

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

CP D-7679 of 2019

Order with signature of Judge

Present: Muhammad Ali Mazhar and Agha Faisal JJ.

Dar-ul-Sukun & Others
Vs.
Province of Sindh & Another

Date of hearing: 12.12.2019

Mr. Yahya Iqbal, Advocate for the petitioner.
Mr. Jawad Dero, Additional Advocate General Sindh.
Mr. Imdad Channa, Director (D&MC) Social Welfare Department and Mr. Muhammad Khalid, Additional Director, Social Welfare Department are present.

Muhammad Ali Mazhar, J. This petition has been brought to entreat directions against the respondents for the effective enforcement and implementation of Sindh Senior Citizens Welfare Act, 2014. In the prayer clause, the petitioners have solicited following declarations and directions:

- “i. Declare that the acts and omissions of the respondents by not performing their functions under Section 8, 9, 10 and 12 of the 2014 Act are illegal and in contravention of the said Act.**
- ii. Direct the respondents to establish the Old Age Homes under Section 8 of the said Act, expeditiously.**
- iii. Direct the respondents to perform their functions under section 5 and 9 of the 2014 Act.**
- iv. Direct the respondents to establish Senior citizens Welfare Fund under section 12 of the 2014 Act....”**

2. In a few words, the farsightedness and providence of Sindh Senior Citizens Welfare Act, 2014, (“2014 Act”) notified on 28th June, 2016 is to give rise to the stipulations for welfare and contentment of senior citizens of the Province of Sindh by providing them benefaction and patronage so that their living conditions may be improved with respect and better-quality of life and their participation in the society and populace. Under Section 3 of the 2014 Act, the Government is required to establish a Council for the welfare of the senior citizens, consisting of a Chairperson and eleven Members. The status of the Council is a body corporate

having perpetual succession and a common seal with the power to acquire, hold and dispose of property both movable and immovable. The headquarters of the Council is at Karachi and it may establish its offices at district level in Sindh.

3. The learned A.A.G argued that the petitioners have only approached for the implementation of law and there is no cavil that the law is in field therefore he did not opt to file any comment and addressed the court on the basis of law alone. By consent we took the matter to decide it at Katcha peshi stage and also allowed opportunity of hearing to the learned counsel for the petitioners and learned A.A.G.

4. The learned counsel for the petitioner in fact drawn our attention to a Notification issued by the Secretary to Government of Sindh, Social Welfare Department on 15th June, 2017 whereby the Government of Sindh constituted a Council for the welfare of Senior Citizens under section 3 of the 2014 Act with immediate effect. The learned A.A.G and the Directors of Social Welfare Department, Government of Sindh have self-confessed that the Council has been constituted and functional.

5. On the same wave length, we have visualized that under Section 5 of the 2014 Act, some corresponding obligations have been imposed on the Council with regard to performance and execution of their duties heading towards senior citizens. For the ease of reference, Section 5 of the 2014 Act is copied as under:

“5. (1) Subject to other provisions of this Act, the Council shall take such measures and perform such functions as may be necessary for welfare of the senior citizens and improving their well-being of the elderly and participation in the society.

(2) Without prejudice to the generality of the foregoing functions, the Council shall –

(a) formulate policies for welfare and improving the well-being of senior citizens;

(b) issue the Senior Citizens Card (AZADI CARD) by providing essential services and benefits to the senior citizens;

- (c) establish senior citizens lodging establishment, homes for physical, mental, emotional, social and economic well-being of senior citizens;
- (d) promote participation of senior citizens in the national life and use their knowledge, skills and experience in various fields of life;
- (e) Liaise with National and International Agencies and Non-Governmental Organization for providing financial assistance periodically in improving of the well-being of senior citizens;
- (f) provide free geriatric, medical and health services with free medicines as prescribed by the respective Medical Officer from Government dispensaries, hospitals, medical centres and 25% concession on all private hospitals, medical centers and clinics;
- (g) provide assistance to the retired senior citizen to get his pensionary benefits and other dues from the concerned departments and organizations;
- (h) provide fifty percent concession in fares in road transport and twenty five percent discount on purchase of goods, drugs, medicines and essential commodities for his personal use and services provided to him by the manufacturers, retailers, service providers and professionals;
- (i) provide twenty five percent discount at recreation centres, cinemas, theatres, visiting places including hotels, motels, resorts, restaurants, food points and lodging establishments;
- (j) provide free services for funeral and burial on the death of senior citizen by the local council;
- (k) provide exemption to the senior citizen from training fees for socio-economic programmes;
- (l) perform such other functions and exercise such other powers for achieving the objectives of this Act.

