

IN THE SUPREME COURT OF PAKISTAN
(APPELLATE JURISDICTION)

PRESENT:

Mr. Justice Iftikhar Muhammad Chaudhry, CJ
Mr. Justice Sardar Muhammad Raza Khan
Mr. Justice Saiyed Saeed Ashhad

**CIVIL PETITIONS FOR LEAVE TO APPEAL NO.1569-L, 1579-L,
1597-L, 1600-L, 1622-L AND 1624-L of 2005.**

(On appeal from the judgments dated 8.8.2005,
11.8.2005, 3.8.2005, 9.8.2005 passed by Lahore High
Court, in W.Ps.No.14277, 144667, 2758, 2889, 14111
and 14286 of 2005)

<u>CP.1569-L/2005</u>	Sanaullah Khan and another vs. District Returning Officer, Mianwali, etc.
<u>CP.1579-L/2005</u>	Qari Muhammad Liaquat Ali and another vs. District Returning Officer, Gujrat, etc.
<u>CP.1597-L/2005</u>	Ghulam Shabbir Bhutta and another vs. District Returning Officer, Bahawalpur, etc.
<u>CP.1600-L/2005</u>	Sultan Mehmood and another vs. Returning Officer, UC-118, Tehsil Liaquat Pur, Rahim Yar Khan, etc.
<u>CP.1622-L/2005</u>	Saeed Ahmed Asad and another vs. District Returning Officer, Khushab etc.
<u>CP.1624-L/2005</u>	Muhammad Khaliq and another vs. District Returning Officer, Gujrat etc.

For the petitioners (CP 1569-L 05): Mr.Abdul Rauf Farooqui, ASC.
Ch. Mehdi Khan Mehtab, AOR (Absent).

(CP 1579-L/05): Mr. Farooq Amjad Meer, ASC.
Mr. Mehmood Ul Islam, AOR.

(CP 1597-L/05) Ch. Muhammad Ashraf Wahlah, ASC.
Mr. Tanveer Ahmad, AOR.

(CP 1600-L/05) Mr. S.M. Naseem Khashmiri, ASC.
Mr. Mahmoodul Islam, AOR

(CP 1622-L/05) Khawaja Haris Ahmad, ASC
Mr. Mahmood Ul Islam, AOR

(CP 1624-L/05) Khawaja Saeed-uz-Zaffar, ASC
Mr. M.A. Qureshi, AOR.

For the respondents (CP.1569-L/05): Ch. Riasat Ali, ASC.
Mr. M.A. Qureshi, AOR.

(CP 1579-L/05) Mr. Muhammad Arif Raja, ASC
Mr. C.M. Latif, AOR.

(CP 1597-L/05) Mr. Saleem ud Din Aftab, ASC
Mr. M.A. Qureshi, AOR
Ch. Mushtaq Ahmad Khan, Sr. ASC
Haji Muhammad Rafi Siddiqui, AOR
(For R. 4-5 in CP 1597-L/05)

(CP. 1622-L/05) Dr. A. Basit, Sr. ASC
Ch. Mehdi Khan Mehtab, AOR (Absent).

(CP.1624-L/05) Sh. Ziaullah, Sr. ASC.
Ch. Muhammad Anwar, AOR.

On Court notice (in all cases): Mr. Makhdoom Ali Khan,
Attorney General For Pakistan
Mr. Tahir Mehmood Khokhar, Dy.AG
Dr. Danishwar Malik, Dy. AG
Mr. Muhammad Hanif Khatana, Adl.AG

Date of hearing: 16.8.2005

JUDGMENT

Iftikhar Muhammad Chaudhry, CJ. — The petitioners have sought leave to appeal against the judgments dated 8.8.2005, 11.8.2005, 3.8.2005 and 9.8.2005 of the Lahore High Court pronounced in writ petitions No.14277, 14467, 2758, 2889, 14111 and 14286 of 2005.

