

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

Bench:

Mr. Justice Jamal Khan Mandokhail
Mr. Justice Muhammad Ali Mazhar

Civil Appeal No. 1833 of 2019

(Against the judgment dated 17.04.2015 passed by Peshawar High Court, Peshawar in R.F.A. No. 122 of 2010)

Chancellor Preston University, Kohat & others

.....Appellant(s)

Versus

Habibullah Khan

....Respondent(s)

For the Appellant(s): Mr. Khurram Mumtaz Hashmi, ASC

For the Respondent(s): Mr. Mian Iqbal Hussain, ASC
(through video link from Peshawar)

Date of hearing: 10.03.2023

JUDGMENT

Jamal Khan Mandokhail, J.– On 23 November 2002, the Khyber Pakhtunkhwa Provincial Assembly promulgated the Preston University Ordinance, 2002 ("**Ordinance, 2002**"), in pursuance whereof Preston University ("**the University**") was established. The University offered multiple courses, including Bachelor of Engineering ("**BEng**"). The Respondent applied for admission, was enrolled in the BEng program, and completed his first semester at the University. Subsequently, the Higher Education Commission ("**HEC**") published a list of names of unaccredited universities and institutions, including the University. The Respondent discontinued his education and filed a suit for damages against the Appellant for the reason that the University established its Faculty of Engineering without accreditation from the Pakistan Engineering Council ("**the Council**"), consequently, his degree would not be recognized by the HEC and he would not be recognized with the Council. The suit was decreed by the Civil Judge 1st Class, Kohat ("**Trial Court**") *vide* judgment and decree

dated 13.01.2010. The Appellant filed a Regular First Appeal before the Peshawar High Court, Peshawar, which was dismissed *vide* judgment dated 17.04.2015. Feeling aggrieved, the Appellant filed a Civil Petition before this Court, wherein leave was granted on 06.11.2019, relevant portion thereof is reproduced herein below:

"It is further urged that accreditation, in due course, by Pakistan Engineering Council is usually granted which was pending consideration. As the respondent has left the University for some extraneous considerations or otherwise which aspect of the matter was not considered by the Courts below. Leave is granted, inter alia, to consider the above. In the meantime, operation of the impugned judgment is suspended."

2. Arguments heard and record perused. Section 4 of the Ordinance, 2002 stipulates the powers and functions of the University as under:

4. *Powers and functions of the University.*– The University shall have the powers to:-

- (a) provide for instruction and training in such branches of learning as it may deem fit and to make provision for research, demonstrations and other services, and for the advancement and dissemination of knowledge;
- (b) admit and examine students;
- (c) hold examinations and confer or award degrees, diplomas, certificates and other academic distinctions on and to persons who have passed its examinations under prescribed conditions;
- (d) confer honorary degrees;
- (e) prescribe courses of studies in any branch of learning as the University may determine;
- (f) pursue research;
- (g) establish and support other facilities for education, training and research;
- (h) associate with other institutions and establish faculties/institutes in Pakistan and/or abroad, for better discharge of its functions and responsibilities;

- (i) establish camp offices/campuses, faculties in Pakistan and abroad;
- (j) provide for the teaching of specified courses and training for persons not being the students of the University and grant certificates and diplomas to such persons;
- (k) establish, administer and maintain halls of residence and approve any place as hostel or lodging for students;
- (l) recognize the examinations passed or the period of study spent at other universities or places of learning as equivalent to examinations or periods of study in the University or to withdraw such recognition;
- (m) enter into agreements, contracts and arrangements with universities, organizations, institutions, bodies, governments and individuals for the purposes of carrying out its functions and activities within the country and abroad;
- (n) affiliate/disaffiliate educational institution in accordance with the procedure approved by the Board of Governors, and the prevalent policy of the Government; provided that for the first ten years the University shall not grant affiliation to any institution; and
- (o) do all such other acts and things as may be required to further its objectives.

