

**JUDGMENT SHEET**  
**IN THE ISLAMABAD HIGH COURT,**  
**ISLAMABAD**  
**JUDICIAL DEPARTMENT**

**Civil Revision No.01-2025**

National Defence University  
*Versus*  
Mst. Nadia Asghar.

Petitioner by: Mr. Nauman Munir Paracha, Advocate.

Respondent by: Rana Abid Nazir Khan, Advocate.

Date of Decision: 04.08.2025.

**JUDGMENT**

**MOHSIN AKHTAR KAYANI, J:-** Through this civil revision, the petitioner/University, has assailed the judgment and decree dated 21.11.2024, passed by the learned Additional District Judge, Islamabad, whereby the appeal filed by the respondent, Nadia Asghar, was allowed, and her suit for declaration along with mandatory and permanent injunction was decreed. This judgment reversed the earlier decision of the learned Trial Court dated 20.12.2023, which had dismissed the respondent's suit.

2. Brief facts referred in the instant civil revision are that the respondent, Nadia Asghar, a Ph.D. student at petitioner/University, submitted her thesis draft on 31.01.2019 for evaluation by an external examiner. However, she subsequently received a letter dated 27.02.2019 (bearing reference date 25.02.2019), whereby her admission was cancelled (Exh.P4). Availing the appellate remedy under the University's academic

regulations concerning indiscipline, she filed an appeal before the competent authority. The appeal was rejected vide order dated 19.08.2019 (Exh.P5). Being aggrieved, she filed Writ Petition No.4190 of 2019 before the Islamabad High Court. The petition was dismissed vide judgment dated 15.10.2020, directing the Vice-Chancellor of NDU to reconsider the penalty in the light of the applicable regulations (Exh.D2). Upon reconsideration, the University again declined her appeal, which she then challenged via Writ Petition No. 1820 of 2021. The same was dismissed by the Islamabad High Court vide judgment dated 11.08.2021 (Exh.D4). The respondent further approached the Honourable Supreme Court of Pakistan through Civil Petition No.5211 of 2021. The Supreme Court maintained the earlier decisions and upheld the cancellation of admission through its judgment dated 10.05.2022 (Exh.D6). Meanwhile, during the pendency of writ proceedings, Nadia Asghar instituted a civil suit for declaration with permanent and mandatory injunctions, challenging the disciplinary proceedings and actions taken by the University with the following claim:

*It is most respectfully prayed that the suit of the plaintiff may very graciously be decreed in favor of plaintiff against the defendant to the following effect:*

- a) The alleged proceedings conducted by the defendant prior to 25012019 are illegal, unlawful result of personal vendetta and without lawful authority.*
- b) The disciplinary proceedings conducted by the defendant against the plaintiff are against the Rules and Regulations, without substance, without providing adequate meaningful opportunity of hearing to the plaintiff, hence nullity in the eye of law and have no legal effect upon the rights of plaintiff.*
- c) The plaintiff had successfully submitted her thesis on 31-01-2019.*
- d) The period beyond 31-01-2019 till passing of the decree in the suit which is consumed in the process of litigation is not due to the fault of the plaintiff and same is condoned and the plaintiff is entitled for process of her completion of Ph.D degree within 02 years after passing of the decree and the plaintiff Ph.D degree is reckoned from the date as if her admission was not cancelled.*

- ii. *Mandatory Injunction by directing the defendant to restore the position of the plaintiff as Ph.D scholar as was prior to the issuance of impugned notification dated 25-02-2019 and consequently the defendant may kindly be directed to process the foreign evaluation of the plaintiff's thesis and thereafter to award degree after conducting Public Defense.*
- iii. *Decree for permanent injunction by restraining the defendant to take any adverse action prejudicial over the rights of the plaintiff may kindly be granted permanently.*

*Any other relief which this Honorable Court deems fit and appropriate may also be awarded to the plaintiff against the defendant to meet the ends of justice.*

3. Learned trial Court framed issues on 19.12.2022, recorded evidence of Nadia Asghar as PW-01, and the University's representative, Muhammad Hafeez, as DW-01. The Court received documentary evidence as referred as Exh.P1 to Exh.P14 and Exh.D1 to Exh.D6. The Trial Court dismissed the suit vide judgment dated 20.12.2023. However, this decision was set-aside by the learned Additional District Judge, Islamabad through judgment dated 21.11.2024, which directed the University to reinstate Nadia Asghar's admission and decide the fate of her Ph.D. thesis.