2. Petitioners having failed to persuade the Lahore High Court that they are qualified to contest the election for the office of Nazim and Naib Nazim as they possessed “Deeni Sanads” equal to degrees of M.A. or B.A. and certificates of F.A. and Matric respectively but their nomination papers had wrongly been rejected under Section 152(1)(e) of the Punjab Local Government Ordinance, 2001 [herein after referred to as “the Ordinance 2001”], therefore, they instituted instant proceedings.

3. Marshaling of facts in each case in detail is not called for in view of commonality of question of law and facts involved therein.

4. Controversy relating to acceptability of “Sanads” (Asnad) of “Deeni Madaris” for contesting Local Government Elections had been the subject

matter of Writ Petitions before Provincial High Courts in recent past. Learned High Courts could not evolve unanimity on the status of these “Sanads” which resulted in dissenting judgments. Lahore High Court in Writ Petition No.14075/2005 (Muhammad Younas v. D.R.O.) vide judgment dated 3rd August 2005 concluded that in absence of equivalence certificate from the Inter Board Committee of Chairmen [herein after referred to as “IBCC”], “Sanads” issued by “Deeni Madaris” are not acceptable to meet the criteria of academic qualification of a candidate in terms of Section 152(1)(e) of the Ordinance 2001. Peshawar High Court, in Writ Petition No.1170/2005 (Muhammad Azam Khan v. Returning Officer) and High Court of Balochistan in Constitution Petitions No.359/2005, 360/2005, 372/2005, 376/2005, 395/2005, 420/2005, 427/2005 etc. gave verdicts that “Sanad” of “Deeni Madrasah” is acceptable to qualify a candidate to contest elections under corresponding provisions of Local Government Ordinances and Elections Rules applicable respectively in both the provinces.

5. Petitioners’ counsel unanimously stressed that:--

- a) In absence of notice to candidates to obtain equivalence certificates of “Deeni Sanads” from competent authority, they cannot be held disqualified to contest elections under Section 152(1)(e) of the Ordinance 2001.
- b) “Sanads” issued by “Deeni Madaris” without equivalence certificate from UGC or IBCC are acceptable to qualify the provisions of Section 152(1)(e) of the Ordinance 2001.

6. Mr. Makhdoom Ali Khan, learned Attorney General contended that:-

- a) Petitioners were conscious of the fact that without obtaining equivalence certificates of “Sanads” issued by “Deeni Madaris” they were

not qualified to contest elections, therefore, they have been rightly non-suited vide impugned judgments of the Lahore High Court.

- b) “Sanads” without equivalence certificate from UGC/HEC or IBCC are not acceptable to meet the requirement of law.

7. At the outset, it is considered appropriate to reproduce herein below the subjects being taught to the students of “Deeni Madaris” from one of the approved institutions by University Grants Commission/Higher Education Commission [herein after referred to as “UGC”] i.e. Jamia Ashrafia (Asharafia Islamic University) Lahore to qualify examinations of different courses which are said to be equal to certificate of Matric F.A. and degrees of B.A. M.A:---

PROSPECTUS OF JAMIA ASHRAFIA
(ASHRAFIA ISLAMIC UNIVERSITY), LAHORE.

- i. **Al-Saniviyya Amma (Secondary)-2 Years**
- ii. **Al-Saniviyya Khassa (Higher Secondary)-2 Years**

In addition to Al-Tajweed, Al-Hadith, Al-Tauheed, Al-Seeratun Nabi, Al-Fiqha, Arabic Language, Al-Nahv, Al-Sarf, Reading & Comprehension of Arabic Text and English, the following subjects are also taught in graded manner at this stage.

History of Islam, Islamic manners & behaviour, Logic, History of Arabic literature, Al-Blagha and computer training.

- iii. **Al-‘Aliya (Graduation)-2 years.**

Al-Tafseer, Uloomul Quran, Al-Hadith, Mutalah-ul-Hadith, Al-Tauheed, Al-Fiqha, Usool-ul-Fiqha, Al-Faraiz, Islamic History, Islamic Culture, Objectives of Islamic Shareea, Religious & Sects, Arabic Languages, Arabic Literature, Al-Balagha & Al-nahv.

- iv. **AL-AALIMIYYA (Master Degree)-2 Years**

This is the final two years course of the JAMIA leading to the Degree of Aalimiyya-reckoned equivalent to MA in Arabic/Islamic Studies.

