

# Shifa vs Jamia Millia Islamia & Ors on 7 December, 2021

**Author: Prateek Jalan**

**Bench: Prateek Jalan**

\$~97 to 121 (2021 Cause List)

\* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P.(C) 13212/2021 & CM APPL. 41712/2021  
SHIFA

..... Pet

versus

JAMIA MILLIA ISLAMIA & ORS.

..... Responde

+ W.P.(C) 13213/2021 & CM APPL. 41719/2021  
TUFAIL ALI

..... Pet

versus

JAMIA MILLIA ISLAMIA & ORS.

..... Responde

+ W.P.(C) 13214/2021 & CM APPL. 41720/2021  
MD HAMMAD

..... Pet

versus

JAMIA MILLIA ISLAMIA & ORS.

..... Responde

+ W.P.(C) 13215/2021 & CM APPL. 41721/2021  
NAWAZ KHAN

..... Pet

versus

JAMIA MILLIA ISLAMIA & ORS.

..... Responde

+ W.P.(C) 13216/2021 & CM APPL. 41722/2021  
MOHD ABUZAR

..... Pet

versus

JAMIA MILLIA ISLAMIA & ORS.

..... Responde

+ W.P.(C) 13217/2021 & CM APPL. 41723/2021  
AYSHA PRAVEEN

..... Pet

versus

JAMIA MILLIA ISLAMIA & ORS.

..... Responde

+ W.P.(C) 13227/2021 & CM APPL. 41755/2021  
SHEHNAZ DEWAN

..... Pet

versus

JAMIA MILLIA ISLAMIA & ORS.

..... Responde

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By:SHITU NAGPAL

Signing Date:08.12.2021

W.P.(C) 13212/2021 & Other Connected Matters

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W.P.(C) 13284/2021 & CM APPL. 41899/2021  
AAYAT SOHAIL

versus

JAMIA MILLIA ISLAMIA & ORS.

..... Pet

..... Responde
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W.P.(C) 13286/2021 & CM APPL. 41902/2021  
HANIYAH ASIF SAIFI

versus

JAMIA MILLIA ISLAMIA & ORS.

..... Pet

..... Responde
- +

W.P.(C) 13287/2021 & CM APPL. 41903/2021  
ILMA ISLAM

versus

JAMIA MILLIA ISLAMIA & ORS.

..... Pet

..... Responde
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W.P.(C) 13288/2021 & CM APPL. 41904/2021  
TALHA IMRAN

versus

JAMIA MILLIA ISLAMIA & ORS.

..... Pet

..... Responde
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W.P.(C) 13289/2021 & CM APPL. 41905/2021  
MOHD TURKEE

versus

JAMIA MILLIA ISLAMIA & ORS.

..... Pet

..... Responde
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W.P.(C) 13290/2021 & CM APPL. 41906/2021  
MOHAMMED ADAN MONIS

versus

JAMIA MILLIA ISLAMIA & ORS.

..... Pet

..... Responde
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W.P.(C) 13297/2021 & CM APPL. 41924/2021  
FATIMA SAIFI

versus

JAMIA MILLIA ISLAMIA & ORS.

..... Pet

..... Responde
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W.P.(C) 13300/2021 & CM APPL. 41926/2021  
AYAN IRFAN

versus

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W.P.(C) 13212/2021 & Other Connected Matters

- JAMIA MILLIA ISLAMIA & ORS.

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W.P.(C) 13302/2021 & CM APPL. 41928/2021  
AYAT IRFAN

versus

JAMIA MILLIA ISLAMIA & ORS.

..... Pet

..... Responde

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|---|--|-----------------------------|
| + | W.P.(C) 13303/2021 & CM APPL. 41929/2021<br>ABUZAR SALMAN<br>versus<br>JAMIA MILLIA ISLAMIA & ORS. | ..... Pet<br>..... Responde |
| + | W.P.(C) 13309/2021 & CM APPL. 41939/2021<br>ALVINA<br>versus<br>JAMIA MILLIA ISLAMIA & ORS.        | ..... Pet<br>..... Responde |
| + | W.P.(C) 13317/2021 & CM APPL. 41983/2021<br>TAMEEM DEWAN<br>versus<br>JAMIA MILLIA ISLAMIA & ORS.  | ..... Pet<br>..... Responde |
| + | W.P.(C) 13318/2021 & CM APPL. 41984/2021<br>SANA SUMBUL<br>versus<br>JAMIA MILLIA ISLAMIA & ORS.   | ..... Pet<br>..... Responde |
| + | W.P.(C) 13319/2021 & CM APPL. 41985/2021<br>FUSHA IFFAT<br>versus<br>JAMIA MILLIA ISLAMIA & ORS.   | ..... Pet<br>..... Responde |
| + | W.P.(C) 13321/2021 & CM APPL. 41988/2021<br>MAAZ ALI<br>versus<br>JAMIA MILLIA ISLAMIA & ORS.      | ..... Pet<br>..... Responde |
| + | W.P.(C) 13327/2021 & CM APPL. 41996/2021   |                             |

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| + | W.P.(C) 13212/2021 & Other Connected Matters<br>IQRA ISLAM<br>versus<br>JAMIA MILLIA ISLAMIA & ORS. | P<br>..<br>.....            |
| + | W.P.(C) 13329/2021 & CM APPL. 41998/2021<br>KAIF MALIK<br>versus<br>JAMIA MILLIA ISLAMIA & ORS.     | ..... Pet<br>..... Responde |
| + | W.P.(C) 13410/2021 & CM APPL. 42274/2021<br>AYAN MALIK<br>versus<br>JAMIA MILLIA ISLAMIA & ORS.     | ..... Pet<br>..... Responde |

Appearances: -

For the Petitioners: -

Dr. Amit George, Mr. Mobashshir Sarwar, Ms. Iram Peerzada, Mr. Acharya, Mr. Mohd. Sarfarz & Mr. Faraz Ahmad Khan, Advocates in Item nos. 97 to 103 & 121.

