

**IN THE SUPREME COURT OF PAKISTAN**  
(Appellate Jurisdiction)

**PRESENT:**

Mr. Justice Ijaz ul Ahsan  
Mr. Justice Syed Hasan Azhar Rizvi  
Mr. Justice Irfan Saadat Khan

**Civil Petition No.3933/2023**

Against the judgment dated 28.9.2023  
passed by High Court Sindh, Circuit Court,  
Hyderabad in C.P. No.D-663 of 2023

...Petitioner(s)

Liaqat University of Medical and Health Sciences  
(LUMHS) Jamshoro through its Registrar & another

**VERSUS**

Muhammad Ahsan Shakeel & others

...Respondent(s)

For the Petitioner(s):                   Mr. Abdul Salam Memon, ASC  
  Mr. Hameed Ullah Dahri, ASC  
  Ch. Akhtar Ali, AOR

For Department:                         Ms. Pareesa Nawaz Bhutto, Dir. Admn  
  Basharat Memon Dy. Director  
  (via video link, Karachi)

For Respondent No.1:                  Mr. Muhammad Arshad. S. Pathan, ASC

Date of Hearing:                         06.12.2023

**JUDGMENT**

**Irfan Saadat Khan, J.-** The instant Petition has been filed against the Order passed by the High Court of Sindh, Circuit Court, Hyderabad in C.P. No. D-663 of 2023, dated 28.9.2023 ("Impugned Order").

2. Briefly stated the facts of the case are that Mr. Muhammad Ahsan Shakeel ("Respondent No. 1") applied for admission for the 2021-2022 academic session at Liaqat University of Medical and Health Sciences ("LUMHS") Jamshoro ("Petitioner No. 1"), after obtaining 1,042 marks out of 1,100 marks from the Board of Intermediate and Secondary Education ("BISE"), Mirpurkhas. He, however, was placed on Serial No. 27 of the merit list and was thus not found eligible for the Bachelor of Medicine, Bachelor of Surgery ("MBBS") program by the Petitioner No. 1 and its Director for Admissions ("Petitioner No. 2") as there were only 22

seats available for the MBBS program in the said year 2021-2022. However, he was offered a place in the Bachelor of Dental Surgery ("BDS") program by the Petitioner No.1, which admittedly he did not accept. In the meantime the Respondent No. 1 applied to BISE for "re-totaling"<sup>1</sup> of his marks and obtained a mark sheet indicating that he had scored 1,053 marks out of 1,100, as opposed to his previous score of 1,042 out of 1,100. With the aforementioned revised mark sheet the Respondent No. 1 approached the Petitioners for admission in the MBBS program, however, he was informed that since the admission process for the academic year 2021-2022 had already been closed, he should seek admission in the MBBS program in the next academic year, i.e. 2022-2023.

3. For the 2022-2023 academic session the Respondent No. 1 applied for admission in the MBBS program on the basis of his revised mark sheet of 1,053 marks and this time around the Petitioners gave Respondent No. 1 provisional admission, subject to the condition of confirming the authenticity of his academic certificates. Upon confirmation, the Petitioners received letters from BISE Mirpukhas dated 16.01.2023 and 09.05.2023 respectively, that Respondent No. 1's revised mark sheet reflecting 1,053 marks out of 1,110 was fake/forged and fabricated. Consequently, the Petitioners informed Respondent No. 1 about the authenticity of his revised mark sheet by issuing a show cause notice to him dated 18.01.2023. However, since the Respondent No. 1 felt that he had not been afforded sufficient time to reply to the said show cause, he filed a Constitutional Petition, No. D-301/2023, before the High Court of Circuit Court, Hyderabad, which after considering all the aspects with regard to insufficient time being granted to him to reply to the show cause notice, decided the matter as under:

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<sup>1</sup> A process by which the marks obtained in an exam are recounted to check for potential discrepancies.

"Accordingly, the impugned letter dated 19.01.2023 whereby the admission of the petitioner was purportedly cancelled, is hereby set-aside. The petitioner will be at liberty to submit his reply to the show-cause notice dated 18.1.2023 within seven (07) days from today before respondent No.4/Registrar of the university; where after the matter shall be decided afresh by the competent authority of the university within seven (07) days through a speaking order strictly in accordance with law and after providing proper opportunity of hearing to the petitioner. The petition and listed application stand disposed of in the above terms with no order as to costs."