The intense courses of study for 1st year of Aalimyya include the following subjects:

- | | |
|-----------------------------|-----------------------------------|
| 1. Al-Tafseer, | 2. Usool-ul Tafseer |
| 3. E'jaz-ur-Qur'an | 4. Usool-ul-Hadith |
| 5. Mutalahul-Hadith | 6. Al-Fiqhul Islamee |
| 7. Usool-ul-Da'wa | 8. Al-Saqafatul Islamiyya |
| 9. Al-Adyan Wal Turnq | 10. Al-Tarbiya wa Turuqul Tadrees |
| 11. Al-Bahas wal Manajeha | 12. Al-Uloomul Kauniyya |
| 13. Hafizul-Uloomul Islamee | 14. Al-Tibbul Islamee |

The 2nd year Aalimiyya includes the study of the following subjects :

1. Al-Sahihul Bokhari
2. Al-Sahihul Muslim
3. Jamia-ul-Tirmizi wa Shamaail
4. Sunan Abi Dawood
5. Sunan Ibn-e-Maja
6. Sunan Nisaai
7. Sharha Ma'aaniul Aasor
8. Mauta Imam Malik
9. Mauta Imam Muhammad.

8. Petitioners have obtained following Sanads issued by various "Deeni

Madaris":---

S. #	Name of petitioner	Name of Sanad	Name of Institution
1.	Sanaullah Khan	Shahadat-ul-Sanviat-ul-Aama (Matric) Shahadat-ul-Sanviat-ul-Khasa (F.A.)	Itihad-ul-Madaris Al-Arabia, Pakistan.
2.	Khadim Hussain	Shahadat-ul-Sanviat-ul-Aama (Matric)	Tanzeem-ul-Madaris (Ahle-Sunnat)Pakistan Jamiah Rizvia Sardar-ul-Madaris, Multan
3.	Sultan Mehmood	Sanad-Al-Fragh-Minal Uloom-El-Arabia Wal Islamia(B.A)	Jamiah Anwar-ul-Mustafa(Regd.) Sukkur, Sindh, Pakistan.
4.	Saeed Ahmad	Shahadat-ul-Aalmia Fil Uloom Ul Arabia Wal Islamia (M.A)	Wafaq-Ul-Madaris Al Arabia Pakistan
5.	Hakeem Qari Muhammad Liaqat Ali	Shahadat-ul-Aalmia Fil Uloom Ul Arabia Wal Islamia (M.A)	Tanzeem-ul-Madaris (Ahle-Sunnat) Pakistan, Jamiah-tul-Ghazamia-tul-Rizvia, Lahore.
6.	Pervaiz Mehdi	Shahadat-ul-Sanviat-ul-Aama (Matric)	Tanzeem-ul-Madaris Al-Islamia Jammu & Kashmir

9. The adversarial contentions of learned counsel for the parties call for to determine the legal status of the authorities, which are empowered to issue equivalence certificate in respect of “Sanads” of “Deeni Madaris”.

10. Following are the authorities competent to issue equivalence certificate in Pakistan:--

1. **University Grants Commission** (now Higher Education Commission) is authorized to recognize and approve ‘Deeni Madaris’ and to issue equivalence certificate in respect of Sanads of Al-Aalia (Graduation), Al-Aalmia (Master Degree).
2. **Inter Board Committee of Chairmen (IBCC)** is authorized to grant equivalence certificate of Deeni Sanads Al-Sanvia-Aama (Secondary) and Al-Sanvia-Khasa (Higher Secondary).

11. The UGC is a statutory body, which has been created under the University Grants Commission Act, 1974 [hereinafter referred to as “the Act, 1974”]. Under its Section 8, it has to perform such functions which are not inconsistent with the provisions of this Act, or as may be prescribed or as may be incidental or consequential to the discharging of the aforesaid function, besides other functions enumerated therein and additional functions under Section 9 of the Act.

