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BEFORE THE HONOURABLE ISLAMABAD HIGH COURT,
ISLAMABAD

W.P. No. 1886 / 2022

Muhammad Shaheer Sohaib S/o Muhammad Sohaib Aziz, Roll No.1006288, candidate MDCAT-2022, R/o House No.84, Street 159, G-13/3, Islamabad.

PETITIONER

VERSUS

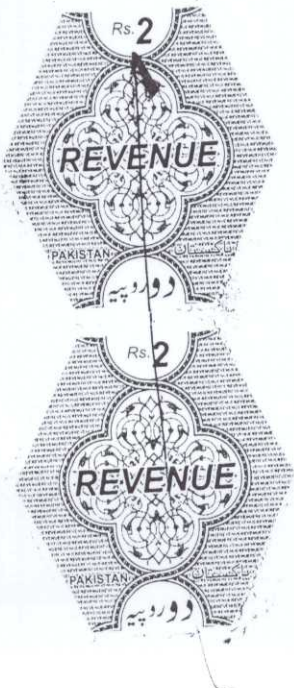
1. Federation of Pakistan through Secretary M/o National Health Services, Regulations & Coordination, Pak Secretariat, Constitution Avenue, Islamabad.
2. Pakistan Medical Commission (PMC) through its President, 4-Service Road South, Mauve Area, G-10/4, Islamabad.
3. University of Health Science (UHS), through its Registrar, Khayaban-e-Jamia Punjab, Lahore-54600.
4. Shaheed Zulfiqar Ali Bhutto Medical University (SZABMU), through its Registrar, 5th Floor, School of Dentistry, Ravi Road, G-8/3, Islamabad.

RESPONDENTS

WRIT PETITION UNDER ARTICLE 199 OF THE CONSTITUTION OF
PAKISTAN, 1973

Respectfully Sheweth:-

1. That the petitioner is a candidate for Medical and Dental Colleges Admission Tests (MDCAT) Exam for the year 2022, having CNIC 3730158066887, Roll No.1006288 has secured 167/200 marks in the test and has been declared as PASS candidate.
2. That as per Section 18(1) of the of the Pakistan Medical Commission Act, 2020, there shall be '*a single admission test*' for all students seeking admission through MDCAT Exam all over the Pakistan, which means that '*only one set of questions paper*' will be set by the '*National Medical Authority*' only, which reads as under:



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Assistant Registrar (Genl)

JUDGMENT SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

W.P. No.4884 of 2022
Muhammad Shaheer Sohaib
Versus
Federation of Pakistan and others

Dates of Hearing: 20.02.2023, 17.03.2023 and 28.03.2023.
Petitioner by: Mr. Muhammad Asif Gujjar, Advocate.
Respondents by: Mr. Ali Nawaz Kharal and Ch. Ali Abbas,
Advocates.
Mr. Saad Khan, Manager (Lit.), PMC.

MIANGUL HASSAN AURANGZEB, J:- Through the instant writ petition the petitioner, Muhammad Shaheer Sohaib, assails the *vires* of Regulation 4(1) of the Medical and Dental Undergraduate Education (Admissions, Curriculum and Conduct) Policy and Regulations, 2022 (“the 2022 Regulations”) on the touchstone of Section 18(1) of the Pakistan Medical Commission Act, 2020 (“the 2020 Act”) and the provisions of the Constitution.

2. Learned counsel for the petitioner drew the attention of the Court to the difference between Regulation 4 of the 2022 Regulations and Regulation 6 of the Pakistan Medical Commission Conduct of Examinations Regulations, 2021 (“the 2021 Regulations”), and submitted that for admissions to public colleges, the MDCAT is to be conducted by the public sector universities under Regulation 4 of the 2022 Regulations whereas under Regulation 6 of the 2021 Regulations, the MDCAT was to be conducted by the Pakistan Medical Commission (“PMC”). Furthermore, he submitted that Section 18 of the 2020 Act mandates that the MDCAT is to be conducted by the PMC and there has to be a single admissions test; that Regulation 4 of the 2022 Regulations is violative of Section 18 of the 2020 Act inasmuch as the MDCAT is required to be conducted by public sector universities having different standards; that the disparity in the standard of the MDCAT conducted by different universities is not permissible under Section 18 of the 2020 Act; that the standard of the MDCAT conducted by respondent No.3 / University of Health Sciences, Lahore (“UHS”) is much higher than the standard of the MDCAT conducted by respondent No.4 / Shaheed Zulfiqar Ali Bhutto Medical University

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Islamabad High Court
Islamabad

("SZABMU"); that this disparity caused a number of aggrieved persons to file complaints before the Standing Committee on National Health Services, Regulation and Coordination; that the position taken by the PMC before the said Committee is that different grace marks were to be given to students appearing in MDCAT conducted by different public sector universities; and that a single merit list for the country has been issued for students that have passed the MDCAT examination conducted by different public sector universities with different standards, which is not just unreasonable but a violation of Section 18 of the 2020 Act. Learned counsel for the petitioner prayed for the writ petition to be allowed in terms of the relief sought therein.

