

IN THE SUPREME COURT OF PAKISTAN

(Original Jurisdiction)

PRESENT:

MR. JUSTICE IFTIKHAR MUHAMMAD CHAUDHRY, C.J

MR. JUSTICE IJAZ AHMED CHAUDHRY

MR. JUSTICE SH. AZMAT SAEED

C.M.A. NO.3470 OF 2013 IN CMA 1536/2013

IN CIVIL APPEAL NO. 191-L & 409 OF 2010

(Action taken on News Clipping dated 4.6.2013 published in Daily Jang, against the Parliamentarians having fake/bogus degrees)

AND

CIVIL MISC. APPLICATION NO.3723 OF 2013

(Application by Nawazada Ghazanfar Ali Gull for taking action against Ch. Wajahat Hussain, MNA on account of fake degree)

AND

CIVIL MISC. APPLICATION NO.4275 OF 2013

(Application on behalf of Ch. Ghulam Qamar for taking action against Ghulam Sarwar Khan, MNA, on account of having fake degree)

AND

CIVIL MISC. APPLICATION NO.4295 OF 2013

(Application on behalf of Muhammad Atta Shah and others against Mr. Faisal Zaman, MPA, on account of having fake degree)

AND

CIVIL MISC. APPLICATION NO.4337 OF 2013

(Application on behalf of Faisal Javed against Rana Munawar Hussain, MPA, on account of having fake degree)

For the Applicants:

Nawabzada Ghazanfar Ali Gul, Adv.
(in CMA.3723/2013)

Sh. Ahsan-ud-Din, ASC
(in CMA.4275/2013)

Syed Attique Shah, ASC
(in CMA.4295/2013)

Raja Amir Abbas, ASC
(in CMA.4337/2013)

On Court Notice:

For the HEC:

Mian Muhammad Hanif, ASC
Raja Abdul Ghafoor, AOR
Mr. Raza Chohan, DG(A&A)
Mr. Azizullah, AD (A&A)

For ECP

Mr. Umar Hanif Khichi, Legal Counsel
Mr. Abdul Rehman Khan, DG (Law)

For the Parliamentarians:

Mr. Waseem Sajjad, Sr. ASC
(On behalf of Faisal Zaman, MPA)

Mr. Tariq Mahmood, Sr. ASC
(On behalf of Ms. Samina Khawar Hayat)

Syed Nayyab Hassan Gardezi, ASC
(On behalf of Ch. Wajahat Hussain)

Mr. Zulfiqar Khalid Maluka, ASC
(On behalf of Malik Muhammad Nawaz, MPA)

Mr. Ghulam Mustafa Kandwal, ASC
(On behalf of Makhdoom Syed Ali Raza, MNA)

Raja Shoukat Aziz Bhatti, MPA, In person
Mr. Karam Dad Wahla, MPA In person
Mr. Muhammad Ahmad, In person
(brother of Kh. Muhammad Islam, MPA)
Ms. Maiza Hameed, MPA (In person)

Date of hearing 8.7.2013

ORDER

Ms. Samina Khawar Hayat:

The Election Commission of Pakistan (ECP) vide CMA No.3470 of 2013 had stated that Higher Education Commission (HEC) declared the degree of Ms. Samina Khawar Hayat as fake/bogus whereas the ECP in CMA No.4055/2013 had filed the following statement, which has been reproduced herein below:-

“7) That it is brought to the notice of this Hon’ble Court that overall outcome of the verification process was communicated to the Election Commission of Pakistan dated 06.04.2013. However as far as the case of the Samina Khawar Hayat is concerned, she has made an application stating that in fact her degree issued by the PIMSAT dated

25.09.2006 is genuine which had been verified by the Higher Education Commission on 23.12.2010 whereafter, it was found, it is most humbly submitted, that earlier a degree in the name of Samina Saleem of BBA shown to have been issued by the Riphah International University was declared fake to which she had disowned before the Election Commission of Pakistan and favourable order was passed in her favour on 13.03.2012 by ECP as she had produced a degree from PIMSAT issued on September 25, 2006 which was attested and verified by HEC on 23.12.2010 and now she has been allowed to participate in the recent election by the Election Tribunal, Lahore High Court, Lahore vide order dated 15.04.2013. (Annexure “G”).”

It is to be noted that along with CMA No.4336/2013, which has been filed by the ECP, the Nomination Papers to all other persons whose degrees have been verified are available but the Nomination Papers of Ms. Samina Khawar Hayat has not been filed. In such view of the matter, a precise question for consideration would be as to whether she relied upon a degree dated 25.9.2006 which was considered to be a fake on 23.12.2010. Subsequent thereto, it appears that this degree was in the name of one Samina Aslam, therefore, she disowned it and stated that she has passed BBA from the Preston University and degree was issued in her favour on 25.9.2008, which was attested and verified by the HEC on 23.2.2012. In such view of the matter, we direct the Election Commission of Pakistan to place on record her nomination papers which she submitted during the

Election of 2008 as well as 2013 on the basis of which she has been returned as a successful candidate. Let the Election Commission of Pakistan do the needful by tomorrow i.e. 9.7.2013. Similarly, the HEC is directed to place on record the original record so as to verify the genuineness or otherwise of the degree.

Sardar Mir Badshah Qaisrani

No one has appeared on behalf of Sardar Mir Badshah Qaisrani whose degree has been found fake. Issue notice for his appearance through the Election Commission as according to the Director General (Law), ECP, he has been declared successful in the Elections held on 11th May, 2013.

Adjourned to 18.7.2013.

