

HIGH COURT OF AZAD JAMMU & KASHMIR

Writ Petition No.1851/2023;
Date of Institution 11.05.2023;
Date of Decision 23.12.2025.

1. Awais Arif Awan Advocate Member
Central Bar Associations,
Muzaffarabad;
2. Asif Mahroof Butt Advocate Member
Central Bar Associations,
Muzaffarabad;
3. Hammad Mushtaq Janjua Advocate
Member Central Bar Associations,
Muzaffarabad;
4. Hanan Irfan Advocate Member
Central Bar Associations,
Muzaffarabad.

Petitioners

VERSUS

1. Azad Govt. through its Chief
Secretary having its office at New
Secretariat Muzaffarabad;
2. Secretary Health Azad Jammu &
Kashmir having its office at New
Secretariat Muzaffarabad;
3. Director General Health Azad
Jammu & Kashmir having its office
at Old Secretariat Muzaffarabad;
4. District Health Officer (DHO) District
Muzaffarabad having its office at
Upper Chatter Muzaffarabad;
5. Combined Military Hospital (CMH)
Muzaffarabad through Deputy
Medical Superintendent having its
office at CMH, Muzaffarabad;
6. Abbas Institute of Medical Sciences
(AIMS) Hospital through its

- Executive Director having its office at AIMS Hospital, Muzaffarabad;
7. Muhammad General Hospital through its Executive Director having its office at AIMS Hospital Muzaffarabad;
 8. Kashmir General & Surgical Hospital Muzaffarabad through its Chief Executive having its office at Poultry Form Road, Muzaffarabad;
 9. Cardiac Hospital Muzaffarabad through its Director having its office at Bank Road Muzaffarabad;
 10. Muzaffarabad Kidney Center URO-Gyane Medical and Surgical Care Hospital through its Director having its office at Usman Plaza CMH Road Muzaffarabad;
 11. District Headquarter Hospital District Jhelum Valley through its DHO having its office at Jhelum Valley main Road Hattian;
 12. Abdul Ghani Institute of Paramides Sciences through its Chairman having its office at 4th Field Road near NADRA office Center Plate Muzaffarabad Azad Kashmir;
 13. The Kashmir Institute of Medical Sciences (KIMS) through its Director having its office at near Jinnah Dental Hospital Kila Road Center Plate Muzaffarabad;
 14. Capital Institute of Paramedicals Sciences (CIPS) through its Director having its office at Muhajar Camp Road Domel Syedan Muzaffarabad;
 15. Vertex Institute of Medical Sciences and Technology through its Director having its office at Madina Market Muzaffarabad;

16. University of Azad Jammu & Kashmir through its Registrar having its office at City Campus UAJ&K Upper Adda, Muzaffarabad;
17. University of Kotli through its Registrar having its office at University of Kotli Azad Kashmir;
18. Jinnah Dental Hospital Muzaffarabad through its Executive Director having its office at Center Plate Muzaffarabad;
19. Federal Institute Health Sciences through its Director office situated at Gojra Muzaffarabad;

Respondents

(2) *Writ Petition No.1886/2023;*
 Date of Institution 15.05.2023;

1. Kashmir Institute of Medical Sciences through its Owner/Managing Director Sardar Amjad Yaqoob R/o Near Jinnah Dental Hospital Red Forete Road Center Plate Muzaffarabad;
2. Abdul Ghani Institute of Medical Sciences through its Owner/Managing Director Dr. Naveed Butt R/o 4 Field Road Near NADRA Office Center Plate Muzaffarabad;
3. Capital Institute of Para-Medical Sciences through its Owner/Managing Director Tajamal Farooq Abbasi R/o Mahajar Camp Road Domail Syedan Muzaffarabad;
4. Federal Institute of Health Sciences through its Owner/Managing

- Director Khawaja Anis-ud-Din
Anwar R/o opposite Army Forte
Shoukat Lines Gojara Muzaffarabad;
5. Vertix Institute of Science and
Technology through its
Owner/Principal Moin Irshad Awan
R/o Near City Police Station,
Muzaffarabad.

