

ORDER SHEET  
**IN THE HIGH COURT OF SINDH AT KARACHI**  
 Suit No. 624 of 2014

DATE	ORDER WITH SIGNATURE OF JUDGE
1. For hearing of CMA No.3677/17. 2. For hearing of CMA No.3678/17. 3. For hearing of CMA No.17367/16. -----	

01.04.2017

Mr. Amel Kasi, Advocate for Plaintiff.  
 Mr. Khalid Mehmood Siddiqui, Advocate alongwith Mr. Nadeem Sharif Pasha, Dy. DG (Regulatory) CAA.

1. Through this Application under Order 39 Rule 4 read with Section 151 CPC (CMA No.3677/17), the Defendants seek variation and setting aside of Order dated 16.04.2014.

Learned Counsel for the Defendants submits that on the basis of Letter dated 05.03.2014, issued by Higher Education Commission, the Plaintiff was suspended and issued Show Cause Notice dated 03.04.2014 as the Degree of the Plaintiff was found to be forged. He submits that such Show Cause Notice was challenged by the Plaintiff and on 16.04.2014, it was observed in the operating part that the **“Plaintiff may join proceedings under Show Cause Notice dated 03.04.2014 and make his submissions before the concerned authority however no final order in this regard may be passed subject to orders of this Court and/or no coercive action be taken against the Plaintiff”**. He submits that thereafter an enquiry was ordered and a Charge Sheet dated 02.12.2016 was issued but instead, the Plaintiff filed an application, whereby, Defendants were again restrained from conducting any further proceedings, hence this application. He submits that the Defendants

seek modification and or discharge of the interim order so that further proceedings can be conducted.

On the other hand, this application is opposed by the learned Counsel for the Plaintiff on the ground that the order was passed on 16.04.2014, whereas, instant application has been belatedly filed in 2017, notwithstanding the fact that the Defendants never filed a Counter Affidavit to the stay application nor a written statement has been filed in this matter as they have been debarred by the Additional Registrar. He submits that the application is misconceived and has been filed to circumvent the present proceedings, therefore, the same be dismissed.

I have heard both the learned Counsel and perused the record. The learned Counsel for the defendants was, at the very outset, confronted as to why such an application has been filed belatedly after almost three years, whereas, neither any counter affidavit has been filed to the stay application, nor any written statement, to which the learned Counsel could not satisfactorily respond. It appears to be a matter of record that after passing of interim orders on 16.04.2014, the defendants did not bother to file any reply before this Court, and instead, after keeping silent for more than two and half years suddenly issued a Charge Sheet to the Plaintiff on 02.12.2016, which never disclosed pendency of present proceedings nor made any Reference to the earlier Show Cause Notice impugned in these proceedings. In fact perusal of the Charge Sheet even reflects that it has been issued under the 2014 Regulations, whereas, the impugned Show Cause Notice was under the 2000 Regulations. It apparently appears that they have totally disregarded the interim orders. They subsequently issued a charge sheet and on a fresh application by the plaintiff, further proceedings were

suspended. Listed application has been filed for seeking modification of the Order dated 16.04.2014, which appears to be misconceived and to cover-up their subsequent act of issuing a Charge Sheet, which in the circumstances should not have been issued. Moreover, if the Defendants were aggrieved by the interim orders passed in 2014, they ought to have approached the Court immediately and even if no such effort was made, then at-least a counter affidavit ought to have been filed to the stay application what to speak about non-filing of written statement. Unfortunately, nothing was done and now this application has been filed, which is highly inappropriate and shows the callous attitude of defendants towards Court proceedings.

In view of hereinabove facts and circumstances of the case, I am of the view that the application is not only misconceived but frivolous in nature and is an attempt to cover-up the deficiency and due diligence on the part of defendants in observing and following the true spirit of Order dated 16.04.2014, therefore, by means of a short Order passed on 27.03.2017, the application was dismissed with cost of Rs.10,000/- to be deposited in the account of Sindh High Court Clinic and these are the reasons thereof.

**Ayaz**

**Judge**