

ORDER SHEET
IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

Const. Petition No.D-1442 of 2019

Date

Order with signature of Judge

Present

Mr. Justice Muhammad Iqbal Kalhoro

Mr. Justice Arbab Ali Hakro

Petitioner: Dr. Inayatullah Soomro, in person

Respondents No. 6 & 7: Vice Chancellor & Registrar Shah Abdul Latif University, Khairpur, Through Mr. Niaz Hussain Maitlo, Advocate

Respondents No. 8 & 9: Hisamuddin & Syed Baqar Shah, Through Mr. Abdul Qadir Shaikh, Advocate

Respondents No.1, 2 & 5: Province of Sindh and others Through Mr. Zulfiqar Ali Naich, Assistant Advocate General, Sindh

Respondent No.3 & 4: Chairman Higher Education Commission and another, Through Mr. Muhammad Aslam Jatoi, Assistant Attorney General Pakistan

Date of hearing: **30-01-2024**

Date of Decision: **21-02-2024**

O R D E R

Arbab Ali Hakro, J: Through this petition, the petitioner has sought the following relief(s):-

- a) *That this Court may be pleased to declare the Ph.D degrees in the field of mathematics of respondent No.8 and 9 and their appointment as Associate Professors on same degrees in Shah Abdul Latif University Khairpur as illegal, unlawful, against the rules and unconstitutional.*
- b) *That act and action of awarding degrees Ph.D. in the field of mathematics to respondents No.8 and 9 in the year 2016 when there was no program of such degrees in Shah Abdul Latif University Khairpur, be declared as illegal, unlawful,*

unconstitutional and against the rules prescribed for such degrees.

- c) That respondent No.6 and 7 be directed to remove the respondent No.8 and 9 from their posts as Associate Professors, after issuing notification/order of cancellation of their illegal degrees.*
- d) That respondent No.6 and 7 be restrained from making any further appointment of the respondent No.8 and 9 as Professors in BPS-21 as their Ph.D degrees are illegal and unlawful.*

2. Precisely, the facts narrated in this petition are that respondents No. 8 and 9 have been appointed as Associate Professors based on PhD degrees allegedly obtained by them in 2016 from Shah Abdul Latif University Khairpur (“SALU”). The petitioner claims that in the year 2016, there was no program for awarding the PhD degree and the Department of Mathematics at SALU obtained approval for allowing admissions to PhD degrees on November 3, 2016, and was finally recognized in the year 2018. It was also a requirement that for initiating a PhD program in the field of Mathematics, an NOC was to be obtained from the Higher Education Commission of Pakistan, Islamabad (“HEC”), which, in fact, had not yet been issued. It is also asserted that for the completion of the PhD degree, the minimum criteria have been prescribed by HEC; such a general letter was issued on April 14, 2005. A number of requirements are also missing in the degrees of respondents No. 8 and 9, such as i) a test equivalent to the GRE being a necessary requirement for both M.Phil and Ph.D.; ii) for obtaining a degree of M.Phil and Ph.D., 30 credit hours out of which 24 hours reserved for coursework are missing from the M.Phil. degree of respondents No. 8 and 9, which is a prior requirement for entering the Ph.D. program; iii) Eighteen credit hours of coursework have also not been completed by respondent No. 8 and 9; iv) the comprehensive examination (Written and Viva-Voce) has not been completed by respondents No. 8 and 9. The HEC also issued a general letter dated December 3, 2018, wherein concerns were shown that universities are violating the rules in awarding PhD degrees and

attached fresh minimum criteria, similar to the earlier criteria attached with the letter issued in 2005. It is also asserted that respondents No. 6 and 7 invited applications for the posts of Professors in BPS-21 in the Department of Mathematics, and respondents No.8 and 9 have applied for the said posts on the basis of illegal and unlawful PhD. Degrees in the field of Mathematics. Respondents No.6 and 7 have constituted a selection board for their appointment. In fact, they have been made eligible, will appear before the selection board, and are to be appointed as professors. The degrees of respondent No. 8 and 9 are not