Petitioners

VERSUS

1. Azad Govt. through its Secretary
Health office situated at New
Secretariat Muzaffarabad;
2. Department of Health Azad Jammu
& Kashmir through its Secretary
office situated at New Secretariat
Muzaffarabad;
3. Secretary Health Azad Kashmir
having its office at New Secretariat
Muzaffarabad;
4. Director General Health Azad
Jammu & Kashmir having its office
at New Secretariat Muzaffarabad;
5. District Health Officer Muzaffarabad
having its office at Upper Chatter
Muzaffarabad;
6. Committee Constituted vide order
dated 16.03.2023 for inquiry/probe
through its Chairman Dr. Murtaza
Gillani Deputy Director Training
Directorate of Health office situated
at New District Complex
Muzaffarabad;
7. Executive Director Abbas Institute of
Medical Sciences Ambore
Muzaffarabad Azad Kashmir;

8. Deputy Commissioner Muzaffarabad office situated at New District Complex Muzaffarabad.

Respondents

WRIT PETITIONS UNDER ARTICLE 44 OF
THE AJ&K INTERIM CONSTITUTION, 1974

Before:- **Justice Sardar Muhammad Ejaz Khan, J.**

PRESENT:

M/s Hammad Mushtaq Janjua & Awais Arif,
Advocates for the petitioners in petition
No.1851/23.

Mr. Abdul Rasheed Abbasi, Advocate for
respondents No.12 to 15 in petition
No.1851/23.

Mr. Iqbal Rasheed Minhas, Advocate for
respondent No.16 in petition No.1851/23.

Mr. Shahid Awan, Advocate for the petitioners
in petition No.1886/23.

Legal Advisor Health Department.

A.A.G. for the official respondents.

JUDGMENT:

The captioned writ petitions have
been addressed under Article 44 of the Azad
Jammu and Kashmir Interim Constitution,
1974.

2. As common questions of facts and law are involved in the cases in hand, hence, the same were consolidated and are being decided through this single judgment.

3. Precise facts, according to the version of the petitioners, in writ petition No.1851/23 are that they are practicing lawyers and Members of Central Bar Association, Muzaffarabad. It has been stated that respondents No.12 to 15 & 19 are private paramedical institutes working in District Muzaffarabad and offering following medical Technician/Pharmaceutical courses:-

- i. F.Sc Medical Lab Technician;
- ii. F.Sc Radiology;
- iii. F.Sc Dental;
- iv. F.Sc Operation Theater;
- v. F.Sc Ophthalmology;
- vi. Diploma in Health Technician;
- vii. B.Sc Emergency Medicine;
- viii. B.S Radiology;
- ix. B.S Surgical;
- x. B.S Clinical Laboratory;
- xi. B.S Emergency;
- xii. B.S Cardiology;
- xiii. Pharmacy Category B;

- xiv. LHV;
- xv. MMW;

4. It has further been stated that the said institutions are offering the above-mentioned courses, which are affiliated with following board/faculties/University:-

- i. BISE Mirpur Azad Jammu & Kashmir;
- ii. Federal Board of Islamabad;
- iii. BISE Abbottabad;
- iv. Faculty of paramedical and Allied Health Sciences Peshawar;
- v. Punjab Medical Faculty Lahore;
- vi. University of Azad Jammu & Kashmir, Muzaffarabad;
- vii. University of Kotli Azad Jammu & Kashmir;
- viii. Pharmacy Councilor of Pakistan;
- ix. Khyber Medical University Peshawar.

5. It has been averred that paramedical and others allied institutions-respondents No.12 to 15 & 19 entered and executed Memorandum of Understanding (MOU) with different Hospitals of Muzaffarabad-respondents No.5 to 11 for practical training

and clinical attachment of students while the said institutions-respondents No.12 to 15 & 19 have to meet the minimum standard of education, which is essential for affiliation and the criterion laid down by the Punjab Medical Faculty and Pharmacy Council of Pakistan but the parameters regarding affiliation, SOPs, etc. determined by concerned quarter have not been fulfilled by private institutions-respondents No.12 to 15 & 19. It has been contended that pharmacy council of Pakistan vide letter dated 18.10.2022 approved only 130 seats for pharmacy/technician programs of Abdul Ghanni Institute of Medical Sciences and Punjab Medical Faculty approved 200 seats to the said institution for dispenser, medical laboratory operation, theater technician and imaging technician vide notification dated 25.08.2022 while Pharmacy Council of

