

ORDER

No.SO(Estt)42-58/2019. WHEREAS, District Education Officer, Special Education, Lahore, in a zoom meeting on 23.10.2023 verbally communicated to the Director General of Special Education, Punjab, Lahore, regarding complaints received from various sources alleging unauthorized agricultural activities going on, on the state-owned land of Government Shadab Village at Sharaqpur Sharif. In response to this verbal communication, the Director General, Special Education, Punjab, Lahore, issued instructions (*verbally*) to the Director (Monitoring), Directorate General of Special Education to conduct an on-site inspection and subsequently provide a report. Director (Monitoring), Directorate General of Special Education after visiting the site submitted inspection report on 24.10.2023, *along with pictorial evidence and hand written statement of Syed Nihal Mehdi, Assistant (BS-16), previously posted at Government Deaf and Defective Hearing School for Girls, Chuburji, Lahore, presently reported to the department ('accused official') wherein he confessed that illegal cultivation of crops is carried out at Government land*, stating therein that land measuring 104 Kanal reserved for construction of Government Shadab Village for Mentally Retarded Persons is being cultivated by the accused official alongwith 04 associates (private persons) in violation of the Government policy and the proceeds generated from said cultivation is being utilized by the accused official for his personal enrichment. Accordingly, Director General Special Education, Punjab, Lahore vide correspondence dated 25.10.2023 forwarded the report of Director (Monitoring) and recommended that disciplinary proceedings on the charges of inefficiency, misconduct and corruption may be initiated against the accused official.

2. **AND WHEREAS**, upon receipt of above said report, disciplinary proceedings through a regular inquiry under Section 3 and 5 read with Section 9 of the Act *ibid* of the Punjab Employees Efficiency, Discipline and Accountability Act, 2006 (**'Act'**), were initiated against the accused official on the following charges of inefficiency, misconduct and corruption by appointing Mr. Faryad Hussain (BS-18), District Education Officer (Special Education), Sargodha as Inquiry Officer to proceed against the accused official in terms of Section 5 read with Section 9 of the Act *ibid* vide order of inquiry dated 27.10.2023;

- i. The accused official was deputed as focal person for the oversight and management of retrieved land measuring 104 Kanal 8 Marla situated at Chak No. 23-UCC, Tehsil Sharaqpur, District Sheikhupura earmarked for construction of Government Shadab Village at Sharaqpur. Furthermore, the accused official was entrusted with the duty of engaging with relevant government departments falling under the jurisdiction of the district administration, Sheikhupura in connection with this land. Moreover, the accused official was explicitly tasked with the duty of safeguarding government assets and, in the

event of any unauthorized intrusion, to promptly notify both the local administration and the department. However, the accused official failed to comply with these directives and neglected the execution of the responsibilities and functions that were assigned to him in the due course of his official duties.

ii. Being focal person, it was duty of the accused official to abide by the rules and regulations of the Government but the accused official failed to exercise due diligence in the discharge of his duties. In clear breach of his assigned responsibilities, the accused official, motivated by personal gain for unjust enrichment and leveraging his official position, engaged in the unauthorized cultivation of crops on government-owned land in violation of Government policy. The accused official, in furtherance of this unlawful and unauthorized act and in pursuit of personal interests and gains, engaged the services of private individuals to undertake cultivation activities on the government-owned land since the year 2021 onwards.

iii. The accused official remained involved in corrupt practices as he fraudulently indulged himself in misusing Government property/assets and resources to secure personal gains and advantages. The funds acquired by the accused official through the harvesting of the crops cultivated on the Government land have been wilfully, dishonestly and fraudulently misappropriated.

iv. The accused official, without obtaining prior approval / permission from the authority, undertook the installation of a tube well on government-owned land through the services of a private individual, namely Iftikhar. This installation was solely intended for the unlawful purpose of irrigating the crops that were illegally cultivated by the accused official on the government-owned land.

3. **AND WHEREAS**, the Inquiry Officer, after conducting the inquiry as per mandate of PEEDA Act, 2006, submitted inquiry report and concluded therein that all the charges levelled against the accused official stood fully proved. The Inquiry Officer recommended imposition of following penalties upon the accused official:

- i. Major penalty of "compulsory retirement" under Section 4(1)(b)(iv) of the PEEDA Act, 2006; and
- ii. Major penalty of Recovery out of pay / pension amounting to Rs. 11,36,500/- under Section 4(1)(b)(i) of the PEEDA Act, 2006.