4. The matter then proceeded forward and the Respondent No. 1 was allowed by the Petitioners to furnish a reply to the show cause issued by them. However, after the Respondent No. 1 furnished his reply, the Petitioners were of the view that the Respondent No. 1 had obtained admission in the 2022-2023 academic year on the basis of a fake/forged and fabricated mark sheet and therefore cancelled his admission vide letter dated 06.04.2023.

5. Being aggrieved with the aforementioned cancellation of his admission the Respondent No. 1 filed Constitutional Petition, No.663-D/2023, and the High Court, vide the Impugned Order, dated 28.09.2023, allowed the same with the following observation:

"Petitioner is pursuing his case for the last more than one year. It is not proved beyond reasonable doubt that petitioner has attempted to submit forged and fabricated marks sheet willfully, which could have been a computer error, as admitted by board itself vide letter dated 27.02.2023. Hence cancellation of admission notice dated 6.4.2023 is an extreme decision taken by university which is only required to be taken if a clear case of willful attempt of submitting forged and fictitious mark sheet is made out. The cancellation of admission letter is set aside and the marks sheet having 1042 marks be considered for his admission and if he comes on merit of the said year may be considered by the Respondent No.1."

6. Mr. Abdul Salam Memon, ASC has appeared on behalf of the Petitioners and stated that the High Court was not justified in setting aside the cancelling of admission letter issued by the petitioner and setting aside the same. He submitted that the academic policy for the year 2022-2023 clearly stipulates that if any student was found to have obtained admission on the basis of fake and forged documents, he or she would render himself or herself liable for

cancellation of the admission forthwith. The Learned Counsel submitted that the admission granted to the Respondent No. 1 was purely provisional in nature and when his academic certificates were found to be fake and fabricated, his admission was rightly cancelled by the Petitioners. He stated that the High Court's observation that Respondent No.1 was entitled for admission on the basis of 1,042 marks was erroneous as the Respondent No. 1 was granted provisional admission into the MBBS program by the Petitioners on the basis of the mark sheet containing 1,053 marks and not on the basis of 1,042 marks; and furthermore, the provisional admission was subject to the verification of the Respondent No. 1's academic certificates. The Learned Counsel submitted that implementing the Impugned Order would create hurdles in respect of the careers of meritorious candidates in a noble profession like medicine and thus the Respondent No. 1 could not be accommodated in any manner. He further stated that no doubt education is a fundamental right of a person but this right cannot be claimed on the basis of some fake and forged documents. The Learned Counsel prayed that the Impugned Order may be set aside and the cancellation of admission letter dated 06.04.2023 may be restored.

7. The representatives of Petitioner No. 2, Ms. Pareesa Nawaz Bhutto, the Director Admin for LUMHS and Basharat Memon, Deputy Director, who joined the proceedings via video link from Karachi, adopted the arguments of Mr. Abdul Salam Memon, ASC and stated that under the given facts of the case, the Respondent No. 1 was not entitled for admission on the basis of furnishing a fake/forged and fabricated mark sheet.

8. Mr. Muhammad Arshad S. Pathan, ASC appeared on behalf of Respondent No. 1 and vehemently refuted the arguments of the counsel for the Petitioner No. 1 and the representatives of LUMHS. The Learned Counsel stated that the Impugned Order is sound as the High Court has

rightly concluded that the cancellation of admission, via letter dated 06.04.2023, is a harsh and an extreme action on the part of the Petitioners, and that this is not a case of willful attempt to submit a forged and fabricated mark sheet. He stated that Respondent No. 1 has furnished the revised mark sheet provided to him by BISE and was rightly granted admission in the MBBS program for the academic year 2022-2023. He invited our attention to the letter of BISE dated 27.02.2023 stating therein that difference in the first mark sheet and second mark sheet could be due to "possible error or omission in the computerized report". The Learned Counsel further stated that if there was a computerized error/omission on the part of BISE, the Respondent could not be held responsible for any discrepancy in the said mark sheet. The Learned Counsel also pointed out that in view of the Respondent No.1's excellent academic background and the said cancellation of his admission would jeopardize his whole future. Therefore, he prayed that the Impugned Order may be affirmed and that the present Petition, which he termed as misconceived and frivolous, may be dismissed with heavy costs.

