

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

Present:

Justice Qazi Faez Isa, CJ
Justice Musarrat Hilali
Justice Naeem Akhtar Afghan

Case Under Objection No. 19/2024
In
Constitution Petition NIL/2024

All Public Universities BPS Teachers Association
(APUBTA) through its President. ... *Petitioner*

Versus

The Federation of Pakistan through Secretary Federal Education
and Professional Training, Islamabad and others. ... *Respondents*

For the Petitioner: Mr. Umer Ijaz Gilani, ASC.
Assisted by Mr. Sajjad Hameed, AHC.
Mr. Mehmood Ahmed Sheikh, AOR.
a/w Petitioner.

For the Respondents: Not represented.

Date of Hearing: 01.04.2024.

ORDER

Learned Mr. Umar Ijaz Gilani states that this constitution petition has been filed by the *All Public Universities BPS Teachers Association* (**‘Association’**), a registered charity, which represents about fifty thousand teachers working in public universities. He states that the Association’s only reason for bringing this matter to the attention of the Court and its only interest is to ensure that federal laws, provincial laws and statutes of public sector universities are implemented. He submits that there are three major grievances of the petitioner: firstly, that out of the 147 public sector universities about 60 are functioning without vice chancellors; secondly, the tenured positions in public sector universities are not filled-in; thirdly, the decision making bodies of the public sector universities, including their boards of governors, syndicates, senates and academic councils do not hold meetings with the frequency as stipulated in the law or their respective statutes, consequently public sector universities are under performing and impinges on their academic freedom. He further submits that public sector universities, as envisaged in the law, were supposed to be autonomous but

when the said positions are not filled-in and meetings do not take place it facilitates outside interference including by the Federal and provincial governments.

2. Learned counsel submits that the grievance of the petitioner falls squarely within the parameters of Article 184(3) of the Constitution of the Islamic Republic of Pakistan (**‘the Constitution’**) as it is a matter of public importance and requires the enforcement of the Constitution and the Fundamental Rights mentioned therein. In this regard he submits that Article 4 of the Constitution stipulates that citizens must be treated in accordance with the law, which is their inalienable right, and that when public sector universities, which are dependent on their funding on taxpayers money, are not governed in accordance with the law and their respective statutes, the citizens’ inalienable right is violated. He further states that Article 25 of the Constitution requires that all citizens be treated equally, however, when some public sector universities are functioning in accordance with law and others are not with regard to the latter the citizens are not treated equally. He further submits that the Constitution was amended and Article 25A was inserted therein in the year 2010, and though the said provision attends to children upto the age of 16 years it shows the importance attached by Parliament to education. Reference is made to the case of *Aamir Raza Ashfaq v Minhaj Ahmed Khan* (2012 SCMR 6) wherein it was held that the position of Vice Chancellor should not be left vacant and that delay in such appointment has an adverse affect on the functioning of the University, and reliance therein was placed on Article 9 (*right to life*) which was given a broad meaning. *Principles of Policy* mentioned in Article 37(c) and (f) of the Constitution are also relevant, which are reproduced hereunder:

‘37. The State shall.

(c) make technical and professional education generally available and higher education equally accessible to all on the basis of merit;

(f) enable the people of different areas, through education, training, agricultural and industrial development and other methods, to participate fully in all forms of national activities, including employment in the service of Pakistan’

3. For the aforesaid reasons, the office objection is overruled and the Constitution Petition is entertained under Article 184(3) of the Constitution since it raises questions of public importance with regard to the enforcement of Fundamental Rights and other rights of citizens mentioned in the Constitution. Therefore, office is directed to number the Constitution Petition.

4. Issue **notice** to the respondents, except respondent No. 2. The said respondents should submit their comments with regard to the public sector universities within their respective jurisdictions, including identifying the public sector universities where the positions of vice chancellors and other tenured positions are lying vacant or such positions are held on acting charge basis and since when. The comments should also disclose the statutory requirements regarding the periodic holding of meetings stipulated therein and whether the universities are compliant therewith. To be fixed in the second week of May, 2024.

Chief Justice

Judge

Judge

Islamabad:
01.04.2024
(M. Tauseef)