4. **AND WHEREAS**, upon receipt of inquiry report, Show Cause cum Personal Hearing Notice under Section 13 (4) of Act *ibid* was issued to the accused official directing him to submit additional defence, *if any*, and also to appear before **Additional Secretary Special Education / Hearing Officer** appointed under Section 13(4)(c) of the Act *ibid*, for personal hearing. The Departmental Representative was also directed to appear before the Hearing Officer alongwith all record under Section 13(4)(e) of the Act *ibid*.

5. **AND WHEREAS**, the Hearing Officer after granting opportunities of personal hearing to the accused official in presence of Departmental Representative submitted report of hearing proceedings stating therein that during the hearing proceedings, the accused official submitted two additional defense replies and while reiterating the points raised therein and stance already taken by him during inquiry proceedings, *inter alia*, contended that charges levelled against him are against the facts and record. He denied the charges and while relying upon the record stated that no *mala fide* was involved in the matter. He further maintained that he produced all the record before the Inquiry Officer and rebutted the veracity of the charges with cogent evidence and Inquiry Officer also failed to give any persuasive reason in the inquiry report for award of proposed penalties to him. Lastly, he requested that the charges are baseless and devoid of merit, therefore, he may be exonerated from the charges.

6. **AND WHEREAS**, the Departmental Representative stated that all record related to the charges was provided to the accused official and inquiry proceedings were conducted by the Inquiry Officer in accordance with the provisions of PEEDA, Act, 2006 and all record was consulted by the Inquiry Officer before finalizing the inquiry. The Departmental Representative further stated that charges of inefficiency, misconduct and corruption stood proved against the accused official. As per Departmental Representative the accused official failed to produce any new piece of evidence in shape of documents his favour to rebut the evidence that surfaced against him during the course of inquiry proceedings. She further apprised that the stance taken by the accused official during inquiry proceedings, in his additional defense and during the course of personal hearing are in contradiction with the earlier stance which he took before the Director (Monitoring) during her visit on 24.10.2023. She pointed out that the accused official during visit of Director (Monitoring) filed hand written statement wherein he admitted that illegal cultivation of crops is being carried out by them on the Government land, whereas, in his additional defense the accused official has taken a novel stance which tantamounts to an afterthought and he cannot be allowed to do so. She further averred that the Inquiry Officer in accordance with the law proceeded against the accused official and the penalties proposed by the Inquiry Officer duly commensurate with the guilt of accused official because it is admitted position that illegal cultivation was carried out at the Government land and the proceeds arising out of that were used by the accused official for personal enrichment. The accused official being Focal Person failed to perform his duties in efficient manner.

7. **AND WHEREAS**, after hearing the accused official, Departmental Representative, examining the additional defense of the accused official and documents annexed therewith, considering the material related to the case available

in shape of inquiry report and keeping in view the findings and recommendations of the Inquiry Officer, before going into the merits of the case, the Hearing Officer observed that the accused official filed an application before her for supply of certain documents. The request of the accused official was examined and was rejected being not maintainable because the accused official was provided alongwith the Show Cause Notice, copy of inquiry report and documents annexed therewith. The documents requested vide application being not part of inquiry report and not being related to the inquiry proceedings could not be provided. As per merits of the case, after careful perusal of the inquiry report it was observed by the Hearing Officer that inquiry proceedings have been conducted in accordance with the provisions of PEEDA Act, 2006, merits of the case have been appreciated by the Inquiry Officer and due process as provided under the law has been adopted by the Inquiry Officer. The accused official was provided full, fair and complete opportunities to vindicate his stance and prove his innocence but he failed to do so.