In order to regulate or prescribe matters mentioned in the Ordinance, 2002, the Chancellor has approved the Statute proposed by the Board of Governors ("**the Statute**"), pursuant to which, the University was empowered to establish faculties, institutions, centres of excellence, teaching departments and other academic units and divisions. By exercising such power, the University established its Faculty of Engineering, offered admissions and enrolled students, including the Respondent. For establishing a Faculty of Engineering, the University was required to follow the provisions of the Higher Education Commission Ordinance, 2002 ("**HEC Ordinance**") and the guidelines issued by the HEC for designing curricula that provide proper content of all subjects offered. Under section 10 of the HEC Ordinance, the HEC

being an apex body to evaluate, improve and promote higher education, research, and development, may set up national or regional councils or authorize any existing council or similar body to carry out accreditation of institutions including their departments, faculties, and disciplines.

3. The Pakistan Engineering Council Act, 1976 (Act No. V of 1976) ("**PEC Act**") was enacted with its main object enshrined in its Preamble. The PEC Act constituted the Council to regulate the engineering profession with the vision to maintain realistic and internationally relevant standards of competence and ethics for engineers, and license engineers, and engineering institutions to competently and professionally promote and uphold the standards. It also encourages and promotes the pursuit of excellence in the engineering profession and regulates the quality of engineering education and the practice of engineering. In general, accreditation requires institutions to meet specific standards related to their mission, governance, administration, academic programs, faculty qualifications, student services, facilities, and other areas of operation. Section 2(x) of the PEC Act defines an "Engineering Institution" as an institution within or outside of Pakistan which grants a degree, diploma or certificate in engineering and related education and is accredited as such by the Council. Similarly, section 2(xv) of the PEC Act defines "Engineering University" as a degree awarding university or institution as has more than fifty percent of their undergraduate and postgraduate programs as well as student population pertaining to engineering and are recognized as such.

4. Each university established in any part of the country, which intends to offer a degree in the field of engineering, must be accredited by the Council in accordance with section 14 of the PEC Act which is reproduced below:

"14. Accreditation of engineering institutions.- (1)
The Council shall constitute an Accreditation Committee for organizing and carrying out a comprehensive program of accreditation of engineering universities, colleges and institutions etc. according to the criteria

approved by the Governing Body in consultation with Higher Education Commission.

(2) The curricula of courses of studies in various disciplines of engineering and minimum level and standard of such courses including lectures, laboratory, design, drawing and field work shall be examined and scrutinized by the Accreditation Committee who shall submit its report to the Governing Body for approval."

Accredited institutions are required to maintain certain standards of quality and integrity in their academic programs, faculty, facilities, and overall operations. Such institutions are regularly evaluated by the Accreditation Committee ("**the Committee**") constituted under the provision reproduced above. In order to maintain the standards, the Committee undertakes periodic reviews, maintain certain records, and submit reports to the Governing Body. Upon receiving a report from the Committee, it appears to the Council that the institution imparting engineering education is not up to the required standard, the Council after fulfilment of the required procedure, may withdraw its accreditation.

5. The HEC after satisfying itself, grants a degree to a person who completes their education in a subject of their respective engineering discipline listed in the First Schedule to the PEC Act, from an institution accredited and enlisted in the register maintained by the Council. The names and other particulars of persons possessing accredited engineering qualifications is entered into a register in a prescribed manner maintained by the Council after satisfaction, as provided by section 16 of the PEC Act. The Council is also empowered to refuse registration of any person and may also remove their entry from the register on the grounds mentioned in section 17 of the PEC Act.

6. To give effect to the PEC Act concerning the educational institutions imparting engineering education, the Engineering Council Regulations for Engineering Education in Pakistan ("**the Regulations**") were framed by the Governing Body of the Council, in consultation with the Committee of Vice-Chancellors of the

