

IN THE HIGH COURT OF BALOCHISTAN QUETTA.

C.P. No. 1929/2022

1. Hanzala Babar (Attorney) son of Habibullah Babar by Caste Babar Resident of Gulshan Farooq Spini Road Quetta.
2. Palwasha Daughter of Faizullah by Caste Kakar Resident of District Loralai.
3. Syed Muzammil Ahmed Shah son of Syed Yar Muhammad by caste Syed, resident of Gawalmandi Road, Pishin
4. Masooma, daughter of Moula Dad by caste Kakar resident of Killi Sagar Tehsil Bori district Loralai
5. Abdullah son of Abdul Malik, resident of H. No. 379-S3 Muhallah Kalat Street, Satellite Town Block-3 Quetta
6. Hasnain Langove son of Shah Bakhsh, by caste Langove resident of Tehsil Mungachar District Kalat.

.....Petitioners

VERSUS

1. Pakistan Medical Commission (PMC) through its President Mauve Area, G-10/4 Islamabad
2. NUMS through its Vice Chancellor, The Mall, Parking Lot, Abid Majeed Road, Rawalpindi
3. Secretary Health Government of Balochistan, Civil Secretariat, Quetta
4. Bolan University of Medical & Health Sciences (BUMHS) through its Vice Chancellor Brewery Road, Quetta
5. Bolan Medical College (BMC), through its Principal Brewery Road, Quetta.

.....Respondents

AMENDED CONSTITUTIONAL PETITION UNDER ARTICLE 199 OF THE CONSTITUTION OF ISLAMIC REPUBLIC OF PAKISTAN, 1973

C.P. No. 1978/2022

Muhammad Zubair son of Abdul Karim r/o G-145 Buledi House Block No.3 Satellite Town, Quetta.

.....Petitioner

VERSUS

1. Federation of Pakistan through Secretary Ministry of National Health Services, Regulation and Coordination, Civil Secretariat Islamabad.
2. Pakistan Medical Commission (PMC) through its President Medical and Dental Council, Mauve Area, G-10/4 Islamabad
3. Admission Board through its Chairman Pakistan Medical Commission, Mauve Area Islamabad
4. Bolan University of Medical & Health Sciences (BUMHS) through its Vice Chancellor Brewery Road, Quetta
5. Bolan Medical College (BMC), through its Principal Brewery Road, Quetta.

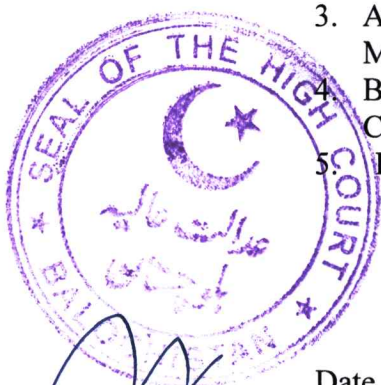
.....Respondents

CONSTITUTIONAL PETITION UNDER ARTICLE 199 OF THE CONSTITUTION OF ISLAMIC REPUBLIC OF PAKISTAN, 1973Date of hearing 12.12.2022Announced on 14.12.2022**In CP No.1929/2022:**

Petitioners by: M/s. Amir Muhammad Tareen, Taj Muhammad Mengal, Iftikhar Ahmed Langove and Changaiz Baloch Advocates assisted by Professor Habibullah Babar (Father of Petitioner No.1).

Respondent

No.1 by: Syed Abuzar Haider, Advocate assisted by Mr. Manzoor Ahmed, Coordinator Pakistan Medical Commission (PMC) Office Quetta.



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Respondent
No.3 by: Mr. Nusratullah Baloch, Assistant Advocate General (AAG)

Respondent
Nos. 4 & 5 by: Mr. Sultan Khalid, Advocate.

In CP No. 1978/2022:

Petitioner by: M/s. Shams-ud-Din Achakzai, Humera Munir and Rahib Khan Buledi, Advocates.

Respondent
No.1: Mr. Ashraf Bazai, Assistant Attorney General.

Respondent
Nos. 2 & 3 by: Syed Abuzar Haider, Advocate assisted by Mr. Manzoor Ahmed, Coordinator Pakistan Medical Commission (PMC) Office Quetta.

Respondent
Nos. 4 & 5 by: Mr. Sultan Khalid, Advocate.