8. **AND WHEREAS**, the Hearing Officer further observed that the accused official has been charged with four charges out of which one pertains to his failure to comply with the directives and to monitor the illegal activities on Government land being focal person and also failure on his part to inform Directorate General of Special Education and local administration regarding unauthorized intrusion on the Government land and lastly his failure to perform his duties as focal person in accordance with the mandate provided to him vide order dated 15.10.2021. The Hearing Officer observed that this charge stood proved during course of inquiry proceedings and findings recorded by the Inquiry Officer with reference to this charge are also sufficient and no exception can be taken from these. The second charge pertains to unauthorized / illegal cultivation of crops by the accused official on the Government land and in pursuit of personal interests and gains, the accused official engaged the services of private individuals since 2021 onward. The Hearing Officer observed that this charge was fully proved during course of inquiry proceedings. Record shows that the accused official during the personal hearing before Hearing Officer initially denied that illegal cultivation of crops was done on the Government land but when confronted with his hand written statement submitted before Director (Monitoring) during her visit on 24.10.2023, he admitted the fact of illegal cultivation of crops on Government land but no plausible justification viz-a-viz his stance taken by him in his additional defense reply with regards to unawareness from said illegal activities was provided. Moreover, no documentation has been submitted which could suggest that the accused official being duly aware of the illegal activities carried out on the site, intimated the higher authorities for taking appropriate action under the relevant law / rules / policies. It is further observed by the Hearing Officer that the findings of the Inquiry Officer in relation to this charge align with the record. The stance of the accused official is found to be naïve and not supported with record.

9. **AND WHEREAS**, third charge levelled against the accused official pertains to his involvement in corrupt practices as he fraudulently indulged himself in misusing Government property/assets and resources to secure personal gains and advantages. The accused official has also been charged with wilfully, dishonestly and fraudulently misappropriating funds acquired through the harvesting of the crops cultivated on the Government land. The Hearing Officer after going through the

findings of Inquiry Officer and keeping in view the record presented during the course of inquiry observed that this charge has been fully proved and the findings recorded by the Inquiry Officer are substantiated with record. The accused official was involved in corrupt practices and he misused the Government property / assets and resources illegally for his personal interests and gains. Fourth charge levelled against the accused official pertains installation of a tube well on government-owned land through the services of a private individual, namely Iftikhar without obtaining prior approval / permission from the authority. As per charge, this installation was solely intended for the unlawful purpose of irrigating the crops that were illegally cultivated by the accused official on the government-owned land. The Hearing Officer observed that the Inquiry Officer has annexed certain documents with the inquiry report which show that tube well has been installed. This fact has also been admitted by the accused official during course of hearing proceedings. After evaluating all the record, the Hearing Officer observed that the accused official neither communicated to DGSE nor local administration regarding tube well installation and illegal cultivation on the site. The accused official in his written stance as well as verbal stance has tried to shift all the responsibility of these illegal acts on ex-DEO (Spl. Edu.), Lahore who died on 17.04.2023. But the Inquiry Officer in his findings observed that crop of supri rice was cultivated after the death of ex-DEO. The accused official failed to exercise due diligence in the discharge of his duties. The Inquiry Officer further found that Rabi crop of wheat and Kharif crop of supri rice were cultivated on 72 Kanal land out of 104 Kanal. The funds acquired by the accused official through the harvesting of crops cultivated on Government land had been wilfully, dishonestly and fraudulently misappropriated.

10. **AND WHEREAS**, the Hearing officer further stated that the accused official while referring to order dated 20.02.2024, passed by Additional Sessions Judge, Ferozwala in case FIR No. 1822/2023 under Sections 380/186 PPC lodged at Police Station Sharaqpur Sharif took a stance that Tehsildar concerned lodged FIR against him in the same occurrence and he has been granted pre arrest bail. The Hearing Officer observed that this stance of the accused official cannot rescue him in disciplinary proceedings initiated against him under the PEEDA Act, 2006. The accused official cannot absolve himself from the charges of inefficiency, misconduct and corruption, embezzlement and misappropriation of public funds on the basis of bail granting order passed in criminal proceeding. The stance of accused officer after examination of record is found to be devoid of merits because disciplinary and criminal proceedings are distinct and can go side by side having no bearing on each other.

