

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
C.P. No.D-5529 of 2023

Date

Order with signature of Judge

FRESH CASE:

1. For order on CMA No.25546/2023 (Urgent).
2. For order on CMA No.25547/2023 (Exemption).
3. For hearing of main case.

Dated; 20th November 2023

Mr. Umair Usman alongwith Mr. S. Kavish Hussain,
Advocate for Petitioner.

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1. Urgency granted.
2. Exemption granted subject to all just exceptions.
3. Through instant Constitutional Petition, the petitioner, who is a dual national and had taken admission in Dow University of Health and Sciences for the academic sessions 2018-2019 as overseas Pakistani, has expressed his grievance against charging of 17,000 US Dollars of annual fees for the years 2020-2021 and 2021-2022 instead of charging annual fees at the rate of Rs.60,000/- in view of the definition of "foreign student" as given in Regulation 2(e) in PMC Medical and Dental Undergraduate Education (Admissions, Curriculum and Conduct) Regulations, 2021, according to which, a dual national has to be treated as Pakistani student, therefore, applicable rate of annual charges could have been the same for the petitioner as it was in respect of other Pakistani students. Per learned counsel, petitioner had made a complaint under Section 10(3) of PM&DC Medical & Dental Undergraduate (Admissions. Curriculum & Conduct) Policy & Regulations, 2023 before the President, PMDC on 04.08.2023, which was rejected vide order dated 21.09.2023, however, while making reference to the provisions of new Act of

PMDC Act, 2023 and the Regulations of 2023, wherein, according to learned counsel, the definition of “foreign student” has once again changed and a dual national is no more being considered as Pakistani student. According to learned counsel for the petitioner, against such rejection of complaint, petitioner approached Pakistan Medical Tribunal in terms of Section 8 of Medical Tribunal Act, 2020 read with Section 41 of the PMDC Act, 2023, however, the Tribunal has declined such appeal filed by the petitioner vide objection dated 25.10.2023 while observing that the Tribunal has no jurisdiction for trial of such appeal and has returned the same to the petitioner, therefore, petitioner has no other efficacious remedy except to approach this Court by invoking the Constitutional jurisdiction under Article 199 of the Constitution of Pakistan seeking enforcement of his right to be treated in accordance with law during the aforesaid period. It has been further contended by the learned counsel that though such definition of “foreign student” and “Pakistani student” in the case of dual national is ultra vires to the provisions of Section 4 of the Citizenship Act, 1951, which will be challenged by the petitioner by filing a separate petition, however, for the purpose of instant petition petitioner has expressed his grievance against the treatment being meted out to the petitioner by the respondents during academic sessions 2020-2021 and 2021-2022 without as per definition that petitioner was a Pakistani student.

Contentions raised require consideration. Let pre-admission notice be issued to the respondents as well as to the D.A.G. and Advocate-General Sindh, to be served through first three modes, when comments/reply, if any, shall be filed with advance copy to the learned counsel for the petitioner.

Learned counsel for the petitioner, however, submits that another Constitution Petition bearing No.D-5547/2023, filed on behalf of other students of different years of MBBS (Bachelor of Medicine & Bachelor of Surgery) relating to charging of annual fees in US Dollars, is already pending before this Court, which has been fixed for hearing on 27.11.2023, therefore, requests that instant petition may be directed to be taken up alongwith aforesaid petition on the same date of hearing. Order accordingly.

To come up on 27.11.2023, when instant petition may be taken up alongwith C.P. No.D-5547/2023.

ACTING CHIEF JUSTICE

J U D G E

Farhan/PS
