

BEFORE THE HON'ABLE ISLAMABAD HIGH COURT,
ISLAMABAD.

Writ Petition No. 4092 of 2020

Miss. Muqaddas Imran daughter of Muhammad Imran
Resident of Zaraj Housing Society Sector-C Street No. 4
House No. 104 Islamabad. -----(**Petitioner**).

VERSUS

1. Pakistan Medical Commission (PMC) through President
PMC, Mauve Area G-10/4, Islamabad.
2. The Pakistan Medical Commission (PMC), Committee
through Registrar PMC Mauve Area G-10/4,
Islamabad. ----- (**Respondents**).

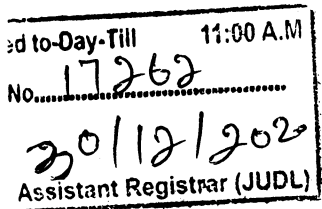
Addresses of the parties given mentioned above are
sufficient for proper service.

WRIT PETITION UNDER ARTICLE 199 OF THE
CONSTITUTION OF ISLAMIC REPUBLIC OF PAKISTAN,
1973.

Respectfully Sheweth.

Facts leading to the instant writ petition are as under:-

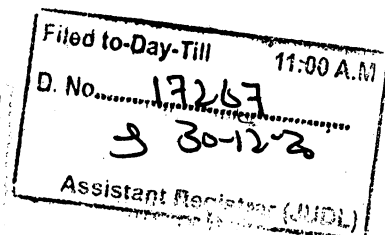
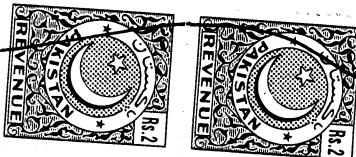
1. That petitioner possess a good academic record having
84.5 % marks in F.Sc and 86.91 % marks in SSC
(Science).
2. That petitioner appeared in Medical & Dental College
Admission Test-2020 (MDCAT-2020) on Sunday 29th
November, 2020 under Roll No. 6011132 at Test Centre
"Ittefaq Model School Inqalab Road, Chamkani,
Peshawar. The test was conducted under the auspices
of the respondents. (**Copy of Roll No Slip with
academic record is attached as Annexure "A"**).



FIVE RUPEES

Rs. **50**

PAKISTAN
COURT FEE



Form No: HCJD/C-121

JUDGMENT SHEET

IN THE ISLAMABAD HIGH COURT, ISLAMABAD
(JUDICIAL DEPARTMENT)

W.P. No. 4092 of 2020

Miss Muqaddas Imran

Vs.

Pakistan Medical Commission through President and another

Petitioners by : M/s Sher Afzal Khan Marwat, Shazia Ejaz, Malik Muhammad Khan Awan, Liaqat Ali Qasim and Asad Mehmood Advocates.

Respondents by : Sardar Taimoor Aslam Khan Advocate, for PMC.
Mr Ali Raza, Vice President PMC.
Ms Nadia Nabi, Member Legal PMC.

Date of Hearing : **15.01.2021.**

ATHAR MINALLAH, C.J.- Through this consolidated

judgment I shall decide the petitions listed in "**Annexure-A**" attached hereto.

2021 The grievance stems from the Medical and Dental Colleges Admission Test, 2020 [hereinafter referred to as the "**Examination**"]. All the petitioners had taken the Examination and are aggrieved because they assert that material irregularities were committed while conducting the Examination, which have adversely affected their fundamental rights guaranteed under the Constitution.

3. The Pakistan Medical Commission [hereinafter referred to as the "**Commission**"] was established under section 3 of the Pakistan Medical Commission Act, 2020 [hereinafter referred to as the "**Act of 2020**"]. The Act of 2020 was promulgated with the object to provide for the regulation and control of the medical profession and to establish a uniform minimum standard of basic and higher medical education and training and recognition of qualifications in medical and dentistry. Section 18 of the Act of 2020 provides that the National Medical Authority [hereinafter referred to as the "**Authority**"] shall conduct annually, on a date approved by the Council and as per standards approved by the Board, a single admission test. The legislature has declared the admission test to be a mandatory requirement for all students seeking admission to medical and dental colleges in Pakistan. Sub section (2) of section 18 unambiguously provides that no student shall be awarded a medical or dental degree in Pakistan who has not passed the Examination prior to obtaining admission in medical and dental colleges in Pakistan. The Commission conducted the Examination in November, 2020 and more than 120,000 (one hundred and twenty thousand) students from across the country had applied. Moreover, 70,000 (seventy thousand) candidates were declared successful in the Examination.

