

IN THE HIGH COURT OF SINDH AT KARACHI

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

CP D 1329 of 2019 : Muhammad Siddique & Others vs.
Jinnah Sindh Medical University
& Others

For the Petitioners : Mr. Faizan Memon, Advocate

For the Respondents : Mr. Kafil Ahmed Abbasi
Deputy Attorney General

Mr. Jawad Dero
Additional Advocate General

Mr. Sohail H.K. Rana, Advocate
(for the PMDC)

Prof. Atta-ur-Rahman
Student Advisor
(for the JSMU)

Dates of Hearing : 29.03.2019 & 03.04.2019

Date of Announcement : 23.04.2019.

JUDGMENT

Agha Faisal, J: The present petition has been filed by medical students assailing the notification issued by the Jinnah Sindh Medical University (“**JSMU**”) dated 19.05.2018 (reportedly mistyped as 20.02.2019 in the prayer clause of the petition) (“**Impugned Notification**”), wherein it was stated that as per governing regulations the annual examination system is required to be followed, instead of the semester system earlier in place.

2. Mr. Faizan A. Memon, Advocate argued on behalf of the petitioners and submitted that the changeover of the examination system from semester to annual was unlawful, hence, the Impugned Notification may be set aside and the petitioners may be permitted to be assessed on a semester basis. Learned counsel referred to the

prospectus of JSMU and submitted that a modular system was recognized therein. Learned counsel also referred to guidelines purportedly issued by JSMU dated 26.11.2014 wherein the semester system was said to have been recognized. Learned counsel submitted that the MBBS and BDS (Admissions, House Job and Internship) Regulations 2018 (“**2018 Regulations**”) could only have prospective effect, hence, would not have any bearing on students already enrolled in medical institutions prior to the date upon which the said regulations were notified. Learned counsel also referred to a resolution passed by the Academic Council of JSMU, in its 24th meeting held on 13.12.2018, wherein it was recorded that JSMU had adopted the annual system of examination as per directives of Pakistan Medical & Dental Council (“**PMDC**”), however, the JSMU had no objection and remained ready to continue with the semester system for current students if so permitted. In view of the forgoing, it was argued that the Impugned Notification may be declared unlawful and the petitioners may be permitted to continue with the semester system for the remainder of their educational career.

3. JSMU, the respondent No.1, filed a paragraph wise reply to the petition and on the final date of hearing their representative, Professor Atta-ur-Rehman, sought for the same to be treated as its arguments. In a nutshell the position of JSMU was that while it remained bound to follow the directives of PMDC, being the regulatory body, it had already sent a representation to PMDC dated 07.02.2019 wherein it had sought guidance upon this issue.

4. Mr. Sohail Hayat K. Rana appeared on behalf of the PMDC, respondent No.2 herein, and submitted that the PMDC was the only regulatory body empowered to, inter alia, regulate medical institutions in Pakistan. It was further submitted that 2018 Regulations had been approved by the honorable Supreme Court, vide its order dated 17.09.2018, and the said regulations provide for an annual system of examination and no other. It was submitted that even otherwise prior to the 2018 Regulations there was no sanction for any institution to apply a semester system, as a bare perusal of the Regulations for the Degrees of the Bachelors of Medicine and Bachelors of Surgery 2003 (“**2003 Regulations**”) and the Admissions in MBBS and BDS Courses and Conditions for House Job Internship Foundation Years Regulations,

2013 (“**2013 Regulations**”) shows that there was no sanction for a semester based system. Learned counsel submitted that notwithstanding forgoing the petitioners have no vested right to seek any system of examination to be implemented with regard to their education, as the same was policy decision squarely within the domain of the regulatory body. Learned counsel also argued that the petitioners have failed to substantiate how they are aggrieved by the annual system and in conclusion it was submitted that the present petition was prima facie misconceived and merited dismissal forthwith.

5. It is observed that the Impugned Notification is dated 19.05.2018, whereas the present petition has been filed on 25.02.2019. No justification was provided by the learned counsel for the inordinate delay in presenting the present petition, however, we considered it appropriate to address and determine this controversy on its merit.

6. It is observed that all 3 sets of regulations, being the 2003 Regulations, 2013 Regulations and the 2018 Regulations, have consistently maintained an annual system of examinations and there appears to be no novel innovation introduced vide the 2018 Regulations in such regard. If any medical institution has interpreted the applicable regulations in a divergent manner then the same is an issue between the respective medical institution and the regulatory body. The petitioners are students and their learned counsel has been unable to demonstrate any right vested in the petitioners whereby they may be empowered to choose the system of examination covering the course in which they are studying.

The entire reliance of the petitioners had been on the prospectus of the JSMU and the purported guidelines wherein the semester system was recognized. In so far as the prospectus is concerned, it was submitted by the JSMU that they have implemented the annual semester on the directions of the PMDC, which is squarely binding upon them and furthermore submitted that the 2014 guidelines under reference were merely a proposal and were never given effect in any event.

7. In view hereof, we are of the considered view that the learned counsel for the petitioners has failed to make out a case meriting the exercise of the writ jurisdiction of, therefore, the present petition, alongwith listed applications, is hereby dismissed with no orders as to costs.

8. It is however observed that in the event that PMDC considers the representation of JSMU, dated 07.02.2019, favorably then the benefit thereof may also be available to the petitioners.

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