

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

**Present:**

Justice Qazi Faez Isa, CJ  
Justice Irfan Saadat Khan  
Justice Naeem Akhtar Afghan

**Constitution Petition No. 7 of 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. Mr. Mehmood A. Sheikh, AOR.
For Respondents No.1-2:	Ch. Aamir Rehman, Additional Attorney-General for Pakistan. Mr. Abdul Sattar Khokhar, Sr. Joint Secretary, M/o F.E & P.T. Dr. Agha Haider, Deputy Director, (Legal), M/o F.E & P.T.
For Respondent No. 3:	Mr. M. Nazir Jawwad, ASC. Raja Abdul Ghafoor, AOR. Mr. Nazeer Hussain, Director-General, Coordination H.E.C. Mr. Ahad Mehmood Raza, Assistant Director (Law), H.E.C.
For Respondent No. 4:	Mr. Waseem Mumtaz Malik, Additional Advocate-General, Punjab. Mr. Abdul Rehman Ch., Sr. Law Officer, HED, Lahore.
For Respondent No. 5:	Mr. Shah Faisal Ilyas, Additional Advocate-General, KP. Mr. Ghulam Saeed, Special Secretary, HED, KP. Asif Khan, Litigation Officer, HED, KP.
For Respondent No. 6:	Ch. Wasim Akhtar, Additional Advocate-General, Sindh.
For Respondent No. 7:	Mr. Muhammad Ayaz Swati, Additional Advocate-General, Balochistan.
Date of Hearing:	15.05.2024.

## **ORDER**

1. Notices were issued on 1 April 2024 to the respondents who were called upon to submit their comments with regard to the public sector universities within their respective jurisdiction, including identifying the public sector universities in which the position of Vice-Chancellor and other tenure based positions are lying vacant and/or the same are held on acting charge basis. It was further ordered that the comments should also disclose the statutory requirements regarding the periodic holding of meetings stipulated in their respective laws and whether the universities are compliant therewith.

2. **Federation**: The learned Additional Attorney-General for Pakistan seeks time to file comments on behalf of the Federation of Pakistan. Forty-five days was more than sufficient time to have filed comments. Mr. Abdul Sattar Khokhar, Senior Joint Secretary of the Ministry of Federal Education and Professional Training, is in attendance and states that since they had not received information from three universities, the comments were not filed. This is hardly a justifiable reason for not complying with the order of this Court. If the complete information was not available the remaining information could have been filed. In any case the information which was sought about public sector universities should have been available with the Ministry. If they do not have keep such information they should start to do so now to ensure that the universities are compliant with the laws governing them. The matter is serious and involves the violation of laws by public sector universities; yet it is not taken with the seriousness it deserves. Mr. Khokhar also informed us that some universities are not governed by the Ministry of Education, but by other ministries. The Federal Government is directed to also provide the same information about such universities too.

3. **Balochistan**: The learned Additional Advocate-General, Balochistan referred to CMA No. 2144/2024 which he states are the comments filed in response to the Court queries. The comments attach a list showing that there are 11 public sector universities in the Province and in 5 of them Vice-Chancellors are functioning on acting charge basis. With regard to 2 universities, reference is made to orders of the Balochistan High Court but the same have not been attached; in any event, the comments do not state

that the Balochistan High Court had restrained the appointment of Vice-Chancellors. The comments that have been filed do not disclose the statutory requirements of holding of meetings nor whether the universities are compliant therewith.

4. **Khyber Pakhtunkhwa**: The learned Additional Advocate-General, Khyber Pakhtunkhwa, states that there are 34 public sector universities in the Province and 19 of them are functioning under acting Vice-Chancellors. He states that search committees had selected eligible candidates for appointment as Vice-Chancellors, but they have not been appointed yet. Therefore, we asked him to refer to the said recommendations and he said that such information has not been filed as it is required to be kept secret, which surprises us and raises the question why people of the Province are not entitled to know this. Public sector universities are paid by taxpayers, who are entitled to know where and how their monies are spent. Freedom of information is also now enshrined as a Fundamental Right in Article 19A of the Constitution. The learned AAG states that the manner of selection and appointment of Vice-Chancellors, Pro Vice-Chancellors and Deans of Faculties is provided for in the Khyber Pakhtunkhwa Universities Act, 2012 and submits that all such vacant positions will be filled in accordance therewith. We expect the said vacant positions to be filled-in as soon as practicable. The learned AAG has also referred to some orders passed by courts restraining appointments from being made, and that the orders did not given any reason for the interim injunction. Since the law requires that these positions should not remain vacant, therefore, we expect that if such matters are agitated before courts and that the same shall be decided expeditiously.

5. **Punjab**: The learned Additional Advocate-General, Punjab states that the government of the Punjab has filed CMA No. 438/2024 stating that there are 34 public sector universities in the Province and in 25 the positions of Vice-Chancellors are lying vacant. He further states that the process of appointments was initiated during the period when there was a caretaker government, when writ petitions were filed and judges of the High Court, by placing reliance upon section 230 of the Elections Act, 2017, had restrained appointments to be made during the subsistence of the caretaker government, and that against such orders intra court appeals

were filed, which have now become infructuous, as elections have been held. This raises the question whether section 230 of the Elections Act, 2017 prevails over the law governing universities requiring that the appointments be made, and whether appointment of Vice-Chancellors and others selected by search committees, are those actions that cannot be undertaken are valid questions. However, elections have since been held and the learned AAG states that the process for making appointments is underway and it is expected to be completed within a period of two months. The comments filed also state that the positions of the Registrars are also lying vacant. The information regarding Heads of Department and Deans of Faculties is not mentioned.

6. **Sindh**: The Additional Advocate-General, Sindh states that the Education Department of Sindh has not filed comments, but the same have been filed by the Sindh Higher Education Commission. The comments of the Commission state that there are 27 public sector universities in the Province out of which in 7 the positions of Vice-Chancellors are vacant. However, it is sated that the process for appointment has commenced and shall be completed within a reasonable time.

7. The posts of Vice-Chancellors, Pro Vice-Chancellors, Rectors, Presidents, Vice-Presidents, Registrars, Heads of Faculties and Departments, Controller of Examination, Director Finance which are mentioned in the applicable laws, wherever lying vacant, should be filled-in as soon as practicable and this be done in accordance with the applicable law.

8. Mr. Nazeer Hussain, Director-General Coordination, Higher Education Commission is in attendance and states that the Higher Education Commission has issued standards prescribing that non-academic staff in universities should not exceed faculty by more than one and a half times; however, nearly all public sector universities are in violation the same and non-academic staff continues to be increased. Public sector universities financial viability is being eroded because of excessive non-academic staff. The respondents are directed to submit information regarding the number of non-academic staff and faculty, the ratio thereof and if the university is not compliant with the standards issued by the Higher Education Commission the reason for such non-

compliance. The public sector universities should also disclose the amount that they generate themselves through fees, etc., and to what extent they are dependent on funds from the public exchequer. Comprehensive reports to be submitted within one month under the signatures of Federal and Provincial Secretaries of the relevant Ministries/Departments. And, a senior representative from each, who is well conversant with facts should be in attendance on the next date of hearing.

Chief Justice

Judge

Judge

Islamabad:  
15.05.2024  
(M. Tauseef)