Explanation: Wherever there is a mention of concession in this Act it means the concession in the net profit of the seller.”

6. In unison, Section 8 of the same Act is also significant which commands that Government should establish and maintain old age homes at accessible places beginning with at least one in each district to accommodate indigent senior citizens in such homes. An explanation is also attached to this section for defining the expression “indigent” which means any senior citizen who has not having sufficient means of income as may be determined by the Council, from time to time. It has been further exemplified that District Social Welfare Officer shall be the in-charge of old age homes for financial matters and a trained health/Geriatric Care

Worker for day to day administrative affairs. Ageing is a natural process, which obviously take place in human life sequel. It brings many challenges in the life of elderly. The senior citizens represent a valuable compendium of experiences and deep insights and can make meaningful contribution to the nation. According to injunction of Islam, children are obligated and duty-bound to maintain their aged parents. The area under discussion is a very sensitive segment of society which requires utmost care and attention. At times, the children after their brought up used to avoid maintaining their aged parents and in worst situation they are left at the mercy of shelter homes to live rest of their life, this cruelest, harsh and unkind treatment is not only disgraceful and dreadful to such helpless aged parents but it is also grave contravention of injunctions and teachings of Islam. The directors Social Welfare Department apprised us that they are establishing a shelter home in New Karachi with 80 beds and for this scheme Rs.75.00 million were approved and the project will be completed within three months but in our outlook, only one shelter cannot be sufficient to cater the dire need rather this should be established at least one in each district to accommodate indigent senior citizens in such homes.

7. Chapter IV of the Act communicates the provision of medical care of senior citizens. In line with Section 9, embedded in this chapter, the Government has to make sure and guarantee a number of facilities and services to ameliorate the life of senior citizens, which is reproduced as under:

“CHAPTER-IV

PROVISION OF MEDICAL CARE OF SENIOR CITIZENS

9. Government shall ensure that –

- (i) Government hospitals or hospitals funded fully or partially by the Government shall provide beds for all senior citizens as far as possible;**
- (ii) separate queues be arranged for senior citizens;**

- (iii) facility for treatment of chronic, terminal, geriatric and degenerative diseases;**
- (iv) research activities for chronic elderly diseases and aging;**
- (v) earmark facility for geriatric patient in every district Government hospital duly headed by a medical officer with experience in geriatric care;**
- (vi) establishment of senior citizens day care centres to promote their physical, mental and recreational needs;**
- (vii) availability of special facilities in banks and saving centres and special facilities in ticket counters;**
- (viii) exemption of senior citizen is exempted from payment of any tax by any department, bank or institution on their incomes and profits earned by the Senior Citizens;**
- (ix) fifty percent concession in fare of both public and private within and inter-city transport and recommendation of concession in fare/ticket of Railways and PIA on prescribed forms of said Organizations;**
- (x) arrange programme for retraining and job oriented skill training for senior citizens;**
- (xi) make provision of Zakat funds and Baitul Maal for maintenance, medical and other financial problems of senior citizens;**
- (xii) concession of twenty five percent on drugs and medicines for treatment of age related illness of senior citizens;**
- (xiii) to make provisions of Benevolent Funds for special needs of Senior citizens;**
- (xiv) to observe of International Senior Citizens Days;**
- (xv) to provide opportunity to the senior citizen in sharing his expertise in delivering lecture, writing book and nominating for award of prize, medal, shield and certificate in recognition of services.**
- (xvi) to collect data of senior citizens at Union Council level;**
- (xvii) to support the Non-Governmental Organizations working for the welfare of senior citizens;**
- (xviii) to make provisions for wide publicity through public media including the television, radio and print at regular intervals regarding facilities provided to senior citizens under this Act;**
- (xix) to impart training to the officers of Government, including police officers and members of the judicial service, sensitization and awareness on the issues relating to this Act;**
- (xx) for effective coordination between the services provided by the concerned ministries or departments dealing with law, home affairs, health and welfare, to address the issues relating to the welfare of the senior citizens and periodical review of the same is conducted.**

8. We also catch sight of Section 12 which is germane to a fund to be established as “Senior Citizens Welfare Fund”, which will be utilized for all activities relating to the welfare of senior citizens and improving their wellbeing in the society. The fund includes the sum of money allocated by the Government, however, the Council, with the approval of the Government may invest the fund in any scheme including Government securities for raising funds. One more important aspect cannot be lost sight that for the implementation of such a law the allocation of funds is very crucial which is to be sanctioned by the Government for implementation of law.