Pakistan approved 60 seats to KIMS for pharmacy technician program vide letter dated 18.10.2022, the Nursing Examination Board Punjab vide letter dated 20.05.2022 approved 100 seats to CIPS, while Punjab medical Faculty approved 100 seats to CIPS vide notification dated 25.08.2022 but the paramedical and other allied institutions-respondents No.12 to 15 & 19 violated the minimum standard of the qualification issued by Punjab Medical Faculty. It has been maintained that MOUs have not been signed by head of Health Department i.e. Secretary Health rather the same have been signed by head of Hospitals, which are not valid as per policy and on identifying such violation, District Health Officer Muzaffarabad-respondent No.4 wrote a letter to Deputy Commissioner Muzaffarabad on 03.05.2023 to seal the Vertex College of Medical Sciences

and Technology, which clearly indicates violation and strengthens the stance of the petitioners. It has been craved that no guidelines regarding mechanism of registration has been laid down by the Government of Azad Jammu & Kashmir or Health Department for paramedical and allied institutes rather these institutions are not only enrolling students but also issuing certificates/diplomas/degrees to them illegally through which it resulted unqualified trainees play with the life of public-at-large and this Court may direct the concerned respondents to notify/formulate the guidelines and mechanism for institution of allied Health Sciences institutions, in order to provide quality education and clinical skill as per general provision of Punjab Medical Faculty otherwise the same may be banned for further working in the interest of justice. It

has been craved that the petitioners have no other alternate and efficacious remedy except to invoke the jurisdiction of this Court, hence, this writ petition.

6. In petition No.1886/23, the petitioners implored the following relief:-

“It is, therefore, most humbly prayed that while accepting the captioned writ petition, appropriate writ may kindly be issued in favour of the petitioners against the respondents in a manner that they impugned proceedings initiated by the official respondents against the institutions supervised by the petitioners may kindly be quashed/ set-aside. The Committee/ respondent No.6 be directed to complete the inquiry as per TORs stipulated for the purpose vide order dated 16.03.2023 by keeping in view the comments forwarded by Director General Health vide its letter dated 11.05.2023 and till completion of said process, the impugned acts/proceedings may kindly be stopped and the official respondents be refrained to act in furtherance of the impugned proceedings. The respondents may also be directed to renew (if expired) or to reinstate (if cancelled) MOUs executed between the

petitioners and different hospitals, BHUs etc. regarding practical training of the students.

It is further submitted that the official respondents may kindly be directed to hold inquiry regarding character

assassination/defamation of the petitioners by the department employees on social media official pages as well as print media and responsible persons be dealt under law.

Any other relief which this Court deems fit may be granted in favour of petitioners to meet the ends of justice.”

7. Writ petitions were admitted for regular hearing and the respondents were summoned for filing written statement, which has been filed on behalf of the contesting respondents wherein the averments taken in writ petitions by the petitioners were denied from altogether.

8. Having heard the respective arguments, I have gone through the record of the case carefully.

9. The learned counsel for respondents No.12 to 15 raised objection on maintainability of writ petition and cited plethora of pronouncements of the superior Courts in support of his contention. Although the said objections were raised at preliminary stage and writ petition was admitted for regular hearing vide order dated 13.12.2023 against which PLA was filed before the apex Court, which was dismissed vide order dated 08.01.2024. In such like circumstances, this Court has left with no option except to decide the matter that whether the aforesaid institutions are performing their functions in accordance with law and whether the official respondents are performing their functions as provided under law?

