

Form No.HCJD/C-121
ORDER SHEET
ISLAMABAD HIGH COURT
ISLAMABAD

W.P NO.740 of 2012

MS. ANBER JAVED
Versus
BAHRIA UNIVERSITY, ETC.

Sr.No. of order/ Proceeding	Date of order/ proceeding	Order with signature of Judge, and that of parties or counsel, where necessary.
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23.04.2013 **Mr. Muhammad Aslam Khaki, Advocate
for the petitioner.
Mr. Shafiq-ur-Rehman Dab, Advocate for
respondent No.1.**

Petitioner invoked the constitutional jurisdiction of this court, by way of filing instant writ petition, with the following prayer:

*“In the circumstances, it is humbly prayed
that:*

- 1. The act of application of so-called Rules of 2009 to the case of the petitioner retrospectively and without lawful authority be declared against the law, justice and hence void and hence of no legal effect.*
- 2. the respondents be directed to declare the petitioner as the valid and lawful winner of gold medal in B.S telecommunication program (2006-2010) being the highest scorer of CGPA 3.79 and thus be awarded the Gold Medal for her batch in the next annual convocation of the respondent University.*
- 3. The alleged Academic Rules of 2009 (as amended) may be declared void and invalid being not framed in accordance with the Bahria University Ordinance 2000.”*

2. The brief facts leading to file the instant writ petition are that petitioner joined the respondent University in 2006 batch to earn a

B.S Degree in Telecommunication, all the four years she work extremely hard and earned highest CGPA 3.79 amongst all her batch mates. As per Academic Rules in the form of "Prospectus 2006" and "Students Handbook" provided by the University to all the students of her batch, it was provided that students achieving high academic standards are awarded, 'Honors' upon completion of their degree requirements and medals and merit certificates are awarded to these students at the Convocation Ceremony of the University. Petitioner having highest CGPA i.e 3.79 was expecting award of a 'Gold Medal' on the eve of Convocation Ceremony held on 26th of December 2011 but to her utter disappointment and surprise, the Gold Medal was awarded to another batch mate of her, namely Mr. Saad-ul-Hassan, with CGPA 3.71 much lower than the petitioner's. The said violation was agitated through application addressed to the Head of the Department of Electrical Engineering on 9th Dec. 2011 but her request was turned down with the remarks as under:-

"Case was discussed with Director IC and the request has been refused on the grounds that Academic Council decided in 2009 the changed rules for the award of Gold Medals"

3. Petitioner was verbally communicated by H.O.D that according to said amended Academic Rules 2009, a student who has re-

scheduled his/her subjects during studies is not entitled for the award of God Medal and any other Honor.

4. Learned counsel for petitioner argued that it is the settled law that no law can be applied retrospectively as in the case of petitioner the University Rules of 2006 were applicable when the petitioner rescheduled her one subject in 2006-2007, therefore, rules of 2009 without prejudice their validity cannot be applied retrospectively. That, the so called rules of 2009 were neither framed as per law nor made public hence are void ab initio. It is contended that "Cum Laude" is also one of the Honours of the University which was awarded to the petitioner despite her re-scheduling of one subject in 2006 but denied the Gold Medal for the reason best known to respondent University. It is lastly contended that matter of 'Gold Medal' is the basis of career of the petitioner for higher education, foreign scholarship and employment, therefore, its denial to the petitioner will seriously prejudice her.

5. Conversely, Respondent University filed its written statement, whereas impleaded respondent No.4 through amended memo not appeared despite substituted service through proclamation, therefore, he was proceeded against ex-parte vide order dated 17.04.2013.

6. It is the stance of the Respondent University that instant writ petition is not maintainable as the petitioner is not an "aggrieved person" in the ambit of Article 199 of the Constitution of Islamic Republic of Pakistan as none of her legal right has been infringed. Petitioner herself admitted withdrawal of one subject in Ist. Semester of her degree and took one summer semester, hence not meet the criteria for award of Gold Medal. It is contended that the Rules of award of "Cum Laude" and Gold Medal are not same as there are different Criteria for award of "Cum Laude" and "Gold Medal".

I have heard the learned counsel for the parties and perused the record.

7. Admittedly, petitioner completed her degree in the year 2010; the students become eligible for Honours and Medals at the time of completion of their respective degrees. It is the stance of petitioner herself that it was provided in the Prospectus and handbook that "students achieving high academic standards **are awarded,** 'Honors' upon completion of their degree requirements and medals and merit certificates are awarded to these students at the Convocation Ceremony of the University." Therefore, this was a prevailing practice in the university as the word "**are awarded**" was used

in the Prospectus and hand book and not the word **“will be awarded”**. Moreover, it is provided at the first page of Students Handbook that:-

“The policies and procedures contained in this book are subject to change from time to time as deemed necessary and appropriate by the University in order to fulfill its mission and objectives. Any such changes might be implemented without prior notice.”

8. There is no doubt that CGPA of petitioner (3.79) was highest in comparison to CGPA (3.71) achieved by respondent No.4, but petitioner achieved this score in 02 attempts whereas respondent No.4 achieved it in one go. This aspect itself created a reasonable distinction between petitioner and respondent No.4, therefore, decision of the University cannot be termed as arbitrary, perverse and unreasonable.

9. It will not be out of place to mention here that making rules and regulations to run the affairs of University and interpretation of the same is the prerogative of the University Authorities, and the courts normally avoid interference in such like matters, unless a case of grave injustice is pointed out. Although, award of Gold Medal to a student is a sign of excellence and inspiration yet the authorities

have to examine the case of each student in the perspective of university rules and regulations made from time to time.

In this view of the matter instant writ petition is **dismissed**.

(SHAUKAT AZIZ SIDDIQUI)
JUDGE

Approved for Reporting.

"Waqar Ahmed"
Blue ship addl

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