12. In exercise of such powers, the UGC had approved from time to time “Deeni Madaris” functioning under the nomenclature of Wafaq/Tanzeem-ul-Madaris and individual institutions indicating the purpose as well for which “Sanads” can be issued. Names of the institutions are as under:---

Name of Wafaq/Tanzeem/Institution

1. Wafaq-ul-Madaris, Markazi Office Gordon, Town Sher Shah Road, Multan.
2. Tanzeem-ul-Madaris Ahle Sunnat, Jamia Naeemia Rizvia, Garhi Shaho, Lahore.

3. Wafaq-ul-Madaris, Al-Salfia Hajiabad Post Code-38600, Faisalabad.
4. Wafaq-ul-Madaris Shia, Jamia-al-Muntazar, H.Block Model Town, Lahore.
5. Rabita-ul-Maddaris-Al-Islamia, Manzoor Road, Lahore.
6. Jamia Islamia Minhaj-ul-Quran, 368 Model Town, Lahore.
7. Jamia Taleemat-e-Islamia, Sargodha Road, Faisalabad.
8. Jamia Ashrafia, Ferozepur Road, Lahore.
9. Darul Uloom Mohammadia Ghousia Bhera, District Sargodha.
10. Darul Uloom, Korangi, Karachi.

[the above list finds mentioned in the case of Maulana Abdullah v. Returning Officer and others (2003 SCMR 195)].

13. In our country educational institutions, both in the Government and private sectors, suffer from lack of uniform education policy, therefore, for the building of national cohesion by promoting social and cultural harmony and designing curricula relevant to nation's changing social and economic needs, compatible with the basic national ideology and thereby providing massive shift from general education to more purposeful agro-technical education; to make provision for Federal supervision of curricula, preparing text-books for various classes and for maintenance of standards of education; Federal Supervision of Curricula, Text Books and Maintenance of Standards of Education Act, 1976 [herein after referred to as "the Act of 1976"] was promulgated. In exercise of powers under this Act, the Federal Government empowered the UGC to laid down criteria for acceptance of "Sanads" of "Deeni Madaris". Thus UGC vide notification No.8-418/Acad/82/128 dated November 17, 1982 declared that the "Sanad" of Shahadat-ul-Almiyya-Fil-Uloomil-Arabia-Wal-Islamia granted by a "Deeni

Madrasah,” whose name finds mention therein shall be considered equivalent to M.A. in Arabic/Islamic Studies for the purpose of teaching Arabic/Islamic Studies in the colleges and universities and for pursuing higher studies in Arabic and Islamic Studies. However, for employment other than teaching, “Sanad” holders were required to qualify in two additional subjects other than Arabic and Islamic Studies at B.A. level of a university. They have also to qualify in the newly introduced subjects of Elective Pakistan Studies and Islamic Studies at the B.A. level. The UGC had been issuing notifications subsequent thereto as well, on 7th June 1982 (No.8-418/Acad/84/ 1316); on 12th August 1987 (No.8-418/Acad/86/2560), and a notification of even date bearing No.8-418/Acad/86/2573. By means of these notifications the criteria laid down in notification dated 17th November 1982 by the UGC for making “Sanads” of “Deeni Madaris” acceptable for employment purposes other than the teaching had been reiterated alongwith the names of “Deeni Madaris” recognized by it. Thus, it is a fact that from 1982 onwards the UGC by means of various notifications referred to herein-above had been dealing with the cases of a large number of students who received education in “Deeni Madaris” and were granted equivalence certificate subject to passing examination of the additional subjects at the B.A. level. Identical question came up for consideration before this Court in the case of **Maulana Abdullah** (ibid), wherein latest notification issued by the UGC dated 25th July 2002 was reproduced. It is significant to note that in this notification the UGC had made it clear that the “Sanad” Shahadat-ul-Almiyya-Fil-Uloomil-Arabia-Wal-Islamia (Master Degree) granted by approved Wafaq/Tanzeem-ul-Madaris and individual institutions is recognized as M.A. Arabic/Islamic studies for teaching purpose only. The word ‘only’ means “for no other purpose” (**Black’s law Dictionary 5th Edition**) and in

Government of Punjab v. Naila Begum (PLD 1987 Lahore 336) it was held that “the word ‘only’ found in this article cannot be ignored and plays a significant role in the interpretation of the article. According to Oxford Dictionary, word ‘only’ means, solely, merely, exclusively, or by itself alone without anything else.”

