

IN THE HIGH COURT OF SINDH AT KARACHI

CP D-7491 of 2018

Present: **Muhammad Ali Mazhar and Agha Faisal, JJ.**

Shabbir Hussain

vs.

Government of Sindh and Others

For the Petitioner : Mr. Imdad Khan, Advocate

For the Respondent No. 1 : Mr. Jawad Dero
Additional Advocate General
Ms. Alina Naqvi
State Counsel

For the Respondent No. 2 : Mr. Moin Azhar Siddiqui
Principal, Islamia Law College
Mr. Ali Ahmed Turabi
Advocate

For the Respondent No. 3 : Ms. Raafia Murtaza
Advocate

Date of Hearing : 24.01.2019

Date of Announcement : 15.02.2019

JUDGMENT

Agha Faisal, J.: Present petition was filed seeking to compel the Islamia Law College, Karachi and the Registrar Karachi University to grant the petitioner admission in L.L.B (3 Years Program) being offered at Islamia Law College, Karachi.

2. Mr. Imdad Khan, learned counsel for the petitioner, submitted that the petitioner completed his Bachelor's in Commerce in third division in the year 1993, and has also obtained a Master of Business

Administration Degree from the Karachi Institute of Economics & Technology (“**KIET**”). It was further submitted that the petitioner applied for admission to the LL.B 3 Year Program for the Session 2018-2019, and that such admission was denied by Islamia Law College being the Respondent No. 2 herein, on the basis that the petitioner had secured third division in his graduation. The case of the petitioner was that he is being precluded from obtaining education which is his basic right, hence, the denial of admission thereto may be deemed to be in violation of his fundamental rights, as enshrined in the Constitution.

3. Ms. Raafia Murtaza, Advocate appeared on behalf of the Karachi University, the Respondent No. 3, and submitted that the basic requirement for admission in the LL.B 3 Year Program, stipulated in the Karachi University Code, is at least a second class Bachelor’s degree in terms stated at Serial No. 8 of the Admission and Registration of Students Regulations. It was further stated that the Academic Council of the Karachi University passed Resolution No. 8 on 22.08.2005, which was approved by the Syndicate in its meeting dated 21.01.2006, whereby it was decided that all Law Colleges would accord admissions but only those candidates who have graduated in second division or better. Per learned counsel, the restrictions imposed in terms herein was in respect of the LL.B 3 Year Program only and was not an impediment to education in general, hence, the petitioner was not precluded from availing further education on account of being denied admission to a specific program. It was further submitted that the petitioner was required to

approach the Higher Education Commission to ascertain whether the MBA from KIET was equivalent to a Bachelor's Degree in second division or better. It was also argued that pursuant to the orders of the honorable Supreme Court all candidates for admission in an LL.B 3 Year Program have to appear and qualify in the Law Admission Test, which test has admittedly not even been attempted by the petitioner. It was argued in conclusion that this petition does not merit the indulgence of this Court, hence, is liable to be dismissed.

4. Mr. Moin Azhar Siddiqui, Principal Islamia Law College, appeared in person and submitted that while there was no cavil to the proposition that the education is a right of every citizen, however, the present petitioner was not qualified to obtain admission in the LL.B 3 Year Program. Principal Siddiqui stated that the Bachelor's Degree of the petitioner was in third division, hence the requirement of second division or better was not qualified; the MBA Degree of the petitioner from KIET was also not recognized and no equivalency certificate from the Higher Education Commission was ever produced; and further that the petitioner had never taken the Law Admissions Test prior to applying for admission to the LL.B 3 Year Program. It was also argued that by virtue of the Judgment of the Honorable Supreme Court in *Pakistan Bar Council and others versus Federal Government through Establishment Division and Others* reported as 2018 SCMR 1891, it had been observed that no admission to LL.B 3 Year Program could be considered post 31st December 2018. It may be pertinent to reproduce the relevant observations from the judgment cited by Principal Siddiqui:

“9. Ban on admission to 3 year LL.B. program.

A five years LL.B. program shall be introduced in September, 2019. The current three years LL.B. program shall be phased out and law colleges throughout Pakistan shall not admit students to their three years LL.B. program after 31 December 2018.

5. We have considered the arguments arrayed before us by the respective learned counsel and have also appreciated the documentation and the case law relied upon. The primary question for this Court to determine whether this case merits the exercise of writ jurisdiction of this Court.

6. It is observed that the threshold for admission set by the University of Karachi for the LL.B 3 Year Program has not been satisfied by the petitioner as the petitioner is not endowed with a Bachelor's Degree in second division or better. It is further seen that the requirement of the Law Admission Test, prescribed by the honorable Supreme Court, has also not been complied with. We are also aware that the MBA Degree of the petitioner from KIET is stated to be unrecognized by the present respondents and even otherwise the sole corroboration provided by the petitioner for possession of such a degree is a transcript available at page 9 of the Court file, which does not state the division obtained in such regard. The equivalency from the Higher Education Commission has also admittedly had not been obtained by the petitioner at the time of applying for the Admissions 2018-2019 session and has also not been obtained till date. Notwithstanding the aforesaid, it is undeniable fact that the Honorable Supreme Court has imposed a ban on

admission in the 3 Years LL.B Program as it has been replaced by the new 5 Year LL.B Program. The honorable Supreme Court had also directed that Law Colleges throughout Pakistan shall not admit students to their 3 Year LL.B Program after 31st December, 2018, which date has already passed.

7. In view of the foregoing, we are constrained to observe that the petitioner has been unable to make out a case for the exercise of writ jurisdiction of this Court, hence, this petition, along with pending applications, is hereby dismissed with no order as to costs.

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*SHABAN ALI/PA**