

HIGH COURT OF AZAD JAMMU & KASHMIR

Writ petition No.18/2024.
Date of institution 02.01.2024.
Date of decision 11.03.2024.

Ayesha Batool d/o Khalid Pervaiz r/o Mohalla Sadiq Akbar
VPO Kotsarang Tehsil Talaang District Chakwal, Pakistan.

Petitioner

VERSUS

1. Joint Admission Committee for admission in Medical Colleges of AJ&K through its Chairman having his office at Medical College Muzaffarabad, Azad Jammu & Kashmir;
2. Secretary Health of Azad Govt. of the State of Jammu & Kashmir, having his office at Civil Secretariat Muzaffarabad;
3. Governing Body of Azad Jammu & Kashmir Medical Colleges through its Chairman i.e. Prime Minister of the State of Azad Jammu & Kashmir, having his office at Civil Secretariat Chatter Muzaffarabad;
4. Pakistan Medical & Dental Council through its Secretary, having his office at Islamabad, Pakistan;
5. University of Health Sciences through Registrar, having his office at Lahore, Pakistan.

Respondents

WRIT PETITION

Before:- Justice Syed Shahid Bahar, J.

PRESENT:

Raja Asif Bashir Khan, Advocate for the Petitioner.
Amir Sharif, Legal Advisor Respondents.
Ch. Zaffar Mehmood, Advocate for Respondent No.4.

JUDGMENT:

The petitioner by filing the instant constitutional petition is seeking direction against the

respondents to consider her for admission in MBBS for Sessions 2023-24 against the seats reserved for refugees of 1947 settled in Pakistan.

2. Summary of the case is that respondent No.1 invited applications for admission amongst all the MDCAT qualified candidates for MBBS/BDS in Medical Colleges of Azad Jammu & Kashmir and reserved seats of refugees 1947 settled in Pakistan and Portal was also opened for online submission of the applications between 16th October 2023 to 31st October 2023, meanwhile, UHS offered the Re-Conduct exams of the MDCAT in Sindh and KPK and Joint Commission Committee fixed the last date for 06.12.2023 and opened Portal for online applications. As per contents of petition, the petitioner submitted the Admission Form alongwith fee well in time which was accepted in accordance with law, but when the official respondents issued provisional/tentative merit list, the name of the petitioner was not included, thereafter the petitioner submitted application before the Grievance Redressal Committee but all in vain, hence this constitutional petition.

3. After admission of the writ petition, respondents No.1 to 3 submitted their written reply,

whereby, the contents of petition were refuted in toto and finally requested for dismissal of the petition with costs.

4. Heard, record perused. It reflects from the record that Joint Admission Committee invited applications for admission in MBBS 1st year for session 2023-24 against the reserved seats of Azad Jammu & Kashmir Medical Colleges as well as reserved seats of Azad Jammu & Kashmir in different Medical Colleges of Pakistan and admission Portal was opened in accordance with the schedule of University of Health Sciences Lahore and total 1421 candidates applied but the petitioner failed to apply within due date, the Committee prepared merit list of the successful candidates. The Pakistan Medical Commission issued direction to reopen the admission portal only for those candidates who have appeared in Re-Conduct of MDCAT 2023 in KPK and Sindh and include those candidates who passed the Re-Conduct MDCAT only and in this regard a public notice was issued by the Joint Admission Committee to apply the Re-Conduct MDCAT candidates only according to the UHS but the petitioner did not appear in Re-Conduct MDCAT and applied only against the Re-Conduct MDCAT category. As per Policy of Pakistan Medical Commission, all the admission process will be made

through online portal for transparency. According to condition No.3 (a) and 5 (v) of the advertisement “The application process shall be completely online and no manual or paper-based application shall be accepted and incomplete applications or those submitted in violation of the prescribed procedure shall be rejected. It shall be the responsibility of the candidate to submit complete application as per the given instructions.

5. It is settled law that Courts are required to exercise utmost restraint in matters relating to policies discipline and other academic affairs of Educational Institutions. Refusing to interference is a rule and deviation therefrom is an exception which can only be justified on the basis of clear and undisputed violation of the law. The reluctance of the Courts to interfere with academic affairs is based on the foundational principle that the Academicians and Educational Institutions are the best judges because formulating policies and eligibility criteria falls within their exclusive domain. The standards prescribed and set out in the regulations relating to academic bodies, determination of eligibility to pursue studies and other related policies are not generally open to judicial review unless they can be clearly shown to

contravene the law or to be shockingly unreasonable or perverse. The Courts are not equipped nor have the capacity to deal with academic matters, let alone substituting opinions formed by the experts or professionals ¹. Courts of law are under legal obligations to implement the laws holding the field and decide the disputes in line with the scheme of law, how the University can be blamed for the delayed approach of the petitioner and laziness exhibited, law helps vigilant not indolent. Petitioner has failed to point out violation of any law.

(Underlining is mine)

6. In order to make the admission process fair and transparent, the respondent, Joint Admission Committee made the process online and it was the responsibility of the petitioner to complete the admission process well in time as per instruction given by the Committee but the petitioner failed to process the application in the given time, whereas, 1421 other candidates applied for the supra admission and completed their admission process duly in accordance with the schedule given in the advertisement. The petitioner neither completed her application in time nor appeared in the Re-Conduct MDCAT but she applied

¹. Sundas & others Vs. Khyber Medical University 2024 SCMR 46.

only against the RE-Conduct MDCAT category which is contrary to law and against the rights of the other successful candidates. Furthermore, no plausible explanation or reason has been given by the petitioner for not completing the online admission process in time, however, when she failed to fulfil the requisite criteria given in the advertisement, filed the instant petition just to linger on the admission process of the qualified candidates, hence, the writ petition in hand is not maintainable, which is liable to be dismissed.

Be that as it may, writ petition under Article 44 of the Interim Constitution, 1974 cannot be entertained quo judicial review of the matter relating to policy discipline and other academic affairs of educational institutions unless;

- (i) **Any gross violation of law/regulations is pointed out and oozing from the record;**
- (ii) **Proceedings ex-facie militates against the Constitutionally fundamental guaranteed rights.**

(Underlining is mine)

No above eventuality arises to interfere in policy matter.

Petition is merit less.

Due to the aforesaid multiple reasons, the instant writ petition fails, which is hereby dismissed, no order as to costs. file shall be sent to record room.

Muzaffarabad.

11.03.2024 (Saleem)

JUDGE

Note:- Judgment is written and duly signed. The office is directed to intimate the parties or their counsel accordingly.

JUDGE

APPROVED FOR REPORTING

JUDGE