9. We have heard the parties at length and have perused the record with their assistance.

10. At the outset it is pertinent to mention that allegations of fraud or fabricated documents are treated with the utmost seriousness by this Court, and those found to be engaging in such a practice are dealt with accordingly. Before we delve into the allegations against the Respondent No. 1, we wish to reiterate what this Court has held in a number of different matters that provision of quality medical and dental education forms the very basis of a country's healthcare system. It stands to reason, therefore, that institutions imparting medical or dental education are not merely seen as service providers but also as custodians of the

nation's health and the primary training centers for its doctors and healthcare professionals.<sup>2</sup>

11. With such a heavy onus cast on institutions that impart education in medicine, it is logical that such institutions be given a freehand to regulate discipline and regulate those who offend such discipline, as the institutions see fit. In *Khyber Medical University*<sup>3</sup> it was held that courts must sparingly interfere in the internal governance and affairs of educational institutions. It is simply prudent that the courts keep their hands-off educational matters and avoid dislodging decisions of the university authorities, who possess technical expertise and experience of actual day to day workings of the educational institutions. Every university has the right to set out its disciplinary and other policies in accordance with law, and unless any such policy offends the fundamental rights of the students or violates any law, interference by the courts would result in disrupting the smooth functioning and governance of the said universities. It is, therefore, best to leave the disciplinary, administrative and policy matters of the universities or educational institutions to the professional expertise of the people running them, unless of course there is a violation of any of the fundamental rights or any law.<sup>4</sup>

12. Similarly, in a decision<sup>5</sup> from across the border, it was held that High Courts should not ordinarily interfere with the functioning and order of the educational authorities unless there is clear violation of some statutory rules or legal principles. Also, there must be strict purity in the examinations of educational institutions and no sympathy or

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<sup>2</sup> Muhammad Zubair Chaudhry v. Pakistan Medical and Dental Council (2023 SCMR 2145)

<sup>3</sup> Khyber Medical University v. Aimal Khan (PLD 2022 SC 92)

<sup>4</sup> Ibid.

<sup>5</sup> Director (Studies), Dr. Ambedkar Institute of Hotel Management, Nutrition & Catering Technology Chandigarh and Ors. v. Vaibhav Singh Chauhan ((2009) 1 SC 59)

leniency should be shown to candidates who resort to unfair means in the examinations.<sup>6</sup>

13. Having said that, upon close examination of the record it revealed that the Petitioners sent the mark sheet of Respondent No. 1 containing 1,053 marks to BISE twice, and on each occasion, vide letters dated 16.01.2023 and 09.05.2023, which are available at page No. 93 and 94 of the record, the said mark sheets were termed as: "*found fake/bogus and fabricated.*" Moreover, Respondent No. 1 whilst furnishing the mark sheet totaling 1,053 marks tendered an affidavit at the time of admission and concurred with the following statement:

"3. That all documents submitted by me alongwith application form are genuine and correct and no false document has been submitted. If any document/information is found to be false, incorrect or otherwise I know that my admission is liable to cancelled."

In our opinion it is on the basis of this surety that the Respondent was granted provisional admission in the MBBS program and since his mark sheet turned out to be fake and fabricated the Petitioners were quite justified in cancelling his admission.

14. Moreover, Mr. Muhammad Arshad S. Pathan's reliance on the reply dated 27.02.2023 (available at page 107 of the record) which was given by BISE in response to the legal notice dated 14.02.2023 served upon them by Respondent No.1 is also found to be misplaced. The learned Counsel's argument that BISE has accepted that the difference in the number of the mark sheet was due to the "computerized error" hence the Respondent No. 1 could not be penalized in this regard, is without any force. For the sake of brevity the relevant contents of the said reply of BISE is reproduced below for better understanding:

"With reference to your Legal Notice dated 14.02.2023, the undersigned has to inform your client through you that his record with BISE-Mirpurkhas under Seat No. 43951 has

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<sup>6</sup> Ibid.

been re-checked whereupon it was discovered that only his first mark sheet of HSC-II Annual Examinations is available in record and no other record is available which can happen due to possible error and/or omission in computerized record, however, as per first mark sheet which is on record your client have secured 1,042 out of 1,100 marks (Grade-A1)."

