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ORDER SHEET

**IN THE LAHORE HIGH COURT, LAHORE
JUDICIAL DEPARTMENT**

Copy Submitted
Lahore High Court, Lahore

I.C.A No. 81041/2022.

Aina Bano.

Versus Pakistan Medical Commission through
its Chairman, etc.

S.No. of order/ Proceeding	Date of order/ Proceeding	Order with signature of Judge, and that of parties of counsel, where necessary
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20.12.2022.

Mr. Amjad Ali, Advocate for petitioner.
Mr. Tahir Mahmood Khokhar, D.A.G.
Ch. Naseer Ahmad Gujjar, AAG.
Mr. Waqar Mushtaq Toor, Advocate for PMC.

This Intra Court Appeal questions legality of judgment dated 14.12.2022, whereby learned Single Judge-in-Chambers proceeded to dismiss appellant's constitutional petition.

2. Controversy involved was summed-up in the opening paragraph of impugned judgment, which is reproduced hereunder for sake of brevity,

"Through the instant Constitutional petition a Public Notice issued by Pakistan Medical Commission ("PMC") has been called into question which is to the effect that candidates who passed their F.Sc (Pre-Medical)/HSSC or equivalent exam last year (2021) and are now applying for admission in medical/dental colleges for the sessions 2022-23, are informed that only their elective subject marks and percentage will be considered for merit calculation for admission in medical & dental colleges for the sessions 2022-23."

3. Appellant successfully undertook F.Sc (Pre-Medical) Annual Examination 2021, which were conducted under the then Covid 19 Policy – where marks in non-elective subjects were awarded on the criterion of predicted performance. For the reasons known to appellant she did not opt for admissions in Medical /

applied for admissions for incumbent session, i.e., 2022-2023. She claimed that while undertaking weightage regarding F.Sc (Pre-Medical) marks secured in non-elective subjects must also be considered, along elective subjects – Admission policy for current session envisaged 40% weightage for F.Sc (Pre-Medical) /HSSC / Equivalent in terms of regulation No.4(2) of the Pakistan Medical and Dental Undergraduate Education (Admissions, Curriculum and Conduct) Policy and Regulations, 2022. And as per the public notice it was conveyed that marks secured in elective subjects would only be considered for weightage purposes with respect to students who took examination in 2021 and seeks admission for session 2022-2023. Appellant in essence had questioned legitimacy of instructions conveyed through the public notice.

ATTACHED
EXAMINER
Copy of Examiners Section
Lahore High Court, Lahore

4. Learned counsel submits that appellant is the victim of apparent discrimination, whose marks in non-elective subjects were not given due credit for weightage purposes, unlike other candidates.
5. Submissions are misconceived. Appellant fails to appreciate the rationale of the instructions conveyed through the Public Notice. Simply put, no prejudice or discrimination was intended to those candidates, which took F.Sc (Pre-Medical)/ HSSC/Equivalent Examination 2022, – and were also examined for the non-elective subjects. Appellant undertook F.Sc (Pre-Medical) under Covid-19 policy regime – whereby performance based marks were awarded qua non-elective subjects. Appellant intended to take advantage of Covid 19 policy for competing for weightage

under normal examination regime. This claim is unfair and *per se* discriminatory. It is noticeable that she had not applied for Admissions for the session 2021-2022 – where candidates were evaluated for weightage purposes under Covid Policy. No premium could be allowed upon opting for gap year. This session of 2022-2023 is different and benefit of Covid policy cannot be extended to the prejudice of fresh candidates. No illegality is pointed or found. This appeal is meritless and same is, therefore, dismissed.

Shujaat
(Shujaat Ali Khan)
Judge

Asim Hafeez
(Asim Hafeez)
Judge

Imtiaz Nasir

True Copy
in Case No. 2141-22
26/12/22
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Lahore High Court, Lahore

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27/12

ICA No. 81041 /2022
In
Writ Petition No.75998 of 2022

Aina Bano daughter of Muhammad Aslam, Resident of House No.535, Street No.29,
Block Gulbahar, Sector-C, Bahria Town, Tehsil Raiwind, District Lahore.

Vs.

.....Appellant

1. Pakistan Medical Commission through its Chairman, National Medical Authority, Mauve Area, G-10/4, Islamabad.
2. Incharge Regional Office, Pakistan Medical Commission, National Medical Authority, 2nd Floor, FGPGMI Building, Shaikh Zayed Hospital, Lahore.

.....Respondents

**INTRA-COURT APPEAL UNDER SECTION 3 OF THE LAW REFORMS
ORDINANCE, 1972.**

Respectfully Sheweth,

GROUND

1. That the impugned order is against law and facts of the case.
2. That the learned single Judge while dismissing the Writ Petition has not dealt with and adjudicated upon the grounds taken in the Writ Petition in accordance with law.
3. That the learned single Judge has not applied his judicious/judicial mind while dismissing the Writ Petition in *limine*.
4. That the impugned order is the result of surmises and conjectures and the contention of the appellant has not been appreciated.
5. That the impugned order is the result of misreading and non reading of the record / material available on record.

ATTORNEY GENERAL
Attorney General
Civil Section
Lahore

That the facts and grounds of the main Writ Petition may graciously be read as integral part of this ICA.

PRAYER

In view of the above, it is respectfully prayed that the impugned order dated 14.12.2022 passed by learned single Judge in Chamber of this Hon'ble Court in Writ Petition No.75998 of 2022 may graciously be set-aside and the Writ Petition may kindly be issued as prayed for.

It is further prayed that operation of the impugned order and Public Notice to the extent of considering / counting the marks of only Elective Subjects of F.Sc of the appellant for admission in medical & dental colleges for the session 2022-23, may kindly be suspended and by an ad-interim injunction, the respondents may kindly be directed to consider/count the F.Sc marks of all the subjects secured by the appellant for merit calculation in accordance with Regulation / Rule 4 (2) of Regulations *ibid*, till the final decision of the titled Writ Petition.

Any other relief which this Hon'ble Court deems fit and appropriate, in the interest of justice, may also kindly be granted to the appellant.

Through: Appellant



(AMJAD ALI)

Advocate High Court

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13-Fane Road, Lahore. Cell # 0333-4886986.

Dated 14.12.2022.

CERTIFICATE

Certified that as per instructions of the Client, this is the first ICA against the impugned order by the present appellant.


Advocate