10. Adverting to writ petition No.1851/23, it appears from record that the

petitioners called in question the legality and proprietary of paramedical institutions (respondents No.12 to 15 & 19) offering technician/pharmaceutical courses etc., which are illegally working in District Muzaffarabad, hence, it has been prayed that the Government may be directed to formulate/endorse the policy as laid down by the Punjab Medical Faculty for registration of institutions and supervision for better standard of institutions of allied Health Sciences Education. Record shows that the Government vide notification dated 28.03.2019 accorded approval for promulgation of policy/criteria regarding Registration/Affiliation for the Institutions of Allied Health Sciences with Statutory Bodies and issuance of NOC by the Department of Health Sciences with Statutory Bodies and issuance of NOC by the Department of Health

of Azad Jammu & Kashmir. A deep perusal of policy adapted in Government/public sector institutions/hospitals in Azad Jammu & Kashmir depicts that a comprehensive mechanism regarding registration/affiliation of institution for which the institutions are legally bound to observe the rules and regulations notified by the concerned quarter in public Sector institutions/ Hospital/ Private Hospital while the said institutions are legally bound to submit a detailed Annual Teaching Plan based on curriculum of Punjab Medical Faculty or KPK Faculty or relevant University which will be the examining body of the institute as well as encompassing teaching and practical training activities at the beginning of academic year. For curriculum and examination, Punjab Medical Faculty/ KPK Medical Faculty or any other

University/degree awarding institute recognized by HEC will be followed. The Institute should be affiliated with such University/Degree awarding institute and the said institute will follow the training/examination schedule of respective Medical Faculty/University/Degree awarding institute. Apparently, all questions raised in the writ petition are not only answered by the policy but also a solution of those matters, which have not been brought before the Court has specifically been defined while parameters and limitations of these institutions have been determined and if anyone of the institutions is found working contrary to such policy, Health Department is wholly competent to take legal action.

11. It is relevant to mention here that respondent No.4 wrote a letter to Deputy Commissioner, Muzaffarabad, to seal Vertex

College of Medical Sciences-respondent No.15 on 03.05.2023. It appears that the same has been issued in accordance with the policy determined and promulgated by the Government vide notification dated 28.03.2019, hence, the argument of the learned counsel for the petitioners as claimed in para-8 of writ petition that no guidelines or registration mechanism has been laid down by the Government or Health Department for paramedical institutes has no substance because a comprehensive mechanism has been defined in it. For resolving this query, Director General Health was summoned who appeared before the Court 09.12.2025 and stated that the concerned authority is legally bound to maintain its own check and balance on these institutions in the light of the aforesaid policy. He further stated that near about 25 institutions are functioning in Azad

Jammu & Kashmir, however, the Government has notified policy to regulate these institutions and he frankly conceded that he is unable to point out that whether these institutions are functioning as per required standard prescribed by the concerned quarters, hence, the Health Department is committed to take legal action and ban such institutions, which are running and offering courses contrary to law and in this regard, he submitted written reply, the same is halfheartedly satisfactory in nature. However, it can safely be concluded that the respondents appear to have failed to perform their legal obligations regarding functioning of these institutions. For the sake of safe administration of justice, the policy of the Government cannot be interfered with unless it is shown that such policy was violative of the fundamental rights. My this

view finds support from a case reported as *Muhammad Abbasi vs. The State and another* [2011 SCMR 1606] in which it has been opined as under:-

“We also cannot substitute the policy of the Government in such like matters by introducing a new formula to the disadvantage of the rest of the candidates who were declared successful by securing more marks. The policy of the Government cannot be interfered with unless it is shown that such policy was violative of the fundamental rights. We do not find any jurisdiction in maintain the impugned judgment of the learned High Court, which is not legally sustainable for reasons stated hereinabove.”

Similar proposition has been resolved by the Hon’ble Supreme Court in a case reported as *Azad Govt.& others vs. Fiaz Ahmed & others* [2023 SCR 796] wherein it has been held that:-

“The delineation of powers ensures that policy decisions remain primarily within the realm of the elected branches, insulated from

unwarranted judicial intervention. It may be stated here that the policy decision issued in accordance with law carries the status of law. It is upto the Government to extend the validity of the merit lists in special circumstances or refuse to do so but such like extension cannot be obtained from the Courts.