14. The Act of 1974 now has been repealed by the Higher Education Commission Ordinance, 2002 [herein after referred to as “the Ordinance 2002”]. Its Section 22 Sub-section (2) has provided safeguards to everything done or action taken under the repealed Act of 1974 . As a result thereof, all the notifications referred to herein before have been saved. Besides, Section 10(o) of the Ordinance 2002 confers functions upon the Commission to determine the equivalence and recognition of the degrees, diplomas and certificates, awarded by Institutions within the country and abroad.

Thus, it is manifest that subject to passing examination of two additional subjects and newly introduced subjects of Elective Pakistan Studies and Islamic Studies at the B.A. level, “Sanad” of Shahadat-ul-Aalmia obtained by the students from Wafaq/Tanzeem-ul-Madaris and individual institutions, duly recognized by the UGC, could be used for employment purposes other than teaching and without passing examination at B.A. level from a university in four subjects noted above, these “Sanads” if issued by recognized institution by UGC/HEC, could be used for teaching purposes and for Higher Education only.

15. It may also be noted that the prospectus of one of the recognized “Deeni Madaris” i.e. Jamia Ashrafia (Ashrafia Islamic University), Lahore indicates that the “Sanads” of Shahadat-ul-Aalia and Shahadat-ul-Aalmia have been shown to be equal to degrees of Graduation and Master whereas a degree can only be granted by a University established by the Government

itself, thus, any degree granted by a private University, which is not recognized by the Government, is not acceptable. Reference in this behalf may be made to **Azeezbasha v. Union of India** (AIR 1968 SC 662).

Relevant para therefrom reads as under thus:---

“21. Before we do so we should like to say that the words “educational institutions” are of very wide import and would include a university also. This was not disputed on behalf of the Union of India and therefore it may be accepted that a religious minority had the right to establish a university under Article 30(1). The position with respect to the establishment of Universities before the constitution came into force in 1950 was this. There was no law in India which prohibited any private individual or body from establishing a university and it was therefore open to a private individual or body to establish a university. There is a good deal in common between educational institutions which are not universities and those which are universities. Both teach students and both have teachers for the purpose. But what distinguishes a university from any other educational institution is that a university grants degrees of its own while other educational institutions cannot. It is this granting of degrees by a university which distinguishes it from the ordinary run of educational institutions. See *St. David’s College, Lampeter v Ministry of Education*, 1951-1 All ER 559. Thus in law in India there was no prohibition against establishment of universities by private individuals or bodies and if any university was so established it must of necessity be granting degrees before it could be called a university. But though such a university might be granting degrees it did not follow that the government of the country was bound to recognize those degrees. As a matter of fact as the law stood upto the time the Constitution came into force, the government was not bound to recognize degrees of universities established by private individuals or bodies and generally speaking the Government only recognized degrees of universities established by it by law. No private individual or body could before 1950 insist that the degrees of any university established by him or it must be recognized by government. Such recognition depended upon the will of Government

generally expressed through statute. The importance of the recognition of Government in matters of this kind cannot be minimized. This position continued even after the Constitution came into force. It was only in 1956 that by sub-s.(1) of S.22 of the University Grants Commission Act (No.3 of 1956), it was laid down that :

“the right of conferring or granting degrees shall be exercised only by a University established or incorporated by or under a Central Act, a Provincial Act or a State Act or an institution deemed to be a University under Section 3 or an institution specially empowered by an Act of Parliament to confer or grant degrees.”

Sub-Section (2) thereof further provided that :

“save as provided in sub-s. (1), no person or authority shall confer, or grant, or hold himself or itself as entitled to confer or grant any degree.”

S.23 further prohibited the use of the word “university” by an educational institution unless it is established by law. It was only thereafter that no private individual or body could grant a degree in India. Therefore, it was possible for the Muslim minority to establish a university before the constitution came into force, though the degrees conferred by such a university were not bound to be recognized by Government.”

