

ORDER SHEET

IN THE HIGH COURT OF SINDH, KARACHI

C.P No.D-6757 of 2015.

Date	Order with signature of Judge
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Hearing/Priority.

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1. For hearing of CMA No.33771/15 (stay)
 2. For hearing of Main Case.
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06.01.2016.

Mr. Abdul Baqi Lone, Advocate for the Petitioners.

Through instant petition, the petitioner has prayed that the respondent No.1 be directed to recommend the name of petitioner No.1 to respondent No.3 for admission in MBBS discipline instead of BDS discipline already granted to the petitioner No.1.

Counsel for the petitioners submits that pursuant to an agreement between respondent No.1 and respondent No.3 the children of employees of respondent No.1 are granted four admissions in respondent No.3-University, out of which two admissions are free and remaining two are charged 50% of the tuition fee. He further submits that petitioner No.1 has qualified and passed the entry test and is also otherwise entitled for admission in MBBS discipline, whereas, he has been granted admission in BDS discipline, hence instant petition.

Comments have been filed by the respondents, wherein, it has been stated that since there is a gap of one year in the academic qualification(s) of the petitioner No.1, therefore, his case falls in second priority, hence, he has been recommended for admission in BDS discipline instead of MBBS discipline.

We have heard the Counsel for the petitioners and have perused the record. At the very outset, we had asked the Counsel to refer to the agreement on the basis of which the petitioners have filed instant petition, however, the Counsel candidly conceded that such agreement is not in possession of the petitioners and has instead taken us through some minutes of the meeting of respondent No.1 and contends that a writ may be issued on the basis of such minutes of the meeting. We have also asked the Counsel for the petitioners as to how instant petition is maintainable, wherein, the petitioner is seeking enforcement of an alleged agreement, which even otherwise is not on record and further as to how a writ is maintainable against a private University (respondent No.3), the Counsel could not assist us in any manner. We may observe that it is a settled proposition of law that contractual obligations cannot be enforced in writ jurisdiction, whereas, even otherwise no such agreement has been placed on record for our perusal. Reference in this regard may be made to the case of ***PakCom Ltd. and others vs. Federation of Pakistan and others (PLD 2011 SC 44)*** and ***Nizamuddin and others vs. Civil Aviation Authority and two others (1999 SCMR 467)***

In the circumstances, instant petition being misconceived in facts and law is not maintainable under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973 and is accordingly dismissed in limine with all pending applications. However, this shall not preclude the petitioners from seeking any other remedy, if any, in accordance with law.

Chief Justice.

Judge