

(Judgment Sheet)  
**IN THE ISLAMABAD HIGH COURT, ISLAMABAD**  
**JUDICIAL DEPARTMENT**

**Writ Petition No.2567 of 2020**

Nasir Naveed  
*Versus*  
National Defence University, Islamabad (NDU), etc.

<i>Petitioner by:</i>	<i>Mr. Jameel Hussain Qureshi, Advocate.</i>
<i>Respondents No.1 &amp;2:</i>	<i>Mr. Babar Bilal, Advocate.</i>
<i>Respondents No.3 by:</i>	<i>Mr. Binyamin Abbasi, Advocate.</i>
<i>Date of hearing:</i>	<i>24.02.2021</i>

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**GHULAM AZAM QAMBRANI, J.:-** Through this writ petition under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, the petitioner has made the following prayer:-

*“THEREFORE, it is most respectfully prayed that this writ petition may please be accepted and allowed in favour of the petitioner and against the respondents and:*

- a) The Notification dated 05.05.2020 issued by the Respondent No.2 may very graciously be declared as void-ab-initio, illegal and unlawful.*
- b) The respondents may very graciously be directed to allow the petitioner to continue in remaining sessions of his PhD degree on determine basis without further impediment.*
- c) The respondents may very graciously be directed to treat the petitioner as student without discrimination and victimization with all other students.*

*It is further prayed that any other relief which Hon'ble Court may find fit proper and just may also be granted to the petitioner in addition to the ones prayed above.*

2. Precisely stated facts of the case are that the petitioner was registered and enrolled at National Defence University in Ph.D Strategic Studies Department, w.e.f. Fall-2013 semester for seven years; that the petitioner completed residence requirement of two semesters and after completing his 18 Credit Hours Coursework in Ph.D, passed Comprehensive Examination, the petitioner applied

for allocation of Research Topic & Supervisor and submitted his Research Proposal, titled "Pak-US Foreign and Security Relations:2001-2013" to Advanced Studies and Research Board (ASRB) which was duly approved by ASRB; that in October, 2016 the petitioner presented his thesis in the doctoral seminar at his department with the help of his supervisor. It is further stated that during his research the petitioner was offered with a job by an organization namely INDUS in Washington D.C. in 2017, which was availed by the petitioner as it was related to his research field; that during the research work for Ph.D thesis, the petitioner conducted almost two dozen interviews of experts, who were involved in decision making both in Pakistan and the U.S. in the field of Pak-US relations; that the research article of the petitioner titled "Operation Zarb-i-Azb: Retrospective View in Context of US Response" was published in Margalla Papers-2019, however, the delay in the publication of the research paper was not on the part of the petitioner; that for submission of the Thesis to Review Committee, the petitioner made several requests to his Supervisor as well as Head of Department and also requested that he is able to attend the meeting before the Review Committee to update the University Examination & Research Committee (UERC) on his thesis progress via online means for which he appeared online previously, but he was denied the option of appearing online at the time of submitting thesis. It is pertinent to mention here that when the petitioner took admission, the UERC was not in existence and the same was created several years later after the admission of the petitioner. It is submitted that on 16.04.2020, the petitioner was served with a show cause notice on Adverse Progress Reports for Fall-18 and Spring-19 Semester. Thereafter, the Advance Studies & Research Board (ASRB) approved cancellation of admission of the petitioner; the petitioner on 21.04.2020, submitted reply to the show cause notice explaining that all the circumstances, on account of which, he failed to submit thesis to Review Committee, but issued impugned notification dated 05.05.2020 and cancelled admission of the petitioner, hence, the instant petition.

3. Learned counsel for the petitioner has contended that the petitioner made several requests to his supervisor as well as Head of the Department for submission of his thesis to the Review Committee and that he is able to attend the meeting before Reviews Committee to update UERC on his thesis progress via online; that UERC was not in existence when the petitioner took admission in Ph.D in the year 2013, therefore, any progress report before any such committee, which was constituted later in 2017, is inapplicable to the case of the petitioner, as per Chapter-4 of University's Student Hand Book, the petitioner has completed all the requirements from "a" to "f" of section 4.1 but for requirements mentioned in the clauses "g" to "h" of section 4.1 of Student Hand Book, the petitioner many a times requested that he may be allowed to comply the same online via Skype or any other online mode as previously conducted by the University for the Fall- 2017 and Spring-2018; that the petitioner took the classes and course works which was required for Ph.D student; that as per policy guidance notes issued by the Higher Education Commission (HEC), the student supervisor meeting, submission of thesis, foreign and local evaluation, and public defence are required to be conducted by video conference or by electronic means. It is further submitted that cancelation of admission of the petitioner at the final stage and in his last year of Ph.D amounts to deprive the petitioner of his right of education, which is violation of Articles 3, 4 & 9 of the Constitution of the Islamic Republic of Pakistan, 1973; that the petitioner made several requests for submission of his thesis to his Supervisor, Head of the Department as well as to the President of the University, but failed; that the impugned notification is illegal, void and has been issued in clear violation of Section 24-A of the General Clauses Act, 1897 as the same has been passed without assigning any justified reason hence, the same is liable to be set-aside.

