

**ORDER SHEET.**  
**IN THE ISLAMABAD HIGH COURT, ISLAMABAD.**  
**JUDICIAL DEPARTMENT.**

**C.M. Independent No.1456/2020**  
Watim Medical College through Prof. Abdul Rasheed  
*versus*  
Saira Rubab Nasir, etc.

S. No. of order/ proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
	22.06.2020	Sardar Abdul Razzaq Khan, Advocate for the applicant.

Through the instant civil miscellaneous application filed under Section 12(2) CPC read with Section 151 CPC, Watim Medical College (applicant) has prayed for modification/setting aside of Para No.52 of judgment dated 08.01.2020, passed in W.P. No.3800/2019.

2. Learned counsel for applicant contends that the applicant was given its recognition during the pendency of W.P. No.3800/2019 (Saira Rubab Nasir vs. Federation of Pakistan, etc.), whereby the erstwhile PMC has inspected the applicant's medical college and accorded the recognition as well as permission to admit students, resultantly, W.P. No.1423/2019 was disposed of vide order dated 13.01.2020. This aspect was not disclosed by the PM&DC before this Court while hearing W.P. No.3800/2019, which was decided vide impugned judgment dated 08.01.2020, Para-52 of which affects the rights of the applicant.

3. Learned counsel for appellant has been confronted with Para-52 of the judgment in question, which is reproduced as under:

*"52. The actions, orders and decisions taken by the PMC pursuant to promulgation of the PMC Ordinance, 2019 are hereby declared **unlawful** and they are not allowed to proceed further in any manner, however the actions affecting the rights of any individual in this regard will have to be considered by the*

*interim regime notified in the case of Fahad Malik supra in Para-24(n), (o) & (p)."*

4. It has clearly been established from perusal of the above referred para that the orders passed by the PMC pursuant to promulgation of PMC Ordinance, 2019 have been declared unlawful, however the rights have to be considered by the interim regime notified in the case of *Fahad Malik* reported as 2018 SCMR 1956, even otherwise, the judgment in question is yet to be settled by the Hon'ble Division Bench of this Court in ICA No.31/2020 (FOP vs. Saira Rubab Nasir, etc.), therefore, passing of any observation by this Court at this stage will affect the rights of the parties. However, at safer side, the recognition which was given by the PMC is already subject to guidelines and regime notified in the case of *Fahad Malik supra*. Similarly, the apex Court vide order dated 17.04.2020, passed in C.M.A. No.460/2020, notified a new Ad-hoc Council, whereby a former judge of the Hon'ble Supreme Court of Pakistan namely Mr. Ijaz Afzal Khan has been notified as President of Ad-hoc Council, which is comprising of 11 members, who is legally authorized to look into the affairs of the PM&DC till regular council and as such, any grievance raised by the applicant could be settled by the said Ad-hoc Council under the law.

5. The applicant has also been confronted regarding the requirement of Section 12(2) CPC, whereby the question of misrepresentation and fraud is the minimum requirement for maintainability of such kind of applications, whereby no element of misrepresentation or fraud has been highlighted except that the PMC has not disclosed about the pendency of W.P. No.1423/2019 (Watim Medical College vs. PM&DC). As such, mere pendency of writ petition has no effect on the judgment of this Court, passed in W.P. No.3800/2019 (Saira Rubab Nasir vs.

Federation of Pakistan). However, if the applicant is affected from any order passed by the Ad-hoc Council or by the PM&DC, whereby its recognition is in question, the applicant may independently approach the competent court against any such order, therefore, any observation affecting the rights of applicant shall be considered independently under the law and no legal impediment could be considered qua the rights of applicant in this regard.

6. In view of above, instant CM is not maintainable as the question of misrepresentation and fraud is not reflected on record, therefore, the same is hereby **DISMISSED** *in limine*.

(MOHSIN AKHTAR KAYANI)  
JUDGE

Khalid Z.