In view of above principle, it is held that a degree, if issued by an institution other than a recognized university by the Government is not acceptable. Reference may be made to Section 4(c) of the University of the Punjab Act, 1973 for precedent.

16. It is worth to mention here that “Deeni Madaris” in the country are being run/managed mostly in private sector without any statutory sanction, different to other educational institutions and universities, which are functioning under the general education system. Some of “Deeni Madaris,” however, have obtained registration under the Societies Registration Act, 1860, whereas others are being run without having affiliation either with any university or Board of Intermediate and Secondary Education. Now

Government had promulgated Pakistan Madrasah Education (Establishment and Affiliation of Model Dini Madaris) Board Ordinance 2001 [herein after referred to as “Dini Madrasah Ordinance 2001”] to establish such model Madaris and model Darul-Ulooms in which the Islamic education is the main component and it includes courses and curricula of general education system. According to preamble, the object of promulgating this Ordinance is to provide for securing the registration, regulation, standardization and uniformity of curricula and standard of education of the “Deeni Madaris” imparting specialized Islamic education in Pakistan with the general education system, in order to enable recognition of equivalence of the degrees, certificates and “Sanad” awarded by such institutions, to regulate their examination system and the matters connected therewith or ancillary thereto. A cursory glance on the curricula of the Wafaq/Tanzeem-ul-Madaris and individual institutions, reproduced herein above, would show that except specialized Islamic Education, the students are not being taught a single subject of general education system enabling them to join the mainstream and compete with educated class of the country, for employment or any other purpose, including the election of Parliament and Provincial Assemblies and of Local Government. We feel sorry for a student of “Deeni Madrasah” who spends approximately same period which is spent by a student of general education system in recognized institutions but former had no future on the basis of “Sanad” except for teaching purposes in the subject of Islamiyat and Arabic or for the purpose of pursuing Higher education in the same subjects, but without any future prospects in other walks of life.

17. Now adverting to the status of IBCC (Inter Board Committee of Chairmen), it is to be observed that Government of Pakistan, Ministry of

Education, issued notification No.F.5-5/90-JAE (CW) dated 22nd April 1990, which reads as under:

“In exercise of the powers conferred by the Sub-Section-1 of section 3 of the Federal Supervision of Curricula, Textbooks and Maintenance of Standards of Education Act 1976 read with Notification No.D.773/76-JEA (CW) dated 4th December, 1976, the Federal Government is further pleased to appoint the Inter Board Committee of Chairmen (IBCC) to be the competent Authority for determining of equivalence of Certificate/Diplomas up to Higher Secondary level.”

Later on, a meeting of 67th Equivalence Committee was held on 14th January 1996, wherein the case of a student, who had applied for equivalence certificate, was examined and recommendations were made to treat Shahada-tul-Sanvia-tul-Aama course equivalent to SSC and Shahada-tul-Sanvia-tul- Khasa equivalent to HSSC, subject to passing of English, Urdu and Pakistan Studies at respective level (SSC or HSSC) from AIOU/Boards of Pakistan in the absence of their own. In this meeting, it was further observed that Wafaq/Tanzeem-ul Madaris and individual institutions may revise their courses by including the subjects of English, Urdu and Pakistan Studies so they may have comparable package of subjects like SSC and HSSC scheme of studies, but no steps have been taken so far in this behalf, as a result whereof such certificates cannot be utilized by the students of “Deeni Madaris” for any useful purpose like the “Sanad of Shahadat-ul-Aalmia which at least can be used for teaching purposes and pursuing higher studies. It is to be seen that IBCC has also recognized/approved the same “Deeni Madaris” which are recognized by the UGC/HEC vide notification No. IBCC/ES/Misc/1219 dated 21st July 2005.

18. Khawaja Haris Ahmed, learned counsel for the petitioner (in CP.1622-L/2005) contented that under Section 152(1)(e) of Ordinance 2001, a candidate is not bound to produce a certificate of Matriculation if he has higher academic qualification than the Matriculation or Secondary School Certificate issued by a “Deeni Madrasah”. According to him “Sanads” possessed by the petitioners fulfill this condition, therefore, they were not required to produce equivalence certificate.