Mr. Abhik Chimni, Mr. Mobashshir Sarwar, Ms. Iram Peerzada, Mr. Lakshay Garg, Mr. Shashwat Mehra, Mr. Mohd. Sarfaraz & Mr. Faraz Ahmad Khan, Advocates in Item nos. 104 to 112.

Mr. R.K. Saini, Mr. Mobashshir Sarwar, Ms. Iram Peerzada, Mr. Singh, Mr. Mohd. Sarfarz & Mr. Faraz Ahmad Khan, Advocates in Item nos. 113 to 120

For the Respondents: -

Mr. Pritish Sabharwal, Assistant Standing Counsel for Jamia Millia Islamia.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

#### ORDER

% 07.12.2021 The proceedings in the matter have been conducted through hybrid mode [physical and virtual hearing].

1. Further to the order dated 02.12.2021, an affidavit dated 03.12.2021 has been filed by the Registrar of respondent-Jamia Millia Islamia ["JMI"]. The affidavit states inter alia that a policy dated 01.12.2021 has been formulated which will govern all admissions to the schools under JMI. It is stated in the affidavit that the vacancies in all classes except Nursery, Prep, Classes I, VI, IX and XI would be filled by way of interaction/interview. The affidavit further states that admission to Nursery, Prep, Classes I, VI, IX, and XI would be made by way of a written examination. The affidavit also states that the said policy would take effect prospectively and no further admissions would be made for the year 2021-22 except admission of the petitioners herein.

2. During the course of hearing, in the morning session today, the Registrar of JMI was present through video conference as directed. He stated inter alia that the admissions to Nursery, Prep and Class I are made on the basis of draw of lots and to Classes VI, IX and XI on the basis of a written test, and that this procedure would continue to be followed. This position was not reflected in the policy dated 01.12.2021 annexed to the writ petition, which suggested that admission to all these classes would be based on the written examination.

3. At the request of Mr. Pritish Sabharwal, learned Assistant Standing Counsel for JMI, an opportunity was given to place a further affidavit explaining the correct position.

4. The matter has been taken up again at 4:00 PM and Mr. Sabharwal has handed over an affidavit dated 07.12.2021. The affidavit is taken on record. The affidavit records that the policy dated 01.12.2021 has been withdrawn and a new policy dated 07.12.2021 has been formulated. The policy reads as follows:-

1. It is stated that the competent authority has decided that the following shall form part and parcel of the prospectus of Syed Abid Hussain Senior Secondary School. The earlier policy dated 01.12.2021 is withdrawn and the following shall come into effect.
2. Every year a notification is issued for inviting applications for taking admission into the school; thereafter we conduct admission test and allow admission on the basis of the marks scored in the written examination for the test course classes i.e.VI, IX and XI. The same process shall continue to operate.
3. That the University/ competent authority has decided that in case of any casual vacancy, arises in the school, in classes II, III, IV, V, VII and VIII, the same shall be filled by the school by publishing a public notice which shall be published on the website as well as the display board in the schools and the admissions shall be on the basis of the test as well as the marks in the previous class in respective schools shall be considered.
4. It is clarified that the admissions in Nursery, Prep and Class I shall be based on the same procedure of draw of lots; the procedure is already been laid down in the prospectus.
5. NO ADMISSION shall take place on first come first basis or by any interaction/interview in any of the category or any head in the school."
5. The affidavit contains the following additional averments:-  
  
"6. It is further submitted that the respondents- school every year a notification as per the prospectus for inviting applications for taking admission into the school; thereafter we conduct admission test for the test course classes i.e. VI, IX and XI. The same process shall continue to operate. The procedure of which has been expressly laid down under clause 6 of the combined prospectus.
7. It is further submitted that the University/ competent authority has decided that in case of any causal vacancy, arises in the school, in classes II, III, IV, V, VII and VIII, the same shall be filled by the school by publishing a public notice which shall be published on the website as well as the display board in the schools and the admissions shall be on merit basis; on the basis of tests and marks, in the previous class in the respective schools. It is clarified that the admissions in Nursery, Prep and Class I shall be based on the same procedure of draw of lots; the procedure is expressly laid down in the prospectus.
8. It is stated that the prospective candidates, who are eligible to apply, may apply online and submit their requisite documents for consideration on merits and henceforth, the students shall ONLY be admitted against all seats in the school on merit.

9. It is further submitted that no admission shall take place on first come first basis or by any interaction/interview in any of the category or any head in the school."

6. Mr. Sabharwal submits that JMI will abide by the aforesaid policy in letter and spirit. He also reiterates that the petitioners will be admitted in the respondent no. 4-School in the appropriate classes for the academic year 2021-22, subject to submission of the documents required by the respondent no.4-School.

7. In view of the above, the grievance raised by the petitioners in these petitions stand satisfied. The petitions are therefore disposed of, noting the policy dated 07.12.2021 formulated by JMI.

8. It is made clear that this Court has not examined the legality or merits of the aforesaid policy, which is beyond the scope of these writ petitions.

PRATEEK JALAN, J DECEMBER 7, 2021 'pv/Bp'/'