11. **AND WHEREAS**, the Hearing Officer observed that as per findings of Inquiry Officer, the charges levelled against the accused official stood proved. The findings of the Inquiry Officer show that same are based on cogent, convincing and confidence inspiring evidence, credibility of which has not been questioned by the accused official during hearing proceedings. The Inquiry Officer after consultation with the Tehsildar and Patwari concerned provided the estimated amount generated from the proceeds which comes to a sum of Rs. 11,36,500/-. The Hearing Officer further observed that upon extensive examination of the inquiry report, in conjunction with the attached records, it is evident that the accused official neglected to perform assigned duties diligently, resulting in conduct detrimental to the standards of

effective service. Furthermore, the assertions made by the accused official in additional defense replies lack substantiation. No new or credible evidence has been presented by the accused official through said additional defense replies during the course of personal hearing to counter the existing evidence on record. The Hearing Officer concluded that all charges levelled against the accused official have been substantiated and the penalty proposed by the Inquiry Officer is deemed appropriate in accordance with the severity of the accused official's culpability.

12. **AND WHEREAS**, perusal of findings and recommendations of the Inquiry Officer, additional defense replies submitted by accused official and report of Hearing Officer coupled with record available in file shows that the inquiry proceedings have been conducted by the Inquiry Officer in accordance with the provisions of PEEDA Act, 2006 and due process as provided under the law has been adopted by the Inquiry Officer. The accused official failed to substantiate his stance and to place on record any new piece of evidence to rebut the evidence already available on record. It is observed that the findings and recommendations of the Inquiry Officer are based on record, made after considering all aspects of the case and taking into consideration the entire circumstances involved in the case. It is further observed that recommendations of the Inquiry Officer are substantiated with reasons / findings and no exception can be taken from the same. It transpires from perusal of record that Inquiry Officer after applying judicious mind and fulfilling all requirements of law has recommended imposition of penalties. *Prima facie* the same are in consonance with the record and spirit of the law. It is further noticed that all the charges stood proved against the accused official. The penalties recommended by the Inquiry Officer commensurate with gravity of guilt of the accused official.

13. **AND WHEREAS**, it has been noted that the accused official faces four charges, one charge pertains to the accused official's failure to comply with directives and monitor activities on government land in his capacity as a focal person. He failed to notify the DGSE and local administration of unauthorized intrusion onto government land and neglected his duties as a focal person in accordance with the mandate provided to them vide order dated 15.10.2021. This charge was found to be substantiated during the course of the inquiry proceedings, with sufficient findings duly recorded by the Inquiry Officer. The second charge relates to the unauthorized and illegal cultivation of crops by the accused official on government land for personal interests and gains, utilizing the services of private individuals since 2021. This charge was also fully proved during the inquiry proceedings. According to the Hearing Officer's report, during the personal hearing, the accused official initially denied any involvement in the unauthorized cultivation of crops on Government land. However, subsequently, the accused official admitted to the aforementioned illegal activity without offering a credible justification for either being unaware of these illegal activities or failing to report them to higher authorities for necessary action in accordance with applicable laws, regulations, or policies. It is noteworthy that the accused official did not furnish any documentary evidence substantiating his assertions regarding informing the former District Education Officer, Special Education, Lahore, about the illegal activities in question. The findings of the Inquiry Officer regarding this charge align with the record, while the stance of the accused official that former District Education Officer (Special Education), Lahore was aware of these illegal activities and he allowed to carry out

these illegal activities is deemed unsubstantiated and unsupported by evidence. The third charge against the accused official concerns his involvement in corrupt practices, specifically the fraudulent misuse of Government property, assets, and resources for personal gain. The accused official is also charged with wilful, dishonest, and fraudulent misappropriation of funds obtained through the harvesting of crops cultivated on Government land. The findings of the Inquiry Officer, based on the evidence presented during the inquiry, confirm the full substantiation of this charge.

