

Most Urgent / Out Today

**IN THE ISLAMABAD HIGH COURT, ISLAMABAD**

**JUDICIAL DEPARTMENT**

24276 / Writ  
06-Oct-2021

**From,**

**The Deputy Registrar(Judicial),  
Islamabad High Court,  
Islamabad.**

**To,**

✓ **Registrar**

Pakistan Medical Commission, head office at Mauve Area, G-10/4 Islamabad

**2\_Vice Chancellor,**

Agha Khan University Stadium Road, Karachi.

**3\_Principal**

Shifa College of Medicine Islamabad, NCBMS Tower, near Federal Board Office, Sector H-8/4 Islamabad

**Subject: W.P. 2955/2021 Colleges Other (SB)**

**Wasiq Ahmed Achakzai-VS-PMC & others**

**Dear Sir,**

I am directed to forward for information and immediate compliance a copy of this Court's order dated 27-09-2021 passed by Hon'ble Mr. Justice Mohsin Akhtar Kayani in the above noted case.

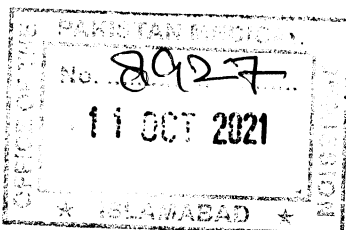


Yours Faithfully,

**Assistant Registrar (Writ)**

**For Deputy Registrar (Judicial)**

**Decided Matter**



1

**IN THE ISLAMABAD HIGH COURT, ISLAMABAD**  
(CONSTITUTIONAL JURISDICTION)

W. P. No. 2955 of 2021

Wasiq Ahmed Achakzai s/o Prof. Naqib Ullah Achakzai,  
R/o House No. 120, Army Officers (Askari) Housing  
Scheme 31, Quetta Cantt, Quetta.

...Petitioners

Versus

1. Pakistan Medical Commission through its Registrar,  
with its head office at Mauve Area, G-10/4, Islamabad.
2. Agha Khan University through its Vice Chancellor,  
Stadium Road, Karachi.
3. Shifa College of Medicine, Islamabad, through its  
Principal, situated at NCBMS tower, near Federal  
Board Office, Sector H-8/4, Islamabad.

...Respondents

**PETITION UNDER ARTICLE 199 OF THE**  
**CONSTITUTION OF ISLAMIC REPUBLIC OF PAKISTAN,**

07 OCT 2021 1973.

Respectfully Sheweth;  
Examiner  
Copy Supply Section  
Islamabad High Court  
Islamabad

13959  
17/10/21

1. That this Petition is being filed before this Honorable Court under  
Article 199 of the Constitution of Pakistan due to unfair treatment by

**JUDGMENT SHEET**  
**IN THE ISLAMABAD HIGH COURT, ISLAMABAD.**  
**JUDICIAL DEPARTMENT.**

**W.P No. 2955-2021**

Wasiq Ahmed Achakzai

Versus

Pakistan Medical Commission through its Registrar, Islamabad and others.

Petitioner by: Barrister Muhammad Saad Buttar, Mr. Tahir Hussain Anchan, Advocates.

Respondents by: Mr. Taimoor Aslam Khan, Advocate for respondent No.1.  
Mr. Salim ur Rehman, Advocate for respondent No.2.  
Mr. Fawad Saleh, Advocate for respondent No.3.

Date of Decision: 27.09.2021.

.....  
**MOHSIN AKHTAR KAYANI J.** Through the instant writ petition, the petitioner has prayed for the following relief:-

- i. *The MBBS and BDS (Admissions, House Job and Internship) Regulations, 2018 and 209 would apply to the Petitioner and to allow the Petitioner to Apply for Admission with Respondent No.2 & 3 on the basis of SAT II result instead of MDCAT.*
- ii. *To direct the Respondents not to apply the impugned Regulations of 2021-22 retrospectively on the Petitioner.*
- iii. *To declare the Impugned Regulations illegal, discriminatory and hence null and void, to the extent of not allowing students who have studied in foreign institutes to apply for admission using SAT II Test result instead of MDCAT.*
- iv. *To direct Respondent No.3 to allow Petitioner to apply for admission using his SAT II result instead of their entry test as per the 2018 regulations.*

Any other order may kindly be passed which this Honorable Court deems fit and proper for the grant of relief to the Petitioner.

