

ORDER SHEET.

IN THE ISLAMABAD HIGH COURT, ISLAMABAD.
JUDICIAL DEPARTMENT.

Writ Petition No.1969 of 2015

Noshiba Latif & twenty-one others.

Vs.

***The Islamia University of Bahawalpur through
its Voice Chancellor & four (4) others.***

*** * * * ***

S. No. of order/ proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
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02.

30.06.2015

Mr. Qasim Mehmood, Advocate.

The petitioners are students of Islamia University of Bahawalpur (Respondent No.1) enrolled in its Master of Law (LLM) Course which is being taught by its affiliated college namely Al-Mizan Law College (respondent No.3). The grievance of the petitioners is that in 2014 they enrolled in two years LLM Programme offered by respondent No.3 through respondent No.1. The requisite fee and other formalities according to rules and regulations were duly completed and petitioners were provided syllabus for the first year of programme which included the following courses:

- a) **Islamic Jurisprudence.**
- b) **Constitution of Pakistan.**
- c) **Company Law.**

02. During the subsistence of first academic year the petitioners were intimated by respondent No.3 that it has been notified by respondent No.1 that students shall have to sit for GAT examination and obtain atleast 50% score therein till 31.03.2015 otherwise the LLM Decree shall not be awarded to them. Respondent No.3 also intimated to respondent No.1 that there is a change in the syllabus and instead of Islamic Jurisprudence the petitioners shall have to sit for International Trade Law as one of the subjects. Since the academic year had almost come to end, therefore, petitioners made a representation to respondents No.1 &2 for revisiting its decisions, but to no avail. The examination of first year LLM Programme was conducted in February, 2015 and petitioners could not make it in the same. The petitioners, through the instant petition, seek declaration of result of LLM (1) announced on 29.04.2015 as illegal and unlawful.

03. The learned counsel for petitioners, inter alia, submitted that change in the course during academic year is in violation of fundamental rights of petitioners. It was further submitted

that there are about 50 students who appeared for LLM(1) examination and due to the highhandedness of respondents No.1 &2 they could not pass.

04. During the course of arguments, the learned counsel for petitioners was confronted with the fact that relief has been sought against respondents No.1 & 2 who are not within the territorial jurisdiction of Islamabad Capital Territory, therefore, maintainability of the present petition should be addressed as well. The learned counsel in response to the query of the Court relied upon cases titled “Al-Iblagh Limited, Lahore vs. Copyright Board, Karachi & others” (**1985 SCMR 758**) and “Essullah Bhatti vs. Civil Aviation Authority through its Chairman & five others” (**1994 MLD 831**) and submitted that the constitutional petition is maintainable where the cause of action has arisen or under Section 20 of Code of Civil Procedure, 1908 (CPC) where the defendants have their place of business.

05. The relief sought in the instant petition is for setting aside the result declared by respondents No.1 & 2. Admittedly, respondents No.1 & 2 have no office or campus in Islamabad Capital Territory. Respondent No.1 has granted affiliation to respondent No.3, which is only to

the extent that respondent No.3 shall offer the teaching for LLM Programme and by no stretch of imagination respondent No.3 is to be regarded as part of respondent No.1/University or its sub-office/sub-campus, therefore, respondents No.1 & 2 do not have their presence or existence in Islamabad Capital Territory. The sign-qua-non for exercising jurisdiction by this Court under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973 is that a person should be performing the functions in connection with affairs of Federation or Provinces or a legal Authority within the territorial jurisdiction of this Court. The case law cited by the learned counsel for the petitioner is not attracted in the facts & circumstances of the present case. In **1985 SCMR 758** supra the case was against Copyright Board, Karachi which has its offices all over Pakistan and since one of the offices was in Karachi, therefore, it was held that the Hon'ble Sindh High Court had jurisdiction over the matter. It was also observed in the referred case that the referred Board was set up by the Government of Pakistan for whole of the Country, therefore, any person aggrieved of any decision taken by the Board in any of four Provinces of the Country would give High Court of Province jurisdiction to hear the matter in

whose territory the order was passed. Undoubtedly, provisions of Code of Civil Procedure, 1908 are applicable to the proceedings in the constitutional petition, however, the judgement relied upon by the learned counsel for the petitioner i.e. **1994 MLD 831** supra is not applicable inasmuch as though section 20 is attracted to the proceedings under Article 199 ibid, however, in the present case respondents No.1 & 2 do not have their place of business in Islamabad. As already observed, respondent No.3 cannot be termed as sub-office or campus of respondents No.1 & 2. For the above reasons this Court does not have territorial jurisdiction over the matter, therefore, instant petition is not maintainable.

06. In view of above, the instant constitutional petition is dismissed in **limine**.

(AAMER FAROOQ)
JUDGE

Altaf Malik

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