14. **AND WHEREAS**, the fourth charge levelled against the accused official pertains to the installation of a tube well on Government owned land, facilitated by the services of a private individual named Iftikhar, without obtaining prior approval or permission from the appropriate authority. It is alleged that this installation was solely intended to unlawfully irrigate crops illegally cultivated by the accused official on Government owned land. The reasons / findings and documentation provided by the Inquiry Officer confirms the installation of the tube well, this is a fact that is also acknowledged by the accused official during the course of the personal hearing before the Hearing Officer. Upon review of the evidence, it is noted that the accused official failed to communicate the tube well installation and illegal cultivation to the Directorate General of Special Education (DGSE) or the local administration. The accused official has attempted, both in written and verbal statements, to shift responsibility for these illegal acts onto the former DEO (Special Education), Lahore, who passed away on 17.04.2023. However, it is pertinent to observe that the Inquiry Officer's findings indicate that the cultivation of the Rabi crop of wheat and the Kharif crop of supri rice occurred after the death of the former DEO. The accused official demonstrated a lack of due diligence in the discharge of his duties. Furthermore, the Inquiry Officer concluded that the accused official cultivated wheat and supri rice on 72 out of 104 Kanal land, and subsequently misappropriated funds acquired through the harvesting of these crops on Government land in a wilful, dishonest, and fraudulent manner. The accused official referenced an bail order dated 20.02.2024, issued by the Additional Sessions Judge, Ferozwala, in connection with FIR No. 1822/2023 under Sections 380/186 PPC lodged at Police Station Sharaqpur Sharif. The accused official asserted that the concerned Tehsildar lodged an FIR against him in the same incident and that he was granted pre-arrest bail by the Court of competent jurisdiction. However, it is observed that this stance of the accused official does not absolve him from the disciplinary proceedings initiated against him under the PEEDA Act, 2006. The accused official cannot evade accountability for charges of inefficiency, misconduct, corruption, embezzlement, and misappropriation of public funds solely based on an order issued in criminal proceedings that too at bail stage. It is determined, upon examination of the record, that the stance of the accused official lacks merit because disciplinary and criminal proceedings are distinct and can proceed independently without influencing each other.


15. **AND WHEREAS**, upon extensive examination of the inquiry report, in conjunction with the attached records, it is evident that the accused official neglected to perform assigned duties diligently, resulting in conduct detrimental to the standards of effective service. Furthermore, it is noted that the stance taken by the accused official in additional defense replies lacks substantiation. It is pertinent to

highlight that no new or credible evidence has been presented by the accused official through said additional defense replies to counter the existing evidence on record. Record further shows that the accused official failed to perform his official duties in a befitting manner. The accused official also remained unable to prove that his conduct towards performance of his duties was not prejudicial to good service discipline, unbecoming of an officer and does not tantamount to inefficiency and gross misconduct. The accused official failed to establish his innocence hence, the charges stand proved against him.

16. **NOW THEREFORE, I, Saima Saeed, Secretary Special Education / Competent Authority** in the instant case, after having considered all the aspects, material relating to the case and recommendations of the Inquiry Officer, *for reasons stated herein above*, am of the considered view that charges of inefficiency, misconduct and corruption stood proved against the accused official and the penalties recommended by the Inquiry Officer commensurate with gravity/severity of guilt of the accused official. Therefore, in exercise of powers vested in me under Section 13(5) read with Section 4 of the Punjab Employees Efficiency, Discipline and Accountability Act, 2006, *while agreeing with the recommendations of the Inquiry Officer*, following penalties are hereby imposed upon the accused official;

1. Major penalty of "compulsory retirement" under Section 4(1)(b)(iv) of the PEEDA Act, 2006; and
2. Major penalty of recovery of an amount of Rs. 11,36,500/- out of pension and pensionary benefits under Section 4(1)(b)(i) of the PEEDA Act, 2006.

Dated Lahore, the
March 12th /2024


(SAIMA SAEED)
SECRETARY SPECIAL EDUCATION /
COMPETENT AUTHORITY

No. & Date Even:

A copy is forwarded for information and necessary action to the:-

1. Accountant General, Punjab, Lahore.
2. Director General Special Education, Punjab, Lahore.
3. District Education Officer (Special Education), Lahore to ensure delivery of this order to the accused official and implementation of the penalties under intimation to this department.
4. Accused official concerned / **Syed Nihal Mehdi**, Assistant (BS-16), previously posted at Government Deaf and Defective Hearing School for Girls, Chuburji, Lahore, presently reported to the department.
5. PS to Secretary Special Education Department.


SECTION OFFICER (ESTT.)
SPECIAL EDUCATION DEPARTMENT