It is evident from the said reply that BISE has in fact re-affirmed that they have re-checked their record and it has transpired that only Respondent No. 1's first mark sheet, which contained 1042 marks, is available in their record and no other record, with regard to the revised mark sheet containing 1,053 marks is available with them. BISE's reply is clear that if Respondent No. 1 has some other record it could be due to a possible error and or omission in computerized record. Hence, in our view, BISE's reply cannot, in any form or context, be considered to be a statement given in favour of Respondent No. 1 by them.

15. Therefore, we are of the view that the High Court's reasoning to completely ignore a false and fabricated mark sheet and in turn direct for consideration of admission on the basis of the old mark sheet of 1,042 marks out of 1,100 was in fact an erroneous finding. Furthermore, it is to be noted that as per the Pakistan Medical and Dental Council, Curriculum dated July 13, 2023 it has categorically been mentioned that under Sub Clause 4 of Clause 5 regarding admission processes for colleges that all admissions shall be made and given strictly as per Sub Regulation 11 of Regulation 6, which empowers the university to cancel any provisional admission where the credentials of a student are not verified. Therefore, we agree with the dicta from across the border laid out in *Director (Studies)*<sup>7</sup> that in academic matters there should be strict discipline and malpractices should be severely punished. Needless to

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<sup>7</sup> Ibid.

state that if our country is to progress we must maintain high educational standards.<sup>8</sup>

16. It is worthwhile mentioning that when the bench was about to conclude the hearing of the case and was in the process of announcing its decision, Mr. Muhammad Arshad. S. Pathan, ASC, Counsel for Respondent No. 1 requested the bench that in case the bench concludes that Respondent No.1 is not entitled for admission in the MBBS program on the basis of mark sheet containing 1,053 marks for the academic year 2022-2023, the Respondent's admission to the BDS program for the 2021-2022 academic year be restored in the best interest of justice. We are afraid we cannot accede to this request of the learned Counsel as Respondent No. 1 was duly offered the BDS program for the academic year 2021-2022 on the basis of the marks sheet containing 1,042 marks, which the Respondent admittedly refused to accept for the reasons best known to him.

17. Here we would also like to reiterate the maxim "he who comes into equity must come with clean hands." This Court in *Justice Khurshid Anwar Bhinder*<sup>9</sup> has observed that "the object of the establishment and the continued existence of the Courts of law is to dispense and foster justice, and to right the wrongs. This purpose can never be completely achieved unless the injustice done was undone and unless the Courts stepped in and refused to perpetuate what was patently unjust, unfair and unlawful. It is for this reason that the Courts have never permitted their judicial powers to be invoked or used for retention of illegal and ill-gotten gains. Nor have the Courts ever opted to exercise their powers in aid of injustice or to grant any relief to persons with unclean hands or for protecting the unethical or underserved benefits". We cannot render any help to the applicants who were admittedly the consequent beneficiaries of the said unconstitutional, illegal and unethical actions. "There is no

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<sup>8</sup> Ibid.

<sup>9</sup> Justice Khurshid Anwar Bhinder v. Federation of Pakistan (PLD 2010 SC 483)

gain reiterating that superior Courts are not expected to act in aid of injustice and to perpetuate the illegalities or put a premium on ill-gotten gains.”<sup>10</sup>

18. We therefore in view of the circumstances narrated above and after careful perusal of the record are of the considered view that the Respondent No. 1 is not entitled for admission in the MBBS program for the academic year 2022-2023, which he managed to secure on the basis of a fake/forged and bogus mark sheet of 1,053 marks out of 1,100. We, therefore, convert this civil petition for leave to appeal (CPLA) into an appeal and allow the same. The Impugned Order of the High Court, dated 28.09.2023 is set aside. The parties are left to bear their own costs.

19. Above are the reasons for our short order of even date, which reads as follow:

“For reasons to be recorded later, we convert this civil petition for leave to appeal (CPLA) into an appeal and allow the same. The impugned judgment of the High Court of Sindh dated 28.09.2023 is accordingly set aside.”

ISLAMABAD

6.12.2023

Arshed/A.J.K., LC

Approved for Reporting

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<sup>10</sup> Ibid.