4. Learned counsel for the petitioner submitted that the appellate Court failed to appreciate the application of the principle of res judicata under Section 11, CPC, despite the matter had already been adjudicated by the Islamabad High Court and affirmed by the Supreme Court of Pakistan. It was argued that the cancellation of admission had been thoroughly examined in constitutional jurisdiction, and the findings were upheld through detailed reasoning, including the respondent's role in abetting the principal accused of harassment, which formed the basis of the disciplinary action. Learned counsel further submitted that interference in internal disciplinary or academic matters of educational institutions is limited and referred to the precedent

judgments reported as **PLD 2022 SC 92 (Khyber Medical University Vs. Aimal Khan)**, **PLD 1965 SC 90 (University of Dacca Vs. Zakir Ahmad)**, **PLD 1981 SC 464 (Ahmad Vs. Vice-Chancellor, University of Engineerings & Technology)**, **2005 SCMR 961 (Muhammad Ilyas Vs. Bahauddin Zakariya University, Multan)**, and **2015 SCMR 445 (Government College University, Lahore Vs. Syeda Fiza Abbas)**.

5. The learned counsel for the respondent argued that due process under Article 10-A of the Constitution was violated. The disciplinary committee failed to afford her an opportunity to be heard and did not confront her with the alleged material used to implicate her. It was argued that material facts were concealed from the constitutional Courts, including critical evidence (Exh.P2) which was not presented either before the Islamabad High Court or the Supreme Court. Thus, the judgments rendered in writ jurisdiction were based on incomplete facts.

6. While perusing the record, it came across that during cross-examination, DW-01 admitted that the notices had been sent to an incorrect email address. He further acknowledged that the disciplinary committee had not consistently adhered to the principles of fairness, and that Exh.P2, a material document, had not been submitted before the Courts earlier in the following manner:

i. یہ درسیہ ہے کہ جس کمیٹی ڈاکٹر بشیر خان و کرنل مسزہ اختر: ٲ کو منجنا . صدر NDU بنائے جانے کا ذکر

میں نے کیا ہے اس کا کوئی تحریری حکم نامہ منجنا . صدر موجود نہ ہے۔

ii. یہ درسیہ ہے کہ Ex-P2 میں میں نے یہ تسلیم کیا ہے کہ کرنل مسزہ اختر: ٲ کا کوئی بیان ریکارڈ میں موجود

نہیں ہے

iii. یہ درسیہ ہے کہ میں نے Ex-P2 میں یہ بھی تسلیم کیا ہے کہ ڈاکٹر بشیر خان کی تحقیقاتی رپورٹ مورخہ 28.02.2018 کا وجود نہیں ہے۔

iv. میں نہ بتا سکتا ہوں کہ (GPP) ڈیپارٹمنٹ میں مدعیہ کے معاملہ میں کوئی discussion ہوئی ہے یا نہیں۔

v. البتہ میں نے Ex-P2 میں یہ تسلیم کیا ہے کہ ایسی کسی discussion کا کوئی ریکارڈ موجود نہیں ہے۔

vi. Ex-P2 کا ریکارڈ نہ ہم سے قبل ازیں ہونے والی مقدمہ بازی مابین زمین یقین روبر و اسلام آباد ہائی کورٹ اور سپریم کورٹ آف پاکستان میں نہ ہم سے طلب کیا گیا اور نہ ہی ہم نے پیش کیا یہ درسیہ ہے کہ Ex-P2 پہلی بار مقدمہ ہذا میں کسی عدالت کے روبر و پیش کیا گیا ہے۔

vii. She is involved in serious violation of NDU discipline, she has brought embarrassment and bad name for NDU and her continuation in NDU would not anger well for the overall environment of NDU.