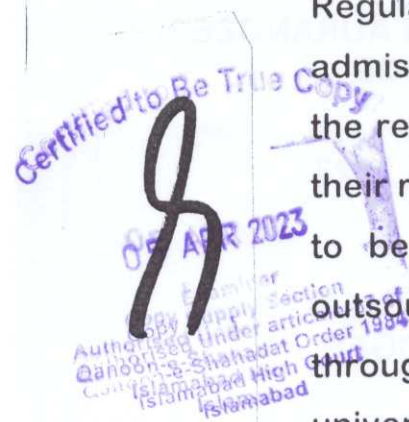
3. On the other hand, learned counsel for the PMC submitted that the petitioner is estopped from filing the instant petition since he had appeared in the MDCAT examination held on 13.11.2022; that strong vested rights had been created in favour of all the students who have passed the MDCAT examination and are in the process of being admitted in medical and dental colleges; that the MDCAT examination cannot be put at naught at the instance of the petitioner; that Regulation 4(1) of the 2022 Regulations is not *ultra vires* the provisions of the present statute or the Constitution; that one of the functions of the Council under Section 8 of the 2020 Act is to frame regulations for the conduct of admissions in the medical and dental colleges and the examinations to be conducted by the PMC; that the conduct of MDCAT examination in the year 2020-2021 was the subject matter of litigation before different High Courts; that this Court vide judgment dated 16.12.2021 passed in W.P. No.3440/2021 has held that whether the questions framed in the MDCAT exam were out of the syllabus is a question of fact which could not cause this Court to strike down the regulations; that the complaints from different students had been discussed and addressed by the PMC in its meeting dated 22.12.2022; that on 05.10.2022 a policy decision was issued that the MDCAT exam will be conducted by public sector universities in all the provinces and Islamabad Capital Territory on a single day and time; and that the conduct of the MDCAT exam by different public sector universities is to facilitate the students from all over Pakistan. Learned counsel for the PMC prayed for the writ petition to be dismissed.



4. I have heard the contentions of the learned counsel for the contesting parties and have perused the record with their able assistance.

5. Indeed Section 18 of the 2020 Act mandates the National Medical Authority to conduct annually on a date approved by Medical and Dental Council as per the standards approved by the National Medical and Dental Academic Board a single admissions test which shall be a mandatory requirement for all students seeking admission to medical or dental undergraduate programs anywhere in Pakistan. After the enactment of the 2020 Act, the conduct of the MDCAT examination was outsourced through a competitive bidding process and it has been variously held that this decision of the PMC did not violate any of the provisions of the 2020 Act. As regards the requirement to hold the MDCAT examination on a single day, it is not disputed that the MDCAT examination conducted on 13.11.2022 by public sector universities was on a single day. Regulation 3 of the 2021 Regulations which empowers the National Medical Authority to conduct or cause to conduct the MDCAT examination does not violate Section 18 of the 2020 Act since the PMC could either outsource the conduct of such examination through a bidding process or cause the public sector universities to cause such examination to be conducted. It is not disputed that the last MDCAT examination in which the petitioner participated was conducted by public sector universities.

6. It ought to be borne in mind that the 2021 Regulations and the 2022 Regulations are co-existing. The 2021 Regulations deal with the conduct of the MDCAT examinations whereas the 2022 Regulations by and large deal with the admissions in medical colleges after the MDCAT examination. In particular, Regulation 4 of the 2022 Regulations which has been impugned by the petitioner provides that admissions to public colleges shall be conducted and completed by the respective government or public sector universities nominated by their respective provincial government. This regulation cannot be held to be violative of Section 18 of the 2020 Act since instead of outsourcing the conduct of the MDCAT examination to a private entity through a bidding process, the PMC has empowered public sector universities to conduct the test for which the curriculum is also approved by the said authority.



7. The PMC has provided data as to the total registered candidates who sat in the MDCAT examination and the percentage of those who passed and failed from different public sector universities. The petitioner's grievance was that the MDCAT examination conducted by UHS was difficult whereas the MDCAT examination conducted by SZABMU was easy. This is belied by the data provided by the PMC, according to which the pass percentage of students from SZABMU was 92.10% whereas that from UHS was 89.75%. This difference is negligible and not sufficient to set at naught the examination already conducted and the admission gained by students after passing the said examination.

8. The PMC, in its meeting dated 22.12.2022, discussed the issue regarding the variation in the difficulty index between the SZABMU and UHS. The minutes of the said meeting show that a uniform paper was generated as per the table of specifications provided by PMC to the universities conducting the MDCAT examination. The analysis had shown that none of the questions in the MDCAT examination were out of syllabus, and that the difficulty level of both the said universities was similar and within the limits as prescribed by the regulatory authority. The Committee that comprised of representatives from SZABMU and UHS and presided over by the Vice President, PMC concluded that the difficulty index of the question papers in the examination conducted by both the universities was the same. I have no reason to doubt or question the conclusion of the said Committee.

9. In view of the above, I do not find any merit in this petition, which is accordingly dismissed with no order as to costs.

sd

(MIANGUL HASSAN AURANGZEB)
JUDGE

ANNOUNCED IN AN OPEN COURT ON 04.04.2023.

(JUDGE)

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Islamabad High Court
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Application No. 11691
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Ahtesham*

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