

JUDGMENT SHEET

**PESHAWAR HIGH COURT,
ABBOTTABAD BENCH**

JUDICIAL DEPARTMENT

**Writ Petition No.754-A of 2017
with C.M No.615-A/2017
JUDGMENT**

Date of hearing.....25.07.2017.....

*Petitioner(s) ...(Quami Islamia Public School & College) by
Mr. Ambar Rasheed Durrani, Advocate.....*

*Respondent(s)...(Board of Intermediate & Secondary
Education, Abbottabad etc).....*

SYED MUHAMMAD ATTIQUE SHAH, J.-

Petitioner through the instant writ petition has approached this Court under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973, with the following prayer:-

“It is therefore, most humbly prayed that on acceptance of instant writ petition the acts of the respondents i.e. issuance of show cause notice dated 19.05.2017 to the petitioner may please be declared null and void, void ab-initio.

The respondents may please be directed that before declaring result provide fair opportunity of hearing to 73 students of the respondents before UFM committee, papers of the all students may also be ordered to be

produced before this Honourable Court alongwith daily examination progress / personal report of HSSC examination 2017 of the petitioner's examination centre.

Any other relief which this Honourable Court deems appropriate and proper in the circumstances of the case."

2. In essence, the grievance of the petitioner is that the respondents be directed not to declare the result of Annual Examination 2017 of Higher Secondary School Certificate pertaining to students studying in petitioner's school who have allegedly been found indulged in Unfair Means (UFM) during said examination and the show cause notice issued to the petitioner's school be also declared null and void.

3. Arguments heard and record perused.

4. Perusal of record reveals that a large number of students have been found indulged in 'Unfair Means' (UFM) during conduct of Annual Examination, 2017 in the petitioner's school. The matter of UMF and its decision squarely falls within the domain of the respondents. The plea of the petitioner's school that upcoming result of students, who appeared in HSSC examination and found

indulged in UMF be withheld is without any legal justification, as this Court in view of the peculiar facts and circumstances of the present case, deems it proper not to dilate upon the controversy involved in the present petition, lest it may not prejudice the case of the petitioner's school before the Authority concerned. Moreover, the factual controversy raised in the present writ petition by the petitioner cannot be resolved or dilated upon by this Court in its constitutional jurisdiction. This Court considers that this factual dispute can best be resolved by the respondent-authority after hearing the petitioner and considering his submissions in meaningful manner. Let the respondents perform their functions in accordance with law available on the subject. Moreover, interference of this Court in the affairs of the respondents at this stage would amount to hamper the legal process which is to be carried out by them. However, there is an application dated 17.07.2017 of the petitioner's school submitted to respondent No.2, Chairman of the Board, therefore, this Court directs the respondents to proceed with the matter and decide the said application strictly in accordance with law.

5. Keeping in view the above stated peculiar facts and circumstances of the case and discussion made thereupon, the present writ petition being bereft of merits, hence dismissed in *limine*.

Dt.25.07.2017.

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M.Saleem/*