4. *Per Contra*, learned counsel for the respondents No.1&2/ University contended that the instant writ petition is not maintainable being barred by law; that the petitioner has alternate

remedy of filing an appeal before the President of University; that disputed question of facts are involved in this matter, which cannot be resolved by this Court in exercise of its constitutional jurisdiction; that the petitioner remained absent from the University for the last two years without obtaining any permission from the University, as such, his admission has been rightly cancelled by the University; that the Special Power of Attorney executed at Washington, DC, USA for specified purpose without mentioning anywhere about the cancellation of admission or challenging the same in Court of law hence, the same is not valid; that instant petition is not maintainable as the petitioner is estopped by his conduct to file the instant petition; that the instant petition is also not maintainable, as the same has been filed with malafide intention to damage the image of University, which is a National Institution and a large number of Senior Officers from military and civil departments of Pakistan alongwith military officers of foreign countries participate in various courses. Lastly, urged for dismissal of instant petition.

5. Learned counsel for respondent No.3 contended that academic administrative matter directly related to the University; that the criteria for MS/ M.Phil and Ph.D Programs is required to be completely observed for award of Ph.D degree and as per prescribed policy coursework of 18 credit hours preferably in the first year is required to be completed and followed by a compressive examination for granting candidacy as Ph.D Researcher. Further that the Ph.D dissertation must be evaluated by at-least two Ph.D experts from technologically and academically advanced foreign countries in addition to local Committee members.

6. Heard arguments of the learned counsel for the parties and perused available record.

7. Perusal of the record depicts that the petitioner has the alternate remedy of filing an appeal before the President of the National Defence University, as per the Academic Regulations of the University; therefore, this petition is not maintainable, as the

petitioner has not exhausted the said remedy for resolution of his dispute with the University. In this regard, I am fortified by the law laid down by the Hon'ble Supreme Court of Pakistan in the case reported as "Indus Trading And Contracting Company Vs. Collector Of Customs (Preventive) Karachi and others (2016 SCMR 842), wherein, it has been held as under:-

*"Ordinarily, the jurisdiction of the High Courts under Article 199 of the Constitution should not be invoked where alternative forum under a special law, duly empowered to decide the controversy is available and functioning. Where a special law provides legal remedy for the resolution of a dispute, the intention of the legislature in creating such remedy is that the disputes falling within the ambit of such forum be taken only before it for resolution. The very purpose of creating a special forum is that disputes should reach expeditious resolution headed by quasi judicial or judicial officers who with their specific knowledge, expertise and experience are well equipped to decide controversies relating to a particular subject in a shortest possible time. Therefore, in spite of such remedy being made available under the law, resorting to the provisions of Article 199(1) of the Constitution, as a matter of course, would not only demonstrate mistrust on the functioning of the special forum but it is painful to know that High Courts have been over-burdened with a very large number of such cases. This in turn results in delays in the resolution of the dispute as a large number of cases get decided after several years. These cases ought to be taken to forum provided under the Special law instead of the High Courts. Such bypass of the proper forum is contrary to the intention of the provisions of Article 199(1) of the Constitution which confers jurisdiction on the High Court only and only when there is no adequate remedy is available under any law. Where adequate forum is fully functional, the High Courts must deprecate such tendency at the very initial stage and relegate the parties to seek remedy before the special forum created under the special law to which the controversy relates. We could have relegated the appellant to seek remedy before the appropriate forum, however, as the dispute in the present case is now more than twenty years old, we for this reason only as matter of indulgence, proceed to decide the controversy on its merits."*

8. Record further shows that it is admitted that the petitioner remained absent from University for more than two years without obtaining any permission from the University and left for USA in connection with his job in the year 2016. The petitioner was asked to make himself available for appearing before the University Examination & Research Committee (UERC), but he insisted to

appear online in the meeting of UERC, which is not covered under the academic regulations of the University. Even otherwise, the stance of the petitioner that the petitioner took admission at National Defence University in Ph.D Strategic Studies Department, w.e.f Fall 2013 semester, and at that time, the UERC was not in existence and the same was created several years later after the admission of the petitioner is of no help to the petitioner as he was bound to follow the Academic Regulations of the University in letter and spirit. The admission of the petitioner was canceled on account that he remained absent from key UERC meetings as he was away from Pakistan for an indefinite period, as such, his admission was rightly cancelled by the University after adopting the proper procedure provided in the Academic Regulations of the University.

9. The upshot of above discussion is that the instant writ petition is **dismissed** being not maintainable without giving any findings on merits of the case. The petitioner is at liberty to agitate his grievance before appropriate forum.

**(GHULAM AZAM QAMBRANI)**  
**JUDGE**

*Announced in open Court on this 29<sup>th</sup> day of March, 2021.*

**JUDGE**