19. We are not inclined to entertain his arguments in view of the fact that under Section 152 (1)(e) of the Ordinance 2001, a candidate can qualify to contest the elections if he has academic qualification equivalent to Matriculation or Secondary School Certificate. Here the word “equivalent” is of much significance. This word has not been defined either in the Act or any of the statutes discussed herein-above. Therefore, reliance is to be placed on its dictionary meanings In Black’s Law Dictionary (Eighth Edition) the word **“equivalent”** has been defined as follows:

“equivalent, adj. 1. Equal in value, force, amount, effect, or significance.
2. Corresponding in effect or function; nearly equal; virtually identical.

In “Corpus Juris Secundum” (Volume 30A) the word **“equivalent”** has been defined as under:

“equivalent. As an Adjective. Alike in significance and value; as good as; equal or identical; identical in effect; equal in worth or value, force, power, effect, import, and the like; equally good; equal so far as concerns the matter under consideration; of equal value, force, import, and effect; having equal or corresponding import, meaning, or significance; of the same import or meaning.

In **“Words and Phrases”** (Volume 15) published by West Publishing Co., the word **“equivalent”** has been defined as follows:

“equivalent” To be ‘equivalent to’ means to be equal in value, to be the same, corresponding to and to be worth.

The word ‘equivalent’ has been defined to mean ‘equal in value, area, volume, force, meaning, or the like; synonym: alike, identical.’

A perusal of above definitions of the word ‘equivalent’ makes it abundantly clear that a “Sanad” holder should possess academic qualification having the same value as that of Matriculation Certificate. A “Sanad” cannot be considered equivalent to a Matriculation Certificate unless an equivalence certificate has been obtained from the IBCC. As discussed above the IBCC will issue equivalence certificate if a candidate has passed additional examination of English, Urdu and Pakistan Studies at SSC or HSSC level from AIOU/Boards of Pakistan. Admittedly the petitioners have not passed the examination of these subjects from any of these institutions. As such, the argument of the learned counsel has no substance.

20. Learned counsel for the petitioners contended that the Election Commission of Pakistan (ECP) had allowed to contest elections of Parliament, Provincial Assemblies, etc. by issuing a notification dated 29.7.2002 to the “Sanad” holders from Wafaq/Tanzeem-ul Madaris and individual institutions therefore, they are also qualified to contest Local Government Elections. It may be noted that firstly the notification issued by the ECP is not under discussion in present proceedings; secondly, the educational qualification for the election of Parliament and Provincial Assemblies is different from the educational qualification of a Nazim or Naib Nazim under Section 152(1)(e) of Ordinance, 2001. Therefore, confining ourselves to the extent of Local Government Elections under Ordinance 2001, the question of validity or otherwise of the notification

issued by the Election Commission of Pakistan will be considered separately at appropriate time.

21. We have examined the “Sanads” of the petitioners in each petition separately keeping in view the approved list of the recognized “Deeni Madaris” reproduced herein above. Except the “Sanad” possessed by Saeed Ahmad (petitioner in CPLA No.1622-L/2005) the “Sanads” of remaining petitioners have been issued by the “Deeni Madaris” which have not been approved/recognized by UGC/HEC. But, “Sanad” possessed by petitioner Saeed Ahmed is also not acceptable because he had not qualified examination in additional subjects, discussed herein above, from a university recognized by the Government nor equivalence certificate has been obtained by him.

Thus, it is held that petitioners have failed to satisfy the requirement of Section 152(1)(e) of the Ordinance 2001 and they are not qualified to contest the Local Government Elections.

22. Learned counsel for the petitioner in CPLA No.1622-L/2005 contended that notification No.IBCC/ES/MISC/1219 dated 21.7.2005, relied upon by District Returning Officers as well as the High Court to conclude that petitioners had not obtained equivalence certificate of the “Deeni Madaris” mentioned therein, has no nexus with the present cases as after the promulgation of Dini Madrasah Ordinance, 2001 such certificate has to be issued by the Board under this Ordinance.

