

2011 CLC 1561

[Lahore]

Before Muhammad Ameer Bhatti, J

MUHAMMAD RAHID SHARIF----Petitioner

Versus

**BOARD OF INTERMEDIATE AND SECONDARY EDUCATION, FAISALABAD
through Chairman----Respondent**

Writ Petition No.10742 of 2011, decided on 23rd May, 2011.

Constitution of Pakistan---

---Art. 199---Constitutional petition---Educational institution---Administration of justice--- Admission fee, deposit of---Petitioner was Principal of the school and he deposited admission fee on behalf of his students---Plea raised by Education Board was that Principal of school had no authority to submit admission form or deposit admission fee on behalf of his students--- Validity---Proper place of procedure in any system of administration of justice was to help and not to thwart redress of genuine grievance---Statutory obligation on High Court demanded dispensation of justice by way of exercising Constitutional jurisdiction---If the students were not allowed to sit in examination, it would amount to wasting of their one year and that too without any justification, when High Court on the statement of the Board in earlier petition allowed the students to sit in the examination---It made no difference as to who deposited the fee and submitted the forms---Board was making an effort to wriggle out from the earlier commitment made before High Court which it could not be permitted to do---High Court directed the Education Board to issue Roll number slips to all such students and allow them to appear in the examination---Petition was allowed in circumstances.

Petitioner in person.

Dr. M. Mohy-ud-Din Qazi, Legal Advisor, BISE for Respondent.

ORDER

MUHAMMAD AMEER BHATTI, J.--- Though this writ petition the petitioner has challenged the inaction of the respondent as the respondent has failed to issue the Roll Number Slip for appearance in the 11th class examination commencing from 24-5-2011.

2. The learned counsel for the respondent in terms of order dated 18-5-2011 has entered appearance and raised the following objections:

- (i) the petitioner has no locus standi to file this writ petition,

(ii) he is not an aggrieved person,

(iii) the students have not submitted the form according to the order dated 12-3-2011 passed in Writ Petition No.3840 of 2011 so the present petitioner/the principal of the college has no authority to submit the forms or fee on behalf of the students. Further submits that since the students have failed to comply with the earlier order passed in the earlier writ petition hence it is past and close transaction and same cannot be reopened.

3. It is however, admitted by the learned counsel for the respondent that although the accumulative fee has been submitted by the petitioner on behalf of the students as he has no authority to submit it hence this has no validity.

4. Conversely petitioner appeared in person and states that according to the order dated 12-3-2011 he submitted the forms and fee on behalf of 43 students of 9th class which was accepted and Roll Numbers were issued and the students were allowed to appear in the examination but as regards the fee and forms submitted on behalf of 55 students of 11th class, the respondent has now raised the objection that the students should have submitted their forms individually along with their Admission fee which is hypertechnical objection and not sustainable in the eye of law. In view of the same, this petition be accepted and respondent be directed to issue the Roll Number Slip so that the students could appear in the examination commencing from 24-5-2011.

5. It is appropriate to reproduce the relevant para of the judgment passed in Writ Petition No.3840 of 2011:---

"In this view of the matter, the writ petition appears to be premature at this stage as admittedly, the Institution of the petitioner is yet to be affiliated by the Board. However, in view of the statement of the learned Legal Advisor, it is ordered that the 43 students of 9th class and 55 students of 11th class presently studying at the institution of the petitioner shall be treated as private students and shall be allowed to sit in the 9th class exam. commencing from 18-3-2011 and 11th class exam. scheduled later provided that the admission forms for the 9th class are submitted along with the normal single fee by 15.-3-2011 and those of the 11th class are filed along with' the single(?) normal single fee by 19-3-2011. The writ petition stands disposed of in the above terms".

6. I have gone through, the record of the case as well as the order passed in Writ Petition No.3840 of 2011 relevant para reproduced above, filed by the same petitioner and considered the submissions made by the parties and reached to this conclusion that this court has allowed the students of 11th class to appear in the examination if the fee has been submitted before 19-3-2011. Annexure-B is a receipt which shows a sum of Rs.76700/-was deposited as accumulative admission fee though it was deposited by the petitioner/Principal Ashrafia Higher Secondary School but fact remained that it was for the students who were permitted

by this court to appear in the examination. The objections of the learned counsel for the respondent are not sustainable in the light of the order dated 12-3-2011. Even otherwise proper place of procedure in any system of administration of justice is to help and not to thwart the redress of genuine grievance. Thus, the case in hand entails statutory obligation on

this court and demands dispensation of substantial justice by way of exercising constitutional jurisdiction. If at this stage, the students are not allowed to sit in the examination it would amount to wasting of their one year and that too without any justification, when this court on the statement of the learned counsel for the respondent has allowed the students to sit in the examination. Thus it makes no difference as to who deposited the fee and submitted forms. There is no observation in my mind that the respondent is not making an effort to wriggle out from the

earlier commitment made before this court which the respondent cannot be permitted.

For what has been discussed above, this petition is allowed and the respondent is directed to issue the Roll Number Slips to all the students and allow them to appear in the examination commencing from 24-5-2011. This order has been passed in the presence of the learned counsel for the respondent and he has been directed to convey the order of this court to the respondent so that no ambiguity remains for issuance of Roll Number in time. Students who had spent their precious time and money and also had completed prescribed courses of study, should not, therefore, be made to suffer because the forms of Fee have not submitted by them on their own. It is not the duty of the educational institution to raise such-like objection they should concur with this fact that form and fee had paid in time.

No order as to cost.

M.H./M-895/L

Petition allowed.