viii. یہ درسیہ ہے کہ مندرجہ بالا findings شہزادی فاطمہ کے خلاف تحریر کرنے کے باوجود شہزادی فاطمہ علی کو یونیورسٹی سے نہیں نکالا گیا اس کی تعلیم جاری رہی اور اس نے اپنی ڈگری NDU سے مکمل کی۔

ix. یہ درسیہ ہے کہ NDU میں مدعیہ کے خلاف Ex-parte فیصلہ کیا۔ از خود کہا کہ یہ باتیں سپریم کورٹ کے فیصلہ میں بھی موجود ہیں۔

x. یہ درسیہ ہے کہ Ex-P7 مدعیہ کو ڈسپلنری کمیٹی کی جگہ سے پہلا نوٹس show cause مورخہ 31.01.2019 کو جاری ہوا۔ از خود کہا کہ یہی الزام Abetting تھی جو کہ سپریم کورٹ آف پاکستان نے اپنے فیصلہ میں کنفرم کیا۔

xi. Email پر مدعیہ کو بھیجے جانے والے نوٹس Ex-P7 کا ثبوت سردسیہ میرے پاس نہ ہے البتہ پیش کر سکتا ہوں۔

xii. یہ درسیہ ہے کہ مورخہ 31.01.2019 کے شوکا نوٹس میں مدعیہ کو صرف abetting کا کردار دیا گیا جبکہ نوٹس مورخہ 04.02.2019 اور 06.02.2019 کے نوٹس میں مدعیہ کو براہ راست

(Taking undue advantage of her and subsequent

through the picture obtain maliciously from blackmailing

(her) کردار دیا گیا۔

xiii. یہ درسیہ ہے کہ مدعیہ گلکلی جواب مورخہ 08.02.2019 پر نوٹس مورخہ 31.01.2019

یونیورسٹی کو موصول ہوا تھا۔ یہ درسیہ ہے کہ مدعین اپنے متذکرہ جواب نوٹس میں یہ کہا تھا کہ مجھے آپ کا

نوٹس مورخہ 31.01.2019 بعد از تاریخ پیش ہونے لیٹ موصول ہوا ہے اس لیے میں لیٹ اس کا

جواب بھجوا رہی ہوں اور مدعیہ نے اپنے جواب میں تمام الزامات کی نفی کرتے ہوئے مدعیہ کے خلاف دائر

درخواست اور اس سے متعلق ریکارڈ مدعیہ کو دیے جانے کی استدعا کی تھی تاکہ وہ اپنا مکمل جواب داخل کر

سکے۔

xiv. یہ درسیہ ہے کہ Ex-P6 درسیہ تسلیم ہے۔ یہ درسیہ ہے کہ Ex-P6 کے مطابق Thesis ریویو

کمیٹی نے Thesis (Examination Branch) کو External Examination

کی valuation کی (Recommended) کر کے فارورڈ کیا ہے۔

xv. یہ درسیہ ہے کہ Ex-P5 کہ علاوہ صدر یونیورسٹی نے مدعیہ کی اپیل پر فیصلہ کرتے وقت کوئی تفصیلی

وجوہات تحریر نہ کی ہیں یہ درسیہ ہے کہ مدعیہ کو بھجوائے گئے نمبر Ex-P7 میں کسی ریگولیشن جس کے

تحت نمبر ۰ بھجوائے جا رہے ہیں ذکر نہ ہے۔

xvi. سوال کیا (یہ درسیہ ہے کہ آپ نے اپنی شہادت میں کوئی ایسا ثبوت/دستاویز پیش نہیں کیا ہے جس کو آپ

یہ کہہ سکیں کہ اس ثبوت/دستاویز کی بنیاد پر مدعیہ کو سزا/داخلہ منسوخ کیا گیا ہے)؟

xvii. جواب (اس کیس میں Already سابقہ مقدمہ بازی میں تمام دستاویز پیش کر چکے ہیں) یہ درسیہ

ہے کہ میری شہادت میں ایسا کوئی ثبوت/دستاویز جس بناء پر مدعیہ کو سزا دی گئی موجود نہ ہے یہ درسیہ ہے