Mr. Makhdoom Ali Khan, learned Attorney General for Pakistan stated that equivalence certificate is to be issued either by Higher Education Commission or by the IBCC but as far as the Board under Section 5(j) of the Dini Madrasah Ordinance, 2001 is concerned, it is empowered only to approve equivalence of degrees, diplomas, Sanads or certificates of the “Deeni Madaris” duly registered with the Board.

23. In this context it is to be noted that in view of above discussion, equivalence certificate is to be issued either by the UGC/HEC or by IBCC in respect of “Sanads” issued by “Deeni Madaris” recognized by the Board under Dini Madrasah Ordinance 2001 and the students have qualified the examination according to curricula provided by the Board, Therefore, argument being without force is repelled.

24. Learned counsel in CPLA No. 1579-L of 2005 contended that respondent Muhammad Sharif had no locus standi to file writ petition under Article 199 of the Constitution, challenging the “Sanad” of petitioner, as no one had raised objection on his nomination papers at the time of scrutiny.

The objection so raised by the learned counsel would have no impact on his case because his “Sanad” has also been found not acceptable for the criteria discussed above.

25. Learned counsel in CPLA No. 1597-L of 2005 contended that in addition to “Sanad” issued by “Deeni Madrasah”, petitioner is also in possession of a matriculation certificate, therefore, he was qualified to contest the elections.

The argument is unfounded because the matriculation certificate possessed by him has been found bogus by the High Court in view of the report from the concerned Board.

26. Learned counsel in CPLA No. 1600- L of 2005 urged that the “Sanad” obtained by the petitioner is acceptable because the “Madrasah” wherefrom he has obtained it, is affiliated with the Shah Abdul Latif Bhattai University, Khairpur Sindh.

It may be noted that the “Sanad” issued by “Deeni Madrasah” having affiliation with the university would not be acceptable unless it is shown that in view of the notification dated 17th November 1982, petitioner has passed examination in additional subjects at B.A. level.

27. In CPLA No.1624-L of 2005, the “Sanad” has been obtained from a “Deeni Madrasah” of Azad Jammu & Kashmir. UGC/HEC which is not a recognized “Madrasah” by UGC/HEC nor equivalence certificate has been obtained by him. In addition to it, learned counsel for caveat relied upon a letter dated 12.8.2001, issued by the Government of Azad Jammu & Kashmir Directorate of Religious Affairs, contents whereof have not been denied by the learned counsel for petitioner. A perusal of this letter indicates that the “Sanad” of the petitioner has been found to be bogus by the concerned authority of the Government.

28. Thus, it is concluded that :-

- i) If “Sanad” i.e. Shahadat-ul-Aalmia-Fil-Uloom- Ul-Arabia-Wal-Islamia obtained by a candidate from a “ Deeni Madrasah” (seminary), which is duly recognized by UGC/HEC and its holder had passed examination of additional subjects as it has been mentioned in notification dated 17th November 1982 (No.8-418/Acad/82/128) issued by UGC/HEC and equivalence certificate has also been issued by Higher Education Commission under Section 10(o) of the Higher Education Commission Ordinance 2002, then it is acceptable for the purpose of employment and for any other purpose including the elections of Local Government.

AND

- ii) “Sanad” of Shahada-tul-Sanvia-tul-Aama (SSC) and Shahada-tul-Sanvia-tul-Khasa (HSSC), if obtained by a candidate from recognized “Deeni Madrasah” by UGC/HEC and he has also passed examination of English, Urdu and Islamic Studies, from any Board of Intermediate and Secondary Education, and had obtained equivalence certificate from IBCC, in

pursuance of notification No.IBCC/ES/Misc/1219 dated 21st July 2005 read with notification No.F.5-5/90-JAE(CW) dated 22nd April 1990 he shall be qualified to contest the Local Government Elections, according to the provisions of Section 152(1)(e) of Punjab Local Government Ordinance, 2001.

As a result of above discussion, impugned judgments passed by Lahore High Court are confirmed and petitions are dismissed.

CJ.

J.

Lahore, the
16th August, 2005

J.

APPROVED FOR REPORTING.