4. The petitioners are aggrieved because they feel that they have not been assessed and evaluated in a fair and transparent manner. They allege that initially results were notified and displayed on the official website of the Commission and later changed by

notifying altogether different results. It has also been argued on behalf of the petitioners that some questions were "out of course". It is also their case that the ambiguous nature of questions vitiates the entire process of Examination. Reliance has been placed on the judgments, rendered in the cases "Mst. Faheeda v. Government of Sindh through Secretary Health and 3 others" [2004 SCMR 1828], "Zahoor Hussain v. Director Education (Schools) Directorate of Education (Schools), Lahore Division, Lahore and 2 others" [2002 YLR 1554], "Ms. Shakeela v. University of Peshawar through Vice-Chancellor and another" [PLD 2003 Peshawar 69], "Dr. Mian Mohsin Shah and 7 others v. University of Peshawar through Vice-Chancellor and 16 others" [PLD 1995 Peshawar 43], "Farooq Ahmad v. Chairman, Federal Public Service Commission, Islamabad" [1998 SCMR 336], "University of Peshawar through Vice-Chancellor and others v. Dilnawaz Khan" [PLD 1996 Peshawar 17].

5. In response to notices issued to the respondents, *Mr Ali Raza*, learned ASC had appeared on 12.01.2021. He had explained in detail the nature of the Examination and the manner in which it was conducted. He had explained that the Examination was based on multiple choice questions mode of evaluation. He had further stated that 14 questions out of 200 appeared to have created ambiguity, therefore, the effect thereof was nullified by awarding fourteen marks to all the applicants who had taken the Examination. Taking a fair stance, he had offered on behalf of the Commission that the grievances of the petitioners will be considered and redressed. The learned counsels for the petitioners had not opposed the suggestion.

Certified to
20 JAN 2021
Author
[Redacted]

When the petitions were taken up today, Mr Ali Raza, learned ASC informed that those petitioners who had approached the Commission were heard and effort was made to satisfy them that the Examination were conducted in a transparent and fair manner and the alleged irregularities were misconceived. He unequivocally stated that only one consolidated result was uploaded on the website of the Commission. He refuted the assertion that initially a different result had been notified. The petitioners also could not show to the satisfaction of the Court that a different result had been notified earlier. Needles to mention that this raises disputed questions of fact, which cannot be resolved while exercising jurisdiction under Article 199 of the Constitution.

7. It is noted that the Commission had adopted the mode of evaluation based on the "multiple choice questions". The said mode involves one question with multiple possible answers. In technical language the question is termed as 'stem' and the answers as 'choices'. The choices include the correct answer and several wrong answers termed as 'distractors'. A student is required to identify and mark the correct answer. It is one of the modes of evaluation which does not involve descriptive answers to a question. The "multiple choice questions" mode allows inclusion of a broad based evaluation of topics and is one of the most effective tool of testing the breadth of a students knowledge. It is a mode which virtually eliminates bias because it does not involve the discretionary evaluation by an examiner.

20 JAN 2021

It is settled law that courts do not interfere in academic matters, particularly reevaluation of the answers. In case of the petitions in hand, this Court had only examined the question paper. The questions were of such nature that a student having passed FSc examination should not have had any difficulty in identifying the correct answers. It is ironic that in parts of the country the mode of evaluation based on "multiple choice questions" is alien. During the course of arguments, it has transpired that the traditional examination system evaluates how well a student has memorized from the text books rather than effectively testing the latter's knowledge. The Commission has been found to have been fair and equitable while conducting the Examination. On its own initiative, a decision was taken to exclude the effect of fourteen questions out of 200, which were found to have created some ambiguity. Fourteen marks were awarded to all the students, regardless of their answers. It was contended by one of the learned counsels that in case of the petitioners whom he represented, the latter had answered four out of the fourteen questions correctly. He asserted that she should have been awarded marks in addition to the fourteen marks already granted to each student. This contention reflects the lack of appreciation of the fact that the Commission had nullified the effect of fourteen questions and that the marks awarded to each student were regardless of answering the questions correctly or not.


9. It was disturbing to have been informed by the learned counsels that text books published by various Boards contain contradictory information, which was one of the reasons why some students could not properly answer the questions. Even if this

...section is correct, it cannot form a valid ground for vitiating the Examination conducted by the Commission. The argument that some questions were 'out of course' loses its force merely because of the fact that more than seventy thousand students had passed the Examination on the basis of the same question paper.

10. This Court has not been able to find any irregularity requiring interference while exercising jurisdiction under Article 199 of the Constitution. This Court records its appreciation for the fairness on part of the Commission and its eagerness to resolve the grievances of the petitioners. Despite the appreciable exercise undertaken by the Commission during these proceedings to resolve the grievances of the petitioners, if the latter are not satisfied then they shall be at liberty to file their respective representations. In such an eventuality, the Commission will be expected to pass speaking orders to enable the aggrieved students to avail the remedy of appeal before the Tribunal constituted under the Act of 2020.

11. The petitions are, therefore, accordingly **disposed of.**

20 JAN 2021
Executive
Copy Section
Author
Date
Tanveer Awan/*


(CHIEF JUSTICE)

ANNEXURE-A

1.	W.P No. 4092/2020	Miss Muqaddas Imran v. Pakistan Medical Commission through President and another.
2.	W.P No. 4093/2020	Miss Fatima Batool and 6 others v. Pakistan Medical Commission and 5 others.
3.	W.P No. 40/2021	Miss Javeria Zia Orakzai v. The Chairman, Pakistan Medical Commission and another.
4.	W.P No. 44/2021	Miss Ayesha Abbas and another v. Pakistan Medical Council and 2 others.

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