کہ Ex-P2 میں مدعیہ کے شوکا ز نوٹس کے جواب مورخہ 08.02.2019 کا ذکر نہ کیا گیا ہے۔

xviii. مدعیہ کو جس E-mail پتہ پر شوکا ز نوٹس E-mail ہوا وہ بعد از ملاحظہ ریکارڈ معلوم ہوا اس میں

Typing error کی وجہ سے غلط پتہ پر چلے گئے اور مدعیہ کو موصول نہ ہو سکے۔

7. Additionally, it was shown that while another accused, Shehzadi Fatima, was allowed to complete her degree, Nadia Asghar was singled out for punishment, despite her thesis has already been submitted.

8. The charge in the original show-cause notice dated 31.01.2019 (Exh.P4) pertained only to abetment, which was later altered without legal justification. DW-01 also admitted that the Ph.D. thesis was approved for evaluation despite parallel disciplinary proceedings.

9. Most crucial aspect of the case was that DW-01 admitted that no incriminating evidence against Nadia Asghar was present in the University's record, yet her admission was cancelled.

10. The crux of the case is the cancellation of Nadia Asghar's Ph.D. admission by petitioner/University, an issue already adjudicated in writ jurisdiction and affirmed up to the Supreme Court (Exh.D2, Exh.D4, and Exh.D6).

11. The civil Court scrutinized the matter afresh based on the admissions of DW-01 and other procedural irregularities. However, such re-evaluation must be viewed in the light of the settled principle of res judicata and the finality of constitutional judgments affirmed by the apex Court in the following manner:

**1971 S C M R 447 (Muhammad Chiragh-Ud-Din Bhatti Vs. Province Of West Pakistan)**

*Even if section 11 of the Civil Procedure Code may not in terms apply in support of the plea of res judicata, it can hardly be disputed that the general principles of res judicata were clearly attracted to debar the petitioner from re agitating the matter afresh by a civil suit, which had been put at rest by a judgment of the High Court passed in writ jurisdiction. The civil Court could not have by passed or overridden the orders of the High Court competently made in another jurisdiction on the same subject between the same parties.*

**1989 SCMR 836 (Allah Bachaya Vs. Qadul)**

*"The petitioner invoked the Constitutional jurisdiction of the High Court to call in question the legality of the order of the Deputy Settlement Commissioner. A learned Single Judge dismissed his writ petition after upholding the order of the Deputy Settlement Commissioner on merits. The petitioner*

*filed an Intra Court Appeal but did not press it, saying that he would seek his remedy in a Civil Court. Subsequently, he filed a civil suit to call in question the legality of the order of the Deputy Settlement Commissioner. The trial Court rejected the plaint with the finding that as the legality of the order of the Deputy Settlement Commissioner had already been adjudicated upon by the High Court, the suit was hit by the principle of res judicata. The petitioner preferred an appeal before the Additional District Judge but it was dismissed. He then filed a revision petition in the High Court which also met the same fate.*

*This petition is clearly without any merit. The High Court in writ jurisdiction had examined the grounds upon which the petitioner was seeking. To impugn the order of the Deputy Settlement Commissioner and rendered a finding that the said order was entirely legal. The same question could not therefore be re agitated in a Civil Court. The trial Court was therefore right in non-suiting him. The petition is dismissed.”*

**1984 SCMR 1469 (Atiqur-Rehman and others Vs. Muhammad Ibrahim and another).**

*“It is further submitted that as proper remedy for challenging the order, dated 21.06.1980 was available under the Civil Procedure Code, therefore, the petitioners could file a revision under section 115 of the C.P.C., despite the earlier dismissal of their writ petition. We regret we cannot agree. The High Court, in its order, dated 06.12.1981, dismissed the Writ Petition No.8124 of 1980 on the merits, holding that the order of the trial Court, dated 21.06.1980 to the effect that the suit could revive was a legal and valid order. The above order was upheld by the Intra-Court Appeal Bench and also by this Court, though for the reasons different from those which found favour with the learned Judges of the High Court. **Hence another Judge of the High Court could not re-open the same matter, now brought before him through a revision petition,** which had been fully dealt with and disposed of when it came before the Court earlier under its writ jurisdiction. The learned Judge in the High Court was plainly right that the attempt being made to re-open the same matter all over again would be barred by the general*



*principles of res judicata. The upshot is that this petition must fail and is dismissed hereby.”*

The same principle was also discussed and relied upon by the Sindh High court in **1985 CLC 1979 Karachi (Mst. Amina Bai and 02 others Vs. Karachi Municipal Corporation and 06 others).**

12. A comparative analysis of pleadings, affidavits, and documents from both the writ petitions and the civil suit reveals that the issues are directly and substantially the same.

13. While procedural irregularities and unfairness are apparent on record, particularly from DW-01’s cross-examination, the fact remains that the respondent’s case had already been adjudicated conclusively by competent constitutional forums.

14. This Court, sitting in revisional jurisdiction, cannot override the authoritative pronouncements of the constitutional Court and the Supreme Court, in terms of law settled by the Supreme Court discussed above.

15. The provisions of Section 115 of the Code of Civil Procedure (CPC), under which the High Court exercises its revisional jurisdiction, confer an exceptional and necessary power. This power is intended to ensure the effective exercise of the Court’s superintendence and visitorial authority of correction, unhindered by technicalities, as held in **2014 SCMR 161 (Cantonment Board through Executive Officer, Cantt Board Rawalpindi Vs. Ikhlaq Ahmed).**

16. While considering the scope of revisional jurisdiction, the primary factors that warrant its exercise are those expressly provided in Section 115 CPC namely, where the subordinate Court has exercised jurisdiction not vested in it by law, or has failed to exercise jurisdiction so vested, or has acted in the exercise of its jurisdiction illegally or with material irregularity.

17. Such jurisdiction may also be invoked where the subordinate Court has decided a matter based on misreading or non-reading of material evidence, or where it has omitted to consider crucial evidence that had a direct bearing on the issues involved, as affirmed in **2006 SCMR 1304 (Muhammad Feroze and others Vs. Muhammad Jamaat Ali)**. Therefore, the scope of revision is narrow and is restricted to correcting jurisdictional errors or gross mis-appreciation of evidence that leads to a miscarriage of justice.

18. However, where the First Appellate Court, while exercising its powers under Section 96 CPC, has reappraised the evidence and reversed the findings of the Trial Court, the revisional jurisdiction of the High Court under Section 115 CPC is limited. It may only interfere where the findings of the First Appellate Court are tainted by misreading or non-reading of evidence, or where the judgment is in violation of settled principles laid down by the superior Courts. Ordinarily, the First Appellate Court has the jurisdiction to reassess the entire evidence on record and reach a different conclusion, as recognized in **PLD 2005 Peshawar 19 (Abdul Waheed Vs. Muhammad Bilal)**.

19. The revisional jurisdiction of the High Court, while assailing the orders of subordinate Courts, is also to be exercised in conjunction with its supervisory jurisdiction under Article 203 of the Constitution, to correct orders that are perverse, fraudulent, erroneous, or passed either in express violation or ignorance of applicable law.

20. Considering all these aspects, this Court is of the view that the First Appellate Court erred in disregarding the judgment rendered by the Honourable Supreme Court of Pakistan on the same subject matter. Although the evidence recorded in the instant

case may appear to favour the respondent, Nadia Asghar, and procedural impropriety is evident on record, the doctrine of res judicata must be given due weight. However, the controversy stood concluded in the earlier round of litigation, and re-litigation on the same subject is not permissible.

21. The judgment dated 21.11.2024 passed by the learned appellate Court suffers from legal infirmity, having failed to apply the doctrine of res judicata and the binding effect of superior Court judgments.

22. In view of above discussion, instant civil revision is **ALLOWED**. The judgment and decree dated 21.11.2024, passed by the first appellate Court is **SET-ASIDE**, and the judgment of the learned Trial Court dated 20.12.2023 is **RESTORED**.

**(MOHSIN AKHTAR KAYANI)**  
**JUDGE**

RAMZAN