Raja Shoukat Aziz Bhatti

As far as the case of Raja Shoukat Aziz Bhatti is concerned, according to the HEC, the degree relied upon by him is genuine but pertains to Mr. Shoukat Aziz Sheikh. He stated that the ECP has filed Criminal Petition No.111/2013 against him in respect of the same issue, which is pending before this Court. The office is directed to club the said case with this case. He has also requested for some time to engage a counsel.

Adjourned for tomorrow i.e. 9.7.2013.

Nawabzada Mir Nadir Magsi

Issue notice to Nawabzada Mir Nadir Magsi through the Election Commission of Pakistan, as according to the Director General (Law), ECP, he has been declared a successful candidate in the Elections held on 11th May, 2013. In the meanwhile, the HEC to put up a comprehensive report about the genuineness of his degree.

Adjourned to 18.7.2013.

Maulvi Agha Muhammad

Maulvi Agha Muhammad is not in attendance. Office has reported that Civil Appeal No.427/2013 filed by him stands fixed before this Court on 11.7.2013. Let this matter be fixed along with the said appeal.

Kh. Muhammad Islam

A request for adjournment has been made by his brother (Muhammad Ahmed). Kh. Muhammad Islam is directed to appear before this Court on tomorrow i.e. 9.7.2013.

Mr. Karam Dad Wahla

He appeared and stated that in fact he had lost the original educational testimonials and he has now obtained the duplicate of the same. He has submitted the same for their verification on

3.7.2013 before the HEC. The HEC is directed to expedite the verification process before the next date of hearing.

Adjourned to 18.7.2013.

Makhdoom Syed Ali Raza Shah

As far as the case of Syed Ali Raza Shah is concerned, his BA degree has not been verified because it has been reported that in his absence in the year 1972 his Matriculation Certificate was cancelled and against the said order a Writ Petition No.7220/2013 has been filed before the Lahore High Court, Lahore. It is contended that the learned High Court may decide the case in view of the fact that he is not responsible for giving incorrect date, on the basis of which the certificate has been cancelled. According to him, he has passed Matriculation and FA from the Atchison College, Lahore. In view of the fact that the matter is pending, in the meanwhile, the HEC is directed to collect all the documents and verify the same. However, we may also observe that let the learned High Court may dispose of the matter expeditiously as early as possible within a period of 7 days after receipt of this Order, enabling this Court to proceed with his case.

Adjourned to 18.7.2013.

Malik Muhammad Nawaz

So far as the case of Malik Muhammad Nawaz is concerned, his degrees have not been verified so far. The learned counsel for the HEC is directed to submit a report in this behalf by tomorrow i.e. 9.7.2013.

Ms. Zaib Jaffar:

According to the learned counsel for the HEC, the documents of Ms. Zaib Jaffar have been received on 5th of July, 2013 and report from the concerned authority is awaited and the report in this regard shall be filed before the next date of hearing.

Adjourned to 18.7.2013.

Ms. Maiza Hameed:

Ms. Maiza Hameed appeared and stated that she has handed over all the educational documents in original to the HEC. The learned counsel for the HEC stated that the according to the documents which have been received, she is not qualified to be holder of the degree equivalent BA Degree. In such view of the matter, we direct the HEC to pronounce the decision as to whatever the documents have been received are equivalent to the BA or not?

Adjourned to 18.7.2013.

Mr. Iftikhar Hussain Gillani:

Mr. Iftikhar Hussain Gillani is not in attendance. According to the HEC, his documents were unverified. Issue notice to him for his appearance before this Court through the Election Commission of Pakistan, on the next date of hearing i.e. 18.7.2013.

Mr. Bilal Rehman:

According to the learned counsel appearing for HEC, his documents had been verified, therefore, no further action is called for. Notice to his extent is discharged.

CMA No.3723/2013:

It has been informed that Ch. Wajahat Hussain had contested the Election for the year 2013 but could not succeed. In such view of the matter, the listed CMA is disposed of. If the applicant has any grievance he may agitate the same before a Competent Forum, as presently we have taken up the issue in respect of the implementation of our earlier judgment in respect of those persons who have been returned as successful.

CMA No.4275/2013:

Notice to the Election Commission of Pakistan and the Higher Education Commission, to explain as to whether respondent Ghulam Sarwar contested the Election of 2008 by declaring himself to be a holder of BA degree; and the said

degree was a genuine or otherwise. In the meanwhile, notice to the Election Commission of Pakistan be also issued as to whether he contested the Election in the year 2008. The learned counsel further stated that for possessing a bogus degree as complaint was filed against him vide FIR No.67/2012 at Police Station ACE, Lahore and the matter is still pending before the learned Anti Corruption Court and bail before arrest (Crl. M. No.16724-B/2012) is pending before the Lahore High Court. In the meanwhile, the HEC shall call for documents from the respondent and verify the same and submit a report on the next date of hearing. The Registrar shall also obtain the report from the learned Lahore High Court in respect of the pendency of the bail matter.

Adjourned to 18.7.2013.

CMA No.4295/2013:

Mr. Waseem Sajjad, learned Sr. ASC has pointed out that in respect of the verification of the degrees, the matter is also pending before the Election Commission and the judgment has been reserved. The Secretary, Election Commission may inform the outcome on the next date of hearing. In the meanwhile, the HEC is directed to verify the degree before the next date of hearing.

Adjourned for 18.7.2013.

CMA No.4337/2013:

Notice to the HEC to verify the degree. In the meanwhile, notice to the Election Commission and respondent Rana Munawar, MPA (PP-36) through the Election Commission of Pakistan as he has been reportedly declared as successful from the said constituency.

Adjourned to 18.7.2013.

Chief Justice

Judge

Judge

Islamabad, the
8th July, 2013.

M. Safdar Mahmood