14. The superior Courts have held time and again that the Court's role is not to interfere in policy decisions, unless it was manifest that, such policy decisions were the outcome of arbitrary exercise of power, mala fides, were patently illegal or manifestly unreasonable."

Reliance can also be placed on a case reported as *Arshad Hussain Khan & others vs. Inhabitants of Islam Nagar & others* [2019 CLC 877].

12. It is crystal clear from deep perusal of record that the Government has already promulgated policy vide notification dated 28.03.2019 while Director General has also given assurance to implement the said policy in letter and spirit for which necessary steps

will be taken strictly in accordance with law and nobody is allowed to be permitted to play with human lives and if any irregularity is found in any institution, which will be dealt with iron hands. As a comprehensive mechanism has been provided in the aforesaid policy promulgated vide notification dated 28.03.2019, hence, the respondents are under the legal obligation to inspect the institutions and ensure the same are working under the umbrella of that policy in whole Azad Jammu & Kashmir. It reflects from record that a letter dated 10.09.2025 has been brought on record written by Secretary Allied Health Professionals Council (AHPC) to Director General Azad Jammu & Kashmir, Muzaffarabad, regarding mandatory registration of institutions offering allied health education wherein it has been intimated that Allied health Professionals

Council, Islamabad, Pakistan, is the sole statutory body for the approval and registration of institutions providing basic and higher education and training of various allied health professions under clauses (1), (4) and sections 18 and 19 of section 12 of the AHPC Act, 2022, which provides rules, regulations and other relevant information while another letter dated 19.11.2025 was also written by AHPC to Secretary Health regarding urgent directive for institutional registration with the Allied Health Professionals Council. So, it is a matter of deep concern and the concerned quarters will take further steps for enhancement of standard regarding quality education. It is also prime duty of the respondents to probe into matter that:-

- i. *How many institutions of Allied Health Sciences have been established in Azad Jammu & Kashmir?*

- ii. How long have these institutions been established and in which subjects, they are offering courses and issuing diplomas/certificates/ degrees?*
- iii. Whether these institutions have valid affiliation/registration/recognition and the said intuitions fulfil the requirement of policy determined by the Government of Azad Jammu & Kashmir or Punjab Medical Faculty or KPK?*

13. In petition No.1886/23, the petitioners sought annulment of proceedings initiated by the official respondents against the institutions supervised by the petitioners and a direction has been sought to respondent No.6 to complete the inquiry as per TOR's stipulated vide order dated 16.03.2023 in view of comments forwarded by Director General Health vide letter dated 11.05.2023 and till completion of the said process, the respondents may be restrained from taking any action in the light of the aforesaid proceedings, hence, a letter dated

03.05.2023 written by DHO, Muzaffarabad, to Deputy Commissioner for initiation of legal proceedings against petitioner No.5-Vertex Institute of Science and Technology Madina Markt, Muzaffarabad, which appears to have been issued in accordance with law rather further proceedings due to status-quo order of this Court could not be initiated, as such, the respondents cannot be restrained from initiating lawful proceedings against the petitioners. In such like state of affairs, the relief solicited in the instant writ petition cannot legally be granted in favour of the petitioners in vacuum. It is essential to state here that writ petition No.951/19 was filed on behalf of the *Federal Institute of Health Sciences & others* wherein similar proposition came under consideration, which was dismissed vide order dated 14.02.2023.

14. The outcome of the foregoing reasons is that writ petition No.1851/2023 is partly accepted and the official respondents are hereby directed to implement the policy promulgated vide notification dated 28.03.2019 in letter and spirit and determine the required standard of institutions working in public/private sector in allover the Azad Jammu & Kashmir in accordance with law and they are further directed to take legal action on top priority basis against the institutions, which are being run contrary to law holding in the field while writ petition No.1886/2023, having no statutory backing, is hereby dismissed and consigned to record. A copy of this judgment shall be annexed along-with the other relevant file accordingly while the same shall also be transmitted to the concerned quarters for compliance. After implementation of the same, the concerned quarters shall sent

compliance report within a period of three months to Registrar High Court.

Muzaffarabad:
23.12.2025(*J.ZEB*)

JUDGE