Universities of Engineering and Technology of Pakistan setup by the HEC, in exercise of power conferred by section 25A of the PEC Act. The Regulations, *inter alia*, prescribe minimum standards for examinations for securing accreditation qualifications and also the minimum qualifications and experience requirement for appointment of the teaching faculty in engineering universities/colleges/institutions. In case of violation of any provision of the Act or the Regulations, the PEC Governing Body may impose one or more penalties on the concerned/accused/institution, upon confirmation by the relevant committee, including revocation of the accreditation status, as provided by Article 8 of the Regulations. Thus, the fulfilment of the requirements prescribed in the PEC Act and the Regulations with regard to the accreditation of engineering disciplines, accreditation of the institutions offering engineering qualifications, and registration of persons completing BEng programs from the accredited institutions, is mandatory in nature. In such view of the matter, it is necessary for each institution and/or university to obtain their accreditation from the Council before offering engineering education. It is, therefore, incumbent upon them to disclose and inform the students regarding their accreditation status before offering admissions. The HEC, the Council, and any other relevant authority, if so empowered in this behalf, while keeping within their respective domains, shall ensure that no institution/university offers engineering education without prior accreditation.

7. The appellant-University offered multiple courses, including BEng. Its administration was required to comply with the provisions of the Ordinance, 2002 and the requirements necessary for establishment of its Faculty of Engineering in accordance with the Statute. It must also have complied with the provisions of the HEC Ordinance, the PEC Act and the Regulations, in order to obtain its accreditation status. It is a fact that the University did not disclose its accreditation status while offering admission to students, including the Respondent for the reason that it was not

accredited. The Respondent alleged that after getting admission and completing his first semester, he came to know that the University had not received its accreditation status from the Council, which was revealed for the first time when the list of unaccredited universities/institutions was published by the HEC. The Respondent inquired into the matter from the University administration which admitted the fact that the University was not accredited. After filing of suit by the Respondent, the Appellants filed their written statement, but did not reply to the contention of the Respondent with regard to the University's accreditation status. It was contended that since the University was affiliated with the HEC, it was competent to issue an engineering degree. The Appellant for the first time in its appeal before the High Court and in the memo of appeal before this Court, alleged that the University had applied to the Council for its accreditation, but the process remained incomplete till date. This proves the fact that the University is not accredited by the Council. In absence of its accreditation, the University was not competent to offer engineering education and enrol students. Without accreditation of the University from the Council, the degree of BEng issued by it would not be recognized by the HEC and the Council will not register a person holding such degree. Under such circumstances, the degree issued by an unaccredited institution would be worthless like a piece of paper, as such, would be of no value.¹ Since the University was not accredited, the Respondent rightly decided to discontinue his education to secure his future. In view of the fact that the Respondent lost his precious nine months due to fault on part of the University's administration for not obtaining accreditation prior to offering admission, therefore, he was left with the only remedy of recovering the expenses incurred for the period he remained in the University, and for the damages on the grounds mentioned in his plaint. The *fora* below have concurrently held that the Respondent has succeeded in proving his case. The

¹ *Yasir Nawaz and others v. Higher Education Commission and others*; PLD 2021 SC 745 at para.8

learned counsel for the Appellant has failed to show any ground for interference into the concurrent findings of fact of both the courts.

Foregoing are the reasons for our short order dated 10.03.2023, which is reproduced herein below:

*"Brief facts of the case are that Preston University ("**the University**") offered admissions in its Faculty of Engineering. The respondent applied and was admitted to the University. After completion of two semesters, it transpired that the University did not obtain NOC from the Pakistan Engineering Council, as provided by the Pakistan Engineering Council Act, 1975 ("**the Act**"), therefore, the respondent left the University. He filed a suit for recovery and damages against the University which was decreed by the Civil Judge 1st Class, Kohat ("**Trial Court**") against the University, and upheld by the Peshawar High Court, Peshawar through the impugned judgment, hence, this appeal by leave of the Court.*

2. For reasons to be recorded later, we find no substantial question of law in this appeal, therefore, the same is dismissed, with costs of Rs.100,000/- to be paid to the respondent within two months of the receipt of this order."

A copy of this judgment is to be sent to the following:

- i. The Higher Education Commission;
- ii. Pakistan Engineering Council; and
- iii. Federal and Provincial Ministries/Departments of Education and Professional Training.

Judge

Judge

Islamabad,
10th of March, 2023
K.Anees/Ammar, LC
APPROVED FOR REPORTING