07 OCT 2021

Examiner  
Copy Supply Section  
Islamabad High Court  
Islamabad

counsel for the petitioner primarily contends that petitioner has achieved O-Levels Degree as well as A-Level degree

from foreign country and has applied for his admission in Shifa College and Agha Khan University, but he has been meted out with unfair treatment by the respondents as the PMC has imposed *PMC Medical and Dental Undergraduate Education (Admissions, Curriculum and Conduct) Regulations 2021*, which were promulgated on 04.06.2021, which are not applicable to the case of present petitioner; that petitioner being dual national and having studies in England came in the category of Pakistani Citizen with foreign studies seeking admission in Pakistani University/College, whereby in UK and other countries Mathematics is treated as a science subject, which can be used as a substitute for Physics, whereby previous regulations recognized this concept *viz-a-viz* was substituted with mathematics under the previous regime; that PMC has allowed such students to apply for admission using their SAT II results in Biology, Chemistry and Mathematics subjects as a substitute of MDCAT Admission Test, since MDCAT (Admission Test) includes Physics as well and the petitioner has already appeared in SAT II with outstanding results in all three subjects; that petitioner is aggrieved with the admission regulations, which have been applied in the University in Pakistan for the academic year 2021-22 onward, whereby SAT II has been discontinued, which is a substitute of MDCAT. It has lastly been contended that petitioner has been discriminated in the admission regulations, where Physics carries 26.5% weightage, resultantly petitioner is in disadvantageous position in the competitive mechanism for admission.

3. Conversely, learned counsel for the respondents have raised the question of maintainability of instant writ petition per se on the

ground that the PMC is the authority under *Pakistan Medical Commission Act, 2020* to promulgate the regulations and control the medical profession and as such *The Medical Tribunal Act, 2020* has

TRUE COPY

07 OCT 2021

Examiner

Supp. Commission

Islamabad High Court

Islamabad

also been promulgated on 20.09.2020, whereby any person including an employee of Commission aggrieved by any order or direction of the Commission, including the Council, Authority or disciplinary committee under any provision of the Act or rules or regulations may prefer an appeal only before the Medical Tribunal within thirty days of the date of communication of impugned order or direction and as such instant writ petition is not competent. It has further been contended that eligibility criteria provided in the *PMC Medical and Dental Undergraduate Education (Admissions, Curriculum and Conduct) Regulations 2021* has been notified in the official gazette and as such petitioner, who has completed A-Level in June, 2020 and has applied under old regulations, but the petitioner is not successful in getting admission in the previous year, therefore, he cannot claim admission under old scheme or challenge the new regulations, when he has not been able to achieve his admission on merit under previous regulations /scheme.

4. Respondents No. 2 & 3 have taken a categorical stance that they are governed under PMC Regulations, if the petitioner has any grievance, it is with respondent No.1 only, though they have also raised the question of maintainability of instant writ petition.

5. Arguments heard and record perused.

6. Perusal of record reveals that the petitioner is primarily aggrieved with the imposition of *PMC Medical and Dental Undergraduate Education (Admissions, Curriculum and Conduct) Regulations 2021*, which specifically provides the eligibility for admission in the following manner:-

**Eligibility for Admission.-** Any person seeking admission in any undergraduate medical or dental college in Pakistan shall be eligible having fulfilled the following mandatory criteria:-

07 OCT 2021

Examiner  
Govt Supply  
Islamabad High Court  
Islamabad

TRUE COPY

- a) *Have passed the MDCAT examination conducted by the National Medical Authority:*
- b) *Obtained a Higher Secondary School Certificate qualification ("HSSC") or an equivalent 12 grade qualification recognized in Pakistan and having obtained more than sixty five percent marks therein, or a higher percentage as may be notified by the Medical and Dental Council, and*
- c) *Passed the subjects of biology and chemistry and either physics or mathematics in the examination of the Higher Secondary School Certificate or an equivalent 12th grade qualification recognized in Pakistan:*

*Provided that the mandatory eligibility requirements shall not apply to a student admitted on a special program seat pre-defined exclusively for a Federal Government program for foreign students under bilateral agreements with other countries. Such students shall also not be entitled to apply for a Full License to practice in Pakistan after having obtained their degree and will have to apply as foreign graduates subject to applicable licensing pathways.*

7. The above mentioned eligibility criteria has been notified on 04.06.2021, whereas the present petitioner, who claims that he has completed his education under old regulations system and he has been deprived of in the present regulations on hyper technical grounds, but surprisingly the petitioner has completed his A-Level in June, 2020 and has applied for the admission in Medical College in Pakistan, but he failed to secure his admission under the *MBBS and BIS (Admissions, House Job and Internship) Regulations, 2018* in the year 2020, however, after enactment of *PMC Act, 2020*, passed by the parliament and notified in the official gazette on 24.09.2020,

Commission has been constituted under Section 3 of the Act, even the orders passed under the previous enactment have been given protection qua their actions and orders in terms of Section 50 of

**TRUE COPY**

07 OCT 2021

Exam  
Copy  
Islam  
Islamabad

Repeal and Savings clauses by the *PMC Act, 2020*. Similarly, *Medical Tribunal Act, 2020* has also been promulgated on 22.09.2020 and Section 6 provides exclusive jurisdiction to Medical Tribunal to decide all appeals against decision, orders and acts of relevant apex authorities or councils under the law, even all claims or complaints arising out of acts or obligations pursuant to PM&DC Ordinance 1962, PMC Ordinance, 2019 or any other law as may be notified under sub Section 1 of Section 6 of the Act, *shall be heard and decided by the tribunal*. This aspect left nothing in favour of petitioner to agitate the matter before this Court, especially when the Tribunal has been established on 31.12.2020. Similarly Section 37 of the PMC Act, 2020 provides the remedy of appeal to *any person including an employee of commission aggrieved by any order or direction of the commission including the Council Authority or disciplinary commission under any provision of this Act, or rules or regulations may prefer an appeal only before Medical Tribunal within thirty days of date of communication of impugned order or direction*.

8. Now resorting to the basic question raised in the instant petition qua the MDCAT, which has been provided in terms of Section 18 of the PMC Act, 2020 in an unequivocal terms and said statutory requirement could not be substituted through any means as it is mandatory requirement to pass the MDCAT examination which is minimum requirement of eligibility for admission under the law and as such *PMC Medical and Dental Undergraduate Education (Admissions, Curriculum and Conduct) Regulations 2021* has been

imposed by the Pakistan Medical Commission in exercise of powers in terms of Section 40 and sub section 2(f) of Section 8 of the PMC Act,

07 OCT 2021

2020, hence petitioner has failed to demonstrate any of his right to be

Examiner

reclaimed under previous regulations, which were enforceable at the

time of application for admission in the present case, however,

*[Handwritten signature]*

TRUE COPY

without touching the merits of the case, petitioner if intends to challenge his non admission on any ground, he may avail the remedy provided under the law as discussed above.

9. In view of above, instant writ petition is **DISMISSED**. However, petitioner may approach the relevant Tribunal if so advised.

Sd

(MOHSIN AKHTAR KAYANI)  
JUDGE

RAMZAN

TRUE COPY

07 OCT 2021

Copy of  
Islamabad High Court  
Islamabad