9. We have examined the framework and raison d'être of Sindh Senior Citizens Welfare Act, 2014. We also appreciate the concern and anxiety shown by Sindh Government which necessitated legislation in order to alleviate and ventilate the sufferings of senior citizens of the province but at the same time we cannot hold off to observe that mere establishing a council or making legislation is not enough without its proper enforcement and implementation. The provisions are most beneficial and meaningful in the larger interest of senior citizens but at the same time it is also a ground reality that the law was made in 2014 and notified in the year 2016 but despite lapse of considerable period, its proper implementation is in limbo, for instance, only a Council has been constituted with number of Members and one Chairperson but still they are not taking any swift action. Implementation of law is key role of government which is essentially backbone of good governance which is not possible unless and until, the government is committed to create an equilibrium and evenness founded in justice and peace to shield the human rights. According to our founder of nation, Quaid-e-Azam, Muhammad Ali Jinnah, *“If we want to make this great State of Pakistan happy and prosperous, we should wholly and solely concentrate on the well-being of the people, and especially of the masses and the poor”*.

10. The learned Additional Advocate General Sindh and the Directors Social Welfare Department submitted that the Government is seriously making all possible efforts for implementation of law and they also undertake that within short period all benefits will be extended to the senior citizens in accordance with 2014 Act.

11. In view of the foregoing this petition is disposed of with directions in the following terms:

- i. **The Chairperson of the Council is Minister for Social Welfare whereas the Secretary of the Council is the Secretary of Social Welfare Department. The Council is directed to move a summary to the Government of Sindh for requisite allocation of funds for establishing Senior Citizens Welfare Fund within 15 days that will be placed before the Provincial Cabinet in the next meeting for consideration and approval.**
- ii. **The Council shall also arrange different workshops for the awareness of the senior citizens of Sindh that a law has been made for their benefit and in this regard they will also proliferate and release general public awareness messages through print and electronic media. The public awareness messages shall be circulated through the Press Information Department, Government of Sindh.**
- iii. **The Council shall constitute by themselves a complaint redressal committee and notify the Committee member names through public messages and in case of any complaint by senior citizen, he may approach to that redressal committee for ventilation of their grievances and in case of any such complaint the committee will forward their recommendations to the Council and the Council will take up the complaint and resolve the same to ensure effective implementation of law.**
- iv. **Under Section 5(2)(b) of the Act senior citizens are to be issued Azadi Cards for providing essential services and benefits. When we confronted the Directors Social Welfare Department as to when the Azadi Cards will be issued, they submitted that they requested the NADRA for providing the data of senior citizens but they refused to do so. The Chief Secretary Sindh is directed to take up this matter with the NADRA as apparently, there is no logic and rationale to reject such type of request made by the Council for providing such data in the larger public interest. The Chief Secretary shall convene a meeting with the Director General NADRA, Sindh for making necessary provisions so that the**

requisite data may be supplied to the Council for issuing Azadi Cards to the senior citizens. This meeting shall be convened by the Chief Secretary within 15 days for resolving the issue and process of issuing Azadi Cards will start within one month in accordance with Section 5(2)(b) of the Sindh Senior Citizens Welfare Act, 2014.

- v. The Sindh Government shall prescribe comprehensive action plan for providing protection of life and property of senior citizens as provided under Section 10 of Sindh Senior Citizens Welfare Act, 2014 and may confer powers to Deputy Commissioners as may be necessary to ensure that the provisions of the Act are carried out in his territorial jurisdiction.
- vi. To fulfill and achieve the commitments in law, the Sindh Government shall also establish and maintain old age homes at accessible places beginning with at least one in each district to accommodate indigent senior citizens in such homes.
- vii. The Council shall religiously and diligently perform all functions for the implementation of various provisions of the Act for the betterment and wellbeing of senior citizens and first progress report shall be submitted to this court within 60 days through MIT-II.
- viii. Under section 19 of the 2014 Act, the Government has power to make rules for carrying out the purpose of this Act. The Directors present in Court submit that earlier a meeting was convened for framing the rules and a draft has been submitted in the office of the Secretary. The Government of Sindh is directed to notify the Rules within 45 days in accordance with Section 19 of the Sindh Senior Citizens Welfare Act, 2014.

A copy of this order may be transmitted to the Chief Secretary Sindh, Secretary, Social Welfare department, Government of Sindh, Chairperson and Secretary of the Council and learned A.A.G. Sindh for compliance.

Judge

Judge