ORDER

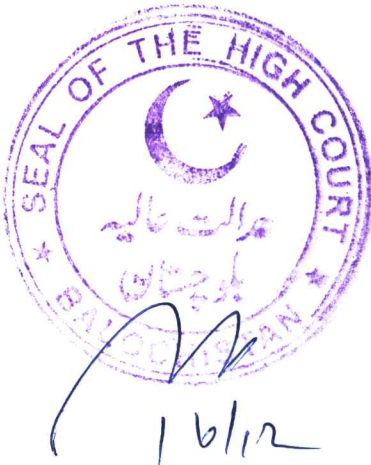
Naeem Akhtar Afghan, CJ. This common order disposes of Constitution Petition Nos.1929 and 1978 of 2022 as identical question of facts and law are involved in both the petitions.

2. In CP No.1929 of 2022, the petitioners have claimed the following relief:

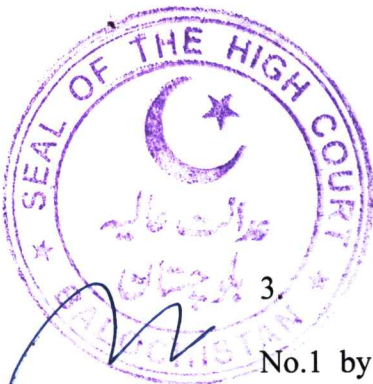
“It is, accordingly respectfully prayed that this Hon’ble Court may kindly be allowed the instant constitutional petition on the following terms:-

a. *Declare that the PMC MDCAT held in Balochistan under NUMS are illegal and void and the same may kindly be cancelled with further directions to re-conducted the same through the University of the Province/Bolan Medical college itself to meet the norms set for rest of the country.*

b. *Declare that the students of Balochistan who got passed in entry test of NUMS for Armed Forces related medical and dental colleges should also be considered eligible for admission to the public and private sector medical and dental colleges of Balochistan and reset of the country as the precedent is already there in 2019 by PMDC allowing the students to use any of their entry test results for Private sector colleges.*



- c. *Directions to be issued that petitioners may also be given benefit of wrong keys and grace marks in place of 30-40 out of context and syllabus question according to white booklet (from KPK, Federal and Punjab Texts Board), keeping in view the precedent of awarding grace marks across the country by PMC is there.*
- d. *Directions be issued that third party audit of the whole paper by Balochistan Board teachers should be done to decide the authenticity of the whole paper as per Balochistan text.*
- e. *To further pass an order for seizing all the process of admissions in public sector medical and dental colleges of Balochistan till right of the students of Balochistan is not addressed.*
- f. *To declare that if a student of Balochistan likewise petitioner No.1 who passed one of the test of NUMS conducted in the month of October 2022 or November 2022 must be declared eligible for admission in any medical institution of Pakistan.*
- g. *To direct the respondents to relax the criteria of passing marks by reducing the same from 110 to less than 100 for MBBS and from 100 to 90 for BDS because the Balochistan is already retrograded in field of education.*
- h. *To suspend the admission notice dated 25.11.2022 issued by respondent No.5 and restrain the respondents from conducting admission process till further orders of this Hon'ble Court.*
- i. *Any other relief which this Hon'ble Court deems fit and proper may also be awarded in favour of the petitioners, in the interest of justice, equity & fairplay".*



3. Amended CP No.1929 of 2022 has been contested by respondent No.1 by filing parawise comments. It has also been contested by respondent Nos.4 and 5 by filing joint parawise comments.

4. In CP No.1978/2022, the petitioner has claimed the following relief:-

"It is therefore prayed that keeping in view the aforesaid submissions petition be allowed, respondents

be directed to analyze pink booklet of petitioner from third party in the interest of justice”.

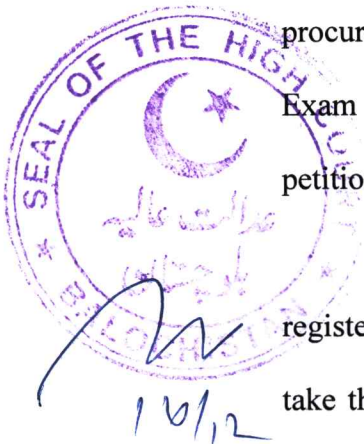
5. In CP No.1978 of 2022, learned counsel for PMC and learned counsel for Bolan University of Medical and Health Sciences (BUMHS)/ Bolan Medical Collage (BMC) have not filed separate parawise comments and they are relying upon their parawise comments filed in connected CP No.1929 of 2022.

