

**ORDER SHEET
IN THE HIGH COURT OF SINDH,
CIRCUIT COURT, HYDERABAD.**

C.P No.D- 644 of 2020

DATE	ORDER WITH SIGNATURE OF JUDGE(s)
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1. For orders on office objection.
2. For hearing of M.A No.2958/2020.
3. For hearing of main case.

16.07.2020

Mr. Muhammad Arshad S. Pathan, Advocate for petitioner.

Mr. Muhammad Ismail Bhutto, Addl. Advocate General, Sindh a/w Dr. Suhail Kazi, Director Admission, Isra University Hyderabad and Dr. Masroor Ahmed Zai, Controller BISE.

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The petitioner through instant petition, seeks the following relief(s):-

“a. To issue writ declaring that the petitioner has been validly awarded admission on the basis of Mark Sheet of HSC Part-II and all acts, allegations regarding fake/tampering of the Mark Sheet are illegal, unlawful, false, baseless, manipulated and malafide act of BISE Hyderabad, as well as ISRA University.

b. To declare that the act of the BISE Hyderabad and ISRA University regarding the collusive, malafide act towards cancellation of the admission of MBBS batch 2017-18 of petitioner on the basis of allegation of fraud and tampering is false, baseless, as number of true copies and verification of same Mark Sheet has been made/issued by the Board itself prove their blackmailing and fraud and are liable for strict action as provided under law.

c. To declare that the letters dated 13.11.2018 & 05.12.2018 issued by ISRA University are illegal, unlawful, issued without hearing, notice and / or enquiry and found illegal upon subsequent verification of same Mark Sheet being genuine, legal, valid basing upon which the admission was given and as such the letter dated 05.12.2018 is illegal, unlawful, liable to be cancelled being void, ab-initio and is liable to be suspended.

d. To direct the Board of Intermediate & Secondary Education Hyderabad, to issue letter to the ISRA University in respect of the genuine Mark Sheet duly verified on 17.09.2018, 26.08.2019, 08.06.2020 & 29.06.2020 issued after false, fake correspondence and direct the Director Admission of ISRA University to restore the admission of the petitioner by recalling, declaring the letter dated 05.12.2018 and also issue letter to PMDC to restore the admission of the petitioner and further PMDC be directed to restore the admission and enlist the name of the petitioner in the batch 2017-18 and intimate the same to the University as well as to petitioner.

e. To direct the ISRA University to allow the petitioner to attend the classes where from same were stopped detained by the University illegally, unlawfully, without lawful authority and arrange the examination if any taken by the University for the batch 2017-18 of 2nd year and allow the petitioner to continue her education of MBBS with same batch of 2017-18 till its completion, without any hurdle, obstruction, objection, in any manner whatsoever.”

2. It is contended by learned counsel for the petitioner having passed Higher Secondary Certificate Part-I & II (annual examination 2017) held in the month of April 2017 percentage 60.45. The petitioner applied for admission in MBBS at Isra University, Hala Road Hyderabad. She was declared successful vide letter of confirmation dated 09.12.2017 and awarded admission in MBBS batch 2017-18 with Student I.D as 1801-MBBS 042. She attended the classes of first year / semester and passed successfully MBBS 1st year examination and also attended the classes of 2nd year; however, on 13.11.2018 she received a letter titled as verification of documents from the office of Director Admission, Isra University, Hyderabad informing the applicant that on scrutinizing and authentication of HSC-II Intermediate Mark Sheet from the Board of Intermediate & Secondary Education Hyderabad, submitted by the petitioner at the time of admission, was found tampered, therefore, she was directed to submit her explanation; that the petitioner also received a letter dated 05.12.2018 whereby her admission was cancelled and her name was

struck off from the University Roll. It is further contended that petitioner thereafter visited the office of respondent No.4 (Direction Admission, ISRA University Hala Road, Hyderabad, Sindh) to inquire about the cancellation of her admission but no heed was paid, however, the petitioner obtained true copy of mark sheet and pass certificate from the Board of Intermediate & Secondary Education, Hyderabad which were the same as submitted by the petitioner for his admission in MBBS in the University and even thereafter, the petitioner time to time obtained mark sheet and other certificates from the Board which were also the same basing upon admission was granted to the petitioner by the University. It is also contended that the petitioner thereafter submitted all the subsequent true copies of the mark sheet to the respondent No.4 but he relying upon his letter of cancellation of admission refused the petitioner to give her any opportunity of hearing. He added that since no fraud or tampering in the mark sheet was done by the petitioner, cancellation of her admission by the respondent No.4 was illegal and unlawful. It is also contended that since no adequate remedy for the redressal of her grievance was available to the petitioner, she maintained the instant petition. Learned counsel for the petitioner in compliance of order dated 08.07.2020 files original documents which after seeing were returned to him, photocopies whereof however have been taken on record.

3. Dr. Suhail Kazi, Director Admission, Isra University Hyderabad and Dr. Masroor Ahmed Zai, Controller BISE present in court file statement alongwith documents which are taken on record, copies whereof supplied to learned counsel for the petitioner.

4. Conversely, learned Additional A.G. while referring the documents produced by the respondents No.3 and 6 states that sufficient material has been brought on record to show that the petitioner obtained admission in the University on the basis of a mark sheet which shows that she secured total

665 marks in her HSC examination but on verification of the same from the Board, it transpired that her mark sheet was tampered and she in fact secured 652 marks hence his admission was rightly cancelled by the University.

5. Heard the learned counsel for the petitioner and learned Additional A.G. and perused the material available on record with their kind assistance.

6. It appears from perusal of the record that the petitioner obtained admission in MBBS batch 2017-18 in the University on the strength of a mark sheet which reflects that she secured total 665 marks in HSC-II. However, as per procedure of the University the mark sheet of the petitioner was sent to the Board for scrutinizing and authentication where upon the same was found tampered hence as per policy of the University and Clause-I of the undertaking submitted by the petitioner at the time of admission, she was asked to submit her explanation vide letter dated 13th November 2018 upto 14th May, 2018, however, subsequently vide letter dated 23rd November, 2018 the date of explanation was corrected as 30th November, 2018. However, the petitioner failed to submit any reply within time therefore, as per rules of the University her admission was cancelled vide letter dated 05.12.2018 by striking off her name from the University Roll. It may be noted that petitioner has maintained this petition on 30.06.2020 after about one year and six months hence the same suffered from laches.

7. Even on merit, it appears from the perusal of record that mark sheet available with the petitioner, Computerized Result and Manual Ledgers contained total 652 marks obtained by the petitioner in Grade `C`. She obtained total 45 marks in the subject of Biology (Theory Paper-II) but in the mark sheet she submitted with the University at the time of her admission, the total marks are mentioned as 665 with `B` Grade by showing 58 marks in Biology (Theory Paper-II) which is not as per Board record. It further appears that Official Result Gazette issued by BISE, Hyderabad also bears 652 marks

and C grade of the petitioner but she claimed `B` grade. Hence the Board regretted to confirm the tempered / managed marks sheet of Biology Paper-II as 58 instead of 45 (forty five) by which the petitioner managed to succeed in getting admission in MBBS at ISRA University, Hyderabad and this position was also confirmed by the Board to the University hence in our view the respondent No.3 was justified to cancel the admission of the petitioner and struck off her name from the University Roll. We do not find any legal or factual merit in the instant petition hence the same is dismissed accordingly alongwith pending application.

JUDGE

JUDGE

Tufail