education Department against the encroachers;
- (11) In some of the schools under encroachment, the premises had not been legally handed over to Education Department and the buildings of the schools had been constructed on funds of the Senators disbursed during the 80's, as such the premises were not on record of Education Department. In absence of proper handing over and taking over by the Education Department, sanctioned strength of the staff could not be ascertained;

- (12) Most of the primary schools are sanctioned/built on political considerations and owners of the land are using the same as their houses/*baithaks*;
- (13) Some schools were found closed due to floods and consequential migration of the people of the locality;
- (14) The building of the Government High School in Dir Town was given on lease to Fatima Model School and the said school is functional. It calls for an inquiry whether such lease of a Government school is permissible;
- (15) Some of the DEOs submitted a report/certificate that no ghost, non-functional or encroached school exists in the entire district. However, during visits of the judicial officers, it was observed that many of the schools were either ghost/non-functional or encroached schools. Besides, a lot of schools were found temporarily closed during working hours.
- (16) The building of Government Middle School, Kabalgram was found in occupation of Pak-Army;
- (17) The Government Middle School situated at Dobando Dera was found occupied by the Security Forces for operational purposes against militancy;
- (18) One old hostel of GHSS, Chachro was in the possession of Rangers;
- (19) Two schools in Dera Ismail Khan were closed by the land owners as mutations in favour of Education Department had not been attested, but the school buildings have been constructed thereupon. The cases regarding both these schools have been forwarded to the Anti-Corruption Department, D.I. Khan for probe and necessary legal action;
- (20) A large number of schools were found without electricity, drinking water, washrooms and proper furniture. Maintenance and repair work of the schools buildings was not done since long and most of the school buildings were found in dilapidated condition, which showed that funds allocated for the said purpose were not being utilized properly; and

- (21) The number of non-enrolled students was not ascertained either due to lack of interest/resources or due to non-cooperation of the executive agencies of the district.

153. The above state of affairs shows that the most important aspect of human life, viz., imparting of education to the future generations is being ignored like anything. Recently, this Court, in the case of *Fiaqat Hussain v. Federation of Pakistan* (PLD 2012 SC 224), has had the occasion to deal with the issue of non-payment of salaries to the teaching staff of the community welfare schools. In the course of the judgment, the Court, having noticed apathy on the part of the Governmental authorities in the matter of payment of salaries to the concerned staff, highlighted the importance of imparting of education in the light of the Injunctions of Islam as laid down in the Holy Quran and Sunnah of the Holy Prophet (SAW) as well as the vision of *Quaid-e-Azam* Muhammad Ali Jinnah, the founder of Pakistan on the issue, with a view to calling upon the concerned stakeholders to come forward and pay attention to the issue by according due priority to the matter. In that behalf, the Court recapitulated the relevant material in the following terms: -

Allah Almighty in first revelation ordained the Holy Prophet (Peace Be Upon Him) as follows: -

Read in the name of your Lord, Who created, man from a clot. Read, for your Lord is most Generous, Who teaches by means of the pen, teaches man what he does not know. [96:1-5]

Allah Almighty, in the divine Book, also declared the superiority of Adam over the angles because of knowledge and emphasized as under: -

And He taught Adam the nature of all things; then He placed them before the angels, and said: "Tell Me the nature of these, if ye are right". They said: "Glory to Thee: of knowledge we have none, save what Thou Hast taught us: in truth it is Thou Who art perfect in knowledge and wisdom." [2:31-32]

In *Surah Taha* the Prophet (SAW) has been asked to pray in the following words: -

O Lord, increase my knowledge. [20: 114]

In *Surah Baqra* (Heifer), Allah ordained as under: -

But the best of provisions is right conduct, so fear Me! O ye that are wise. (2:197).

The Holy Prophet (SAW) emphasized upon acquisition of knowledge in the following words: -

Seek knowledge from the cradle to grave.

The Holy Prophet (SAW) compared an "Aalim" with a martyr in the cause of Islam in the following words: -

A drop of sweat of the brow of thinker is better than the thousand blood drops of the martyr.

On another occasion, it has been said: -

Whoever seeks a way to acquire knowledge, Allah will make easy his way to Paradise. [Sahih Muslim]

Stressing upon the need of knowledge, the Holy Prophet (SAW) also said: -

Seeking knowledge is obligatory upon every Muslim. [Sunan Ibn Majah]

Dr. Maurice Bucaille in the book titled, "***The Bible, The Quran and Science***" has argued that Islam is a scientific religion, which emphasizes upon the need of scientific inquiry.

The role and importance of education in the development of society/nation did not escape the vision of *Quaid-e-Azam* Muhammad Ali Jinnah, the founder of Pakistan. In his Presidential Address delivered on March 23, 1940 at All India Muslim League, Lahore, he said: -

Come forward as servants of Islam, organise the people economically, socially, educationally and politically, and I am sure that you will be a power that will be accepted by everybody.

On another occasion, the *Quaid-e-Azam* said: -

You must concentrate on gaining knowledge and education. It is your foremost responsibility. Political awareness of the era is also part of your education. You must be aware of international events and environment. Education is a matter of life and death for our country.

154. This Court in the above referred judgment also observed that informal/free education system has been adopted in a number of countries like Greece, Britain and Ireland, thus, the system of free education is in vogue not only in the developed world, but also in the developing countries. In the above backdrop, by Article 25A inserted into the Constitution by means of the 18th Constitutional Amendment, a new fundamental right has been added in the Chapter on Fundamental Rights in the Constitution of Pakistan. This Article envisages that the State shall provide free and compulsory education to all children of the age of five to sixteen years in such manner as may be determined by law. It was also noted in the said judgment that the provision of Article 25A had been introduced in the light of the teachings of Islam and the vision of the father of the nation. True, the mandate of the Constitution contained in the Directives Principles of State Policy is not enforceable in the courts of law, as is the case with the Fundamental Rights, but that factor does not relieve the executive authorities of the State from their obligation under Article 29(1) of the Constitution, which saddles each organ and authority of the State and each person performing functions on behalf of an organ or authority of the State with the responsibility to act in accordance with those Principles insofar as they relate to the functions of the organ or authority. Article 37(a) of the Constitution requires the State to promote with special care, the educational and economic interests 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 may be 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.

155. It needs to be reiterated that in the successful life of an individual, the education plays an important role. Absence of education impedes progress of the society. Education plays an important role to promote knowledge and understanding of rural communities. An educated person is in a better position to contribute in the development of the society. Education is a key to move forward and achieve success in life. In the process, the teachers play a most important role in educating children and developing their capabilities and skills to meet the challenges of their future life. It has also been highlighted in the aforesaid judgment that formal education is imparted through the medium of educational institutions, e.g. school, colleges, etc., set up in the public and the private sectors. On the other hand, informal education is a general term for education outside the standard school set up. It refers to various forms of alternative education, such as non-schooling or house-schooling, etc. In Athenian society, some countries had schools having teachers and pedagogues. Pedagogues shared some qualities with specialist informal educators. They were family attendants (often slaves) whose duties were to supervise, and be with young sons of their master. They used to take the boys to school and would sit with them in the classroom. The teacher would teach children only letters, while the pedagogue would teach them how to behave. In Britain, the first adult educators were

the missionaries who came from Ireland or from continental Europe. For many centuries, the Church remained the greatest educational force in the country [Kelly 1970: 1]. The clergy, the formal religious leadership, had a duty to teach which they did through preaching, talking with people and through more specialized means such as schooling. From the late 1370s, preachers started to spread the gospel around Britain. By the middle of the fifteenth century, community libraries were established. In the seventeenth century, the academies and charity schools were also established. In the nineteenth century, there was great increase in informal educators, particularly associated with the emergence of philanthropic organizations, such as, YMCA founded in 1844. In the late 1960s and early 1970s, non-formal education became part of the international discourse on education policy. It was related to the concepts of recurrent and lifelong learning. Tight (1996: 68) suggested that the latter concepts had to do with the extension of education and learning throughout life. Non-formal education is about acknowledging the importance of education, learning and training, which takes place outside recognized educational institutions. Fordham (1993) suggested that in the 1970s, four characteristics were associated with non-formal education, namely, relevance to the needs of disadvantaged groups; concern with specific categories of persons; a focus on clearly defined purposes; and flexibility in organization and methods.

156. As is the case with many other countries, formal and informal ways of education are prevalent in Pakistan too. In the good old days, all attention of a teacher was focussed on how to educate children in every possible way. In the process, they would establish a personal contact and liaison not only with each and every child of their

class, but also with the parents of every child. If any of the students would absent himself from school, they would reach out to his house and require the parents to ensure that the child attends the school regularly. That type of spirit of commitment and dedication on the part of the teachers is urgent need of the hour to advance the cause of education.

157. After the advent of the formal education system, inspection of schools/colleges was a regular feature of the functioning of the Education Department. The school administration, in anticipation of the inspection/surprise visits, would keep an eye on the proper management of the school affairs, including maintenance of the school buildings, cleanliness and gardening. This needs to be revived because system of checks and balances in some form is essential for good governance in any public institution. No doubt, the head of the educational institution is primarily responsible for the smooth conduct of the school affairs pertaining both to the teaching side as well as the management/administration of the institution, but the presence of checks and balances, in no way, can furnish a cause of prejudice to anyone or be taken as interference in the domain of the school administration. These perspectives in mind, it is imperative that all the state functionaries at the district level sit together and spend their time and energy in finding out ways and means whereby the mandate of the Constitution contained in Article 25A can be fulfilled in the best interests of the nation.

158. As per the statistical data of the overall educational system of the country presented before the Court during the hearing of the instant petition, 260,903 Government and private institutions up to the level of secondary school education exist in the country, which are

providing education to approximately 41,018,384 students with the help of 1,535,461 teachers. The Government institutions are providing education facilities to 25.97 million students while private institutions are imparting education to 14.85 million students. 53% of the teachers are serving in the public institutions while 47% are employed in the private sector. They are responsible for imparting education at the pre-primary, primary, middle, high, higher secondary, intermediate/degree colleges, universities, technical and vocational institutions, teacher training institutions, non-formal basic education as well as Deeni Madaris (religious institutions).

159. As per the available data the major part of our education system i.e. 59.2 % is shared by the primary schools, 16.11% by middle schools, 11.01% by high schools, 1.72% by higher secondary/inter-colleges, 0.54% by degree colleges, 1.25% by T&V institutions, 5.03% by non-formal basic education, 5.02% by teacher training institution, 0.07% by Deeni Madaris whereas 139 universities have least share in education system to the extent of only 0.05%.

160. There are 48,634 educational institutions located in urban areas of the country out of which 62% are in the private sector. These institutions are catering to 7,232,574 male and 6,256,502 female students. The share of private sector in urban areas in term of enrolment is 53%. A total of 185,321 male and 410,797 female teachers are providing their services in urban schools, out of which 62% are working in the private sector. A total of 182,517 institutions are functioning in rural areas of the country. A total of 777,938 teachers are working in educational institutions of rural areas, including 47% female teachers whereas 263,226 teachers are performing their duties in the private sector, which is 33% of the total

teachers working in rural areas. As per Educational Statistics 2011-2012 compiled by the National Education Management Education System (NEMES) Team, 505 pre-primary schools, 154,145 primary schools, 41,945 middle schools, 28,655 high schools, 4,515 higher secondary schools/intermediate colleges, 1,384 degree colleges, 139 universities, 13,213 basic community schools, 3,257 vocational training institutions, 189 teacher training institutions, 13,075 Deeni Madaris are functioning in the country.

161. In the instant case, this Court has considered conditions of the Government educational institutions comprising primary, middle and high schools in terms of Article 25A of the Constitution, which envisages that State shall provide free and compulsory education to all the children of the age of 5 to 16 years. As regards the remaining categories of the educational institutions noted hereinabove, they did not form the subject matter of the petition.

162. Physical inspection of the Government run educational schools conducted under the supervision of the judicial officers being the survey which has been carried out for the first time in the history of the country has brought to limelight the miserable conditions and numerous problems both in urban and the rural areas that the schools are afflicted with throughout the length and breadth of the country. The inspection reports have provided authentic data and incontrovertible facts. This exercise has been undertaken from two points of view, namely, the Constitution guarantees basic right of life to all the citizens/subjects of the Constitution under Article 9 of the Constitution, and secondly, Article 25A has envisaged a Fundamental Right of compulsory and free education for the children of 5 to 16 years of age. As far as Article 9 is concerned, the word "life" occurring

in said Article has received interpretation in different contexts in a large number of cases decided from time to time and now it is well-settled that the word 'life' cannot be assigned limited meaning and its scope has been enlarged enough to encompass almost each and every aspect of human life. In the year 1876, Field, J., in the case of Munn v. Illinois [(1876) 94 US 113], held as under: -

"By the term 'life', as here used, something more is meant than mere animal existence. The inhibition against its deprivation extends to all those limbs and faculties by which life is enjoyed. The provision equally prohibits the mutilation of the body by the amputation of an arm or leg, or the putting out of an eye, or the destruction of any other organ of the body through which the soul communicates with the outer world. The deprivation not only of life, but of whatever God has given to everyone with life for its growth and enjoyment, is prohibited by the provision in question if its efficacy be not frittered away by judicial decision."

The Indian Supreme Court in the case of Kharak Singh v. State of U. P. (AIR 1963 SC 1295) = [(1964) 1 SCR 332] relying upon the observations of Field, J. passed in Munn's case (*supra*) held as under: -

"By the term 'life' as here [Article 21] used something more is meant than mere animal existence. The inhibition against its deprivation extends to all those limbs and faculties by which life is enjoyed."

In the case of Board of Trustees, Port of Bombay v. Dilip Kumar (AIR 1983 SC 109) = [(1983) 1 SCR 828], it was held that the expression "life" does not merely connote animal existence or a continued drudgery through life, the expression life has a much wider meaning. The same view was reiterated in the case of Delhi Transport Corporation v. DTC Mazdoor Congress (AIR 1991 SC 101). In the case

of Dr. Mehmood Nayyar Azam v. State of Chhattisgarh [(2012) 8 SCC 1] = (2013 SCMR 66), after relying upon the cases of Francis Coralie Mullin v. Administrator, Union Territory of Delhi (AIR 1981 SC 746) = [(1981) 1 SCC 608] and D.K. Basu v. State of W.B. (AIR 1997 SC 610), it was held that the right to life is enshrined in Article 21 of the Constitution and, a *fortiori*, it includes the right to life with human dignity and all that goes along with it. In our own jurisdiction, the word "life" used in Article 9 of the Constitution, has been interpreted by this Court in the case of Shehla Zia v. WAPDA (PLD 1994 SC 693) in the following words: -

"Article 9 of the Constitution provides that no person shall be deprived of life or liberty save in accordance with law. The word "life" is very significant as it covers all facets of human existence. The word "life" has not been defined in the Constitution but it does not mean nor can it be restricted only to the vegetative or animal life or mere existence from conception to death. Life includes all such amenities and facilities which a person born in a free country is entitled to enjoy with dignity, legally and constitutionally. Therefore, Article 184 can be invoked"

The same view was reiterated in the case of Arshad Mehmood v. Government of Punjab (PLD 2005 SC 193), In Re: Human Rights Case regarding fast food chain in F-9 Park (PLD 2010 SC 759), Bank of Punjab v. Haris Steel Industries (PLD 2010 SC 1109), In Re: SMC No.13 of 2009, case regarding Multi-Professional Housing Schemes (PLD 2011 SC 619), and Fiaqat Hussain v. The Federation of Pakistan (PLD 2012 SC 224). In the case of Watan Party v. Federation of Pakistan (PLD 2011 SC 997) it was held that it is the duty of the State to protect and safeguard all the Fundamental Rights including the right to life and liberty as envisaged by Article 9 of the Constitution. In

Abdul Wahab v. Habib Bank Ltd. (2013 SCMR 1383) it was held that the right to life should be given an extended/broader meaning.

163. As regards the other aspect, viz., insertion of Article 25A in the Constitution by means of the 18th Constitutional Amendment, it may be noted that in Fiaqat Hussain's case (*supra*) this Court has already made observations about the implications of Article 25A read with Article 29(1) and Article 37 of the Constitution which mandate the State to promote, with special care, the educational and economic interest of backward classes or areas. It was further observed that it is the obligation of the State to ensure enforcement of Fundamental Rights guaranteed under the Constitution.

164. Although the issues, challenges and the problems confronting the schools throughout the length and breath of the country as reflected in the reports received from each district of the country province-wise have been noted hereinabove, but in view of the great importance attached to the instant case, it is deemed appropriate to summarize the above information/data in a tabulated form as under: -

Name of the District	No of schools urban/rural	Non-functional	No. of students / ratio	No. of teachers	Ghost schools	Reasons of absence students/ teachers	Under illegal occupation	Annual budget (Millions)
Islamabad								
Islamabad	383		--	--	No	--	--	287.45
Balochistan								
Dera Allah Yar	331	39	50%	--	No	--	Some	--
Gawadar	258	10	95%		No		No	262.25
Islamabad	383		--	--	No	--	--	287.45
Kalat	333	22	12.50%	--	No	--	--	--
Khuzdar	609	38	22.50%	--	No	--	No	--
Kohlu	427	--	--	--	--	--	--	--
Lasbella	587	--	39%	--	--	--	--	506.191
Loralai	37	4	--	--	--	--	--	--

Mekran	--	--	--	--	--	--	--	--
Nasirabad	408	6	42.50%		33	Non posting of teachers	2	--
Noshki	220	14	24828	--	--	--	--	341.373
Panjgur	343	--	84.50%	--	--	--	--	447.569
Pishin	875	27	68000	--	--	Non posting of teachers	Some	644.97
Quetta	552	1	55%	--	--	--	--	1661.736
Sibi	263	8	--	--	--	Tribal disputes, Insecurity, Non maintenance	--	--
Usta Muhammad	288	7	62.50%	--	7	Proxy teachers	4	

Khyber Pakhtunkhwa

Abbottabad	--	Most of the schools	--	--	No	--	--	--
Bannu	1518	57	129662	--	No	--	Some	32.045
Battagram	788	Some	--	--	Some	Proxy teachers	--	--
Buner	791	14	--	--	--	Lack of devotion, Hardships in transit	Some	1041.141
Charsadda	--	Some	--	--	--	--	Some	--
Chitral	793	Some	73101	2853	--	--	Some	1277.726
Dera Ismail Khan	1605	11	--	--	--	Proxy teachers	27	--
Dir Lower	1571	6	394443	6890	--	--	--	1829.640
Dir Upper	942		190927	5991	--	--	2	112.606
Hangu	397	62	40%	--	--	--	2	655.354
Haripur	313	3	--	--	--	--	--	--
Karak	--	Most	--	--	--	Proxy teachers	--	--
Kohat	819	32	113221	--	--	--	Some	1683.810
Kohistan	1169	878	Lowest	--	--	Non availability of teachers	--	898.996
Lakki Marwat	--	--	50%	--	50%	Private business	--	166.797
Malakand	43	--	71.43%	--	No	--	--	--
Mansehra & Tor Ghar	--	--	--	--	No	--	--	--
Mardan	1737	--	341523	--	--	--	24	--
Nowshera	978	--	64.8%	--	--	--	--	1671.147
Peshawar	1181	7	331094	--	--	--	13	--
Shangla	--	10	--	--	3	Absentee of teachers	Many	--
Swabi	1312	--	140990	--	No	Absentee of teachers	No	2399.217

Swat	--	83	--	--	No	Absentee of teachers	Some	--
Tank	418	34	--	Beyond sanction strength	No	--	3	--
Punjab								
Attock	1265	--	95%	--	No	--	28	3116.043
Bahawalnagar	2231	43	87%	--	--	--	2	4539.721
Bahawalpur	2122	--	99.93%	--	2	--	5	--
Bhakkar	1337		98.64%		3	--	20	41.892
Chakwal	802	7	--	--	6	--	23	218.387
Chiniot	899	--	--	--	No	--	No	1272.565
D.G. Khan	2044	--	--	--	2	--	3	--
Faisalabad	2135	--	96.5%	--	--	--	Some	9333.860
Gujranwala	1671	--	--	--	8	--	58	6829.015
Gujrat	909	--	--	--	9	--	Some	--
Hafizabad	900	6	92%	34:1	No	--	9	1639.888
Jhang	1665	--	87%	--	No	--	No	61.158
Jhelum	863	--	85%	--	No	--	5	2464.928
Kasur	1620	--	93%	--	No	--	Some	3823.920
Khanewal	1600	--	96%	--	No	--	Some	4630.010
Khushab	1037	--	96.54%	--	3	--	2	3776.671
Lahore	1205	--	76%	--	6	--	12	1200.000
Laayah	1668	--	95.37%	--	No	--	10	3512.033
Lodhran	797	--	83%	--	No	--	Some	3.820
Mandi Bahauddin	987	--	90%	--	No	--	12	12.010
Mianwali	1140	--	93%	--	No	--	Some	2601.976
Multan	1434	--	300,000	--	No	--	Some	5120.448
Muzaffargarh	2089	--	100%	--	24	--	3	233.522
Nankana Sahib	734	--	95.8%	--	No	--	10	2308.953
Narowal	1280	--	97.72%	--	14	--	1	1384.384
Okara	1671	--	--	--	No	--	Some	2399.085
Pakpattan	910	--	63.07%	--	--	--	--	2132.215
Rahim Yar Khan	1879	62	--	--	--	Non availability of teachers	56	--
Rajanpur	490	--	28%	--	--	--	--	248.318
Rawalpindi	1993	10	70.5%	--	No	Migration of citizen	16	5790.942
Sahiwal	1204	--	98%	--	No	--	2	359.791
Sargodha	2042	--	43%	--	--	--	87	5573.137
Sheikhupura	1597	41	85%	--	No	--	11	3412.515

Sialkot	1992	--	20%	--	6	90% without furniture	Most	5650.173
Toba Tek Singh	1199	--	99.64%	--	No	--	29	3698.229
Vehari	1562	--	--	--	--	--	8	2321.821
Sindh								
Badin	2897	--	57.6%	--	294	--	Some	41.732
Benazirabad	2720	202	53%	--	355	--	112	119.800
Dadu	1924	--	46%	--	271	--	Some	407.862
Ghotki	1833	189	70%	--	48	--	24	1213.170
Hyderabad	1080	--	--	--	No	--	--	--
Jacobabad	952	328	78.63%	--	191	--	52	--
Jamshoro	918	145	43.5%	--	71	--	4	137.076
Kamber-Shahdadkot	1374	--	62.85%	--	269	--	35	28.943
Karachi Central	706	--	47.73%	--	No	--	2 (Partial)	4480.885
Karachi East	739	20	33.13%	--	12	--	20	2170.110
Karachi Malir	612	--	20%	--	3	--	--	1204.360
Karachi South	427	--	40.6%	Beyond sanctioned strength	49	Absentee of teachers	--	--
Karachi West	464	36	31.15%	--	6	--	Some	1459.569
Kashmore	1579	285	67%	--	No	--	23	30.152
Khairpur Mir's	3490	125	35%	--	--	No buildings	11	2681.272
Larkana	1356	15	51.67%	--	No	--	28	24.135
Mastiari	990	137	35%	--	--	Non availability of teachers	6	254.482
Mirpurkhas	1774	--	12.05%	--	24	--	3	2251.770
Nausharo Feroze	2473	195	--	--	No	--	--	3231.843
Sanghar	3188	--	71.83%	--	315	--	17	2881.267
Sukkur	1335	108	28.068%	--	No	Non-appointment of the landowner's persons	21	1616.781
Tando Allahyar	843	--	--	--	40	--	--	49.339
Tando Muhammad Khan	1191	4	30%	--	No	--	10	24.652
Tharparker	3307	858	50%	Beyond sanctioned strength	No	Regular absentees	18	202.508
Thatha	3316	883	66.4%	--	14	--	30	350.428 (non-salary)
Umerkot	2735	755	34.92	--	No	--	3	986.347

165. The above data adequately reflects the pathetic conditions prevalent in the Government owned educational institutions comprising primary, middle, high and higher secondary schools. The pictorial view of some of the schools situated in the urban areas of the Province of Sindh, as reflected in the above reports, shows that instead of using the school premises for imparting education to the children, influential persons have forcibly occupied the same and a number of them are being used as cattle sheds, which is very unfortunate.

166. A perusal of the material brought on record extracts thereof have been used for indentifying the miserable conditions prevalent in the educational system of the country shows that education is not being accorded priority it deserves. It is non-compliance with the Islamic injunctions highlighted hereinabove and non-enforcement of the Constitutional provisions referred to hereinabove, particularly Article 25A of the Constitution. Undoubtedly a number of Commissions were appointed by the Government from time to time to suggest reforms in the educational system of the country, but it seems that no serious effort has been made to implement the recommendations of those Commissions and achieve the object. A Commission on Students' Problems and Welfare was set up under a notification of the Ministry of Education, Government of Pakistan as far back as on 15.12.1964. The Commission originally comprised Mr. Justice Hamoour Rahman, Judge, Supreme Court of Pakistan (Chairman), Mr. Justice S.A. Mahmood, Judge, High Court of West Pakistan (Member), Kazi Anwar-ul-Haque, Chairman Central Public Service Commission (Member) and Mr. Nasir Ahmad, Chairman

West Pakistan Public Service Commission (Member). The terms of reference of the Commission as set out in the notification were as follows: -

- (1) To examine the provisions of the University Ordinances and suggest modifications wherever necessary;
- (2) To take stock of existing facilities for a sound programme of studies and to suggest remedial measures commensurate with available resources;
- (3) To determine the adequacy or otherwise of the recreational and welfare facilities of students and suggest ways and means of providing them within available resources;
- (4) To examine any other matter affecting student life.

167. The Commission on National Education, constituted earlier in the year 1959, in its report dated 06.04.1959 emphasized that compulsory education at the elementary stage is indispensable for skilled manpower and intelligent citizens, for this at least eight years schooling is required. It was recommended that education should be made compulsory upto primary level by the year 1969 and upto middle level by the year 1974.

168. It seems that the educational system has been facing two problems, namely, the existence of ghost schools and absenteeism of the teachers. The study conducted by Basic Education Community Schools (BECS) Project in the year 2012-2013 by a Third Party Validation Team hired by the Government revealed that ghost schools existed in all Provinces of Pakistan and their number was identified to be 1205 where teachers were getting salary but not imparting education at all. Statedly, this project is being run with a budget of Rs.7 billion. It was further pointed out that 57 ghost schools exist in Islamabad, 345 in KPK, 305 in FATA, 276 in Punjab, 69 in Balochistan, 64 in Sindh, 48 in Azad Kashmir and 41 in Gilgit Baltistan. If the

contents of this report are correct, though a heavy budget is being spent, but the respective Governments are not getting any benefit from the project.

169. Second main reason pointed out by the Transparency International in its Global Corruption Report on Education released in January, 2013 is the teachers' absenteeism, which is one of the most serious forms of corruption in the education sector. This Report has disclosed the percentage of teachers' absenteeism in different countries, namely, Kenya, Uganda, India, Ghana, Senegal, Indonesia, Zambia, Pakistan, Bangladesh, etc. A common problem in most of these countries is that the teachers show up in the class room, stay for a while and then leave the institution for one or the other reason. The report also states that "as learning level improves as a result of dedicating teaching, more students are likely to continue with their schooling. The impact of teacher absenteeism is much stronger on girls than on boys because the demands for girls' education are more responsive to whether any learning actually takes place (King, Orazem, and Paterno 1999)."

170. The Pakistan Rural Household Facilities Survey (2001) found that there were no classes being held in 34 out of 200 schools it surveyed. The school teachers remained absent at times authorisedly as well as on the pretext of performing other duties assigned to them, like participating in any campaign launched by the Government in other fields, e.g., invigilation during examination upto the level of universities, polio vaccination to the children, census preparation of electoral rolls, attending election duties, etc.

171. As far as unauthorised absenteeism is concerned, there could be number of reasons like non-availability of transport, lack of

residential accommodation, absence of infrastructure like classrooms, etc., and that at times teachers impart education to the students in the open sky as has been noticed in the instant case where, upon a letter, reference of which in the background of the case has been given, the proceedings were initiated. Other causes for ever deteriorating educational standards include, *inter alia*, appointments/transfers on considerations other than merit, lack of public recognition of teachers in contrast to other professionals, e.g., doctors, engineers, lack of motivation, especially at primary school level, etc., which is evident from the material presented before the Court in the instant proceedings.

172. It may not be out of context to note that previously the subject of education was included in the Concurrent Legislative List whereas after the 18th Constitutional Amendment, it has been transferred to the Provinces whereas in the case of ICT, Parliament has to promulgate laws after obtaining a resolution from any of the Provinces under Article 144 of the Constitution because in absence of legislation in respect of education in ICT, legally and constitutionally it would not be possible to provide legal cover to the institutions being run in ICT. However, it is quite convenient to do so.

173. It may be pointed out that in the case of *G.A. Miana etc. v. Federation of Pakistan* (Constitution Petitions No. 33 & 34 of 2011), challenge was thrown to the 'Devolution of Activities' in pursuance of abolition of Concurrent Legislative List under the 18th Constitutional Amendment and transfer of the subject of education to the Provinces. It was stated in the petition that HEC is an autonomous organization by virtue of Higher Education Commission Ordinance, 2002, established to improve and promote higher education, research and

development. It was further stated that HEC is not attached to the Ministry of Education rather it functions under the control of the Prime Minister. In that case, this Court considered the status of HEC in the light of HEC Ordinance, 2002 read with entries at Serial No. 16 & 17 of Part-I and Serial No. 7, 11 & 12 of Part-II of the Federal Legislative List and in response to notice, the learned Attorney General for Pakistan appeared before the Court and made a statement to the effect that status of HEC shall remain intact unless the same is changed by promulgation of some legislation in this behalf. It was further stated that HEC shall continue discharging its functions and duties as it had been doing in the past and that the notification dated 31.03.2001 shall have no effect on the functioning of HEC and in case of any conflict/inconsistency between the notification and the provisions of the Ordinance, the Ordinance shall prevail. Ultimately, the appointment of Acting Executive Director of HEC was declared to be contrary to HEC Ordinance and notification of said appointment was declared illegal and void.

174. Now after devolution of the subject of education to the Provinces, it is obligatory on the Provincial Governments to ensure that the children of respective areas receive education as a Fundamental Right at all tiers of the education system; and it will only be possible if all the Provincial Governments as well as the Federal Government to assign top most priority to the subject of education because by imparting good education to our children we can make progress and ensure prosperity of the country; but unfortunately, as so far it has been noticed during hearing and after getting conducted survey through judicial officers, there is no occasion to express satisfaction on the education system in all the Provinces as well as ICT. One can

understand that at certain levels, measures have been or are being taken to improve educational system by ensuring regular functioning of the schools. However, in our view, to achieve the goal of compulsory and free education for the children of the age of 5 to 16 years in view of Article 25A of the Constitution, following measures are required to be taken: -

- (a) Accreditation Boards in all Provinces and ICT be established under law with an authority, *inter alia*, to improve current miserable conditions of the institutions and also to ensure removal of ghost schools immediately with penal action against responsible persons who had been receiving salaries and other perks without performing their duties;
- (b) The Accreditation Boards shall be responsible to continue to strive for achieving the objects and purposes for which they have been established. The recommendations of the Board shall be liable to be implemented forthwith by the competent authority so that the improvement in the conditions of the schools is made visible;
- (c) The Accreditation Boards may also consider to approach the respective Governments with the plea that the teachers be allowed to perform their task of imparting education, which is their basic assignment and respective institutions may make alternate arrangement of manpower from other departments to achieve the objects for which the teachers are always engaged and involved because on account of their authorised absenteeism the task of teaching the students has been suffering badly, which is an issue of national importance adversely affecting the future prosperity of Pakistan;
- (d) The Provincial Governments shall be bound to enforce Fundamental Rights enshrined in Articles 9 and 25A of the Constitution as in some of the Provinces legislation has already been made to

enforce Article 25A, therefore, same may be acted upon strictly;

- (e) The Provincial Governments and ICT must enhance budgetary allocations for improvement of the education system and also provide mechanism to ensure presence of students at the primary, middle and high schools levels;
- (f) The Provincial Governments through the concerned authorities must ensure recovery of the possession of the schools buildings, which have been illegally occupied by influential persons and if there is any litigation pending, the Registrars of the respective High Courts shall ensure the decision of the cases expeditiously; and
- (g) Similarly, cases pending before the High Courts and Supreme Court concerning the schools properties shall also be disposed of expeditiously.

175. The petition is disposed of in the above terms. However, before parting with the judgment, we would like to place on record our deep appreciation of the role performed by the District & Sessions Judges and other judicial officers, who considering the task assigned to them as a national duty, fulfilled the same with full commitment, dedication and devotion, as a consequence whereof one may hope for improvement of educational system in the country.

CHIEF JUSTICE

JUDGE

JUDGE

ANNOUNCED IN OPEN COURT ON 22.11.2013
AT ISLAMABAD

CHIEF JUSTICE

APPROVED FOR REPORTING