6. Learned counsel for the petitioners in both the petitions and father of petitioner No.1 in CP No.1929 of 2022 contended that the questions of Medical and Dental College Admission Test (MDCAT) Exam 2022 were out of course due to which either 30/40 grace marks be assigned to all the candidates after analysis of question papers by independent Professors or in alternate MDCAT Exam 2022 be retaken.

7. While contesting the above, learned counsel for PMC, learned counsel for BUMHS/BMC and learned Assistant Attorney General stated that the question papers for MDCAT Exam 2022 were prepared by BUMHS and NUST representatives from authentic question bank of PMC verified by Inter Board Committee of Chairmen (IBCC); a candidate of Loralai had obtained highest 177 marks out of 200 in MDCAT Exam 2022 which would have not been possible if the questions of MDCAT Exam 2022 were out of course.

8. After hearing learned counsel for the petitioners, father of petitioner No.1 (in CP No.1929 of 2022), learned counsel for PMC, learned counsel for BUMHS/BMC and learned Assistant Attorney General, we had procured White, Blue, Green and Pink booklets/question papers of MDCAT Exam 2022 and have gone through the documents filed and relied upon by the petitioners, PMC and BUMHS/BMC.

It reveals that in MDCAT Exam 2022 total 9238 candidates were registered. 327 candidates remained absent while 8911 candidates appeared to take the test out of which 4054 candidates passed while 4845 candidates failed. 4054 candidates who have passed MDCAT Exam 2022 will be considered for admission in MBBS course against 486 seats and 54 BDS seats in different colleges of the Province of Balochistan and other Provinces.



9. According to Policy decision of PMC, MDCAT Exam 2022 was to be conducted in the Province of Balochistan by BUMHS and in this regard an agreement was also executed between PMC and BUMHS in October, 2022.

10. In order to achieve secrecy and transparency for preparation of question papers, BUMHS executed Memorandum of Understanding (MOU) with National University of Sciences & Technology Islamabad (NUST). It was agreed that representatives of NUST and focal person of BUMHS will interact with PMC for preparing 4x randomized sequences of paper alongwith separate answer keys having different colored title pages for identification and customized OMR readable answer sheets.

Record reveals that questions for MDCAT Exam 2022 were selected from question bank of PMC which has been verified by Higher Education Commission (HEC) and IBCC.

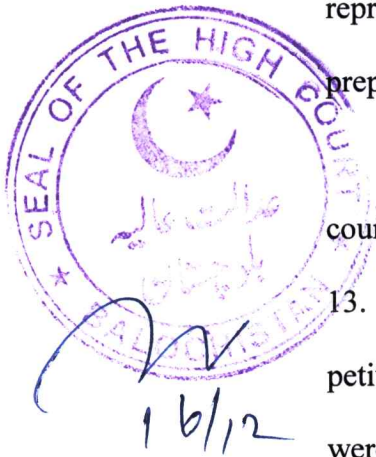
11. It reveals that for availing the venue, invigilation staff and logistic support for MDCAT Exam 2022, BUMHS also executed MOU with the Balochistan University of Information Technology, Engineering and Management Sciences (BUIITEMS) whereafter BUMHS took the MDCAT Exam 2022 within the premises of BUIITEMS.

12. It transpires that complaints of few candidates about the question of MDCAT Exam 2022 being out of course were attended by BUMHS, NUST as well as PMC and same were found not correct as the question papers and answer key were prepared out of the PMC's authentic question bank by BUMHS and representatives of NUST and the question were randomized through system for preparation of 4x sequences having different color codes.

It is observed that had the questions of MDCAT Exam 2022 been out of course, a candidate from Loralai could have not scored 177 marks out of 200.

13. After going through the relevant record it is concluded that the petitioners have failed to substantiate that the questions of MDCAT Exam 2022 were out of course.

Since no discrepancy has been found in the MDCAT Exam 2022 therefore no occasion arises for analysis of question papers by independent



Professors or to grant grace marks to all the candidates nor there is any occasion to retake MDCAT exam 2022.

For the above reasons, both the Constitution Petitions are dismissed.

SD/-NAEEM AKHTAR AFGHAN
CHIEF JUSTICE
SD/-SHAUKAT ALI RAKHSHANI
JUDGE

Announced in open Court
On 14th December, 2022.



SABIR HUSSAIN
Court Assistant
Copying Section C.P
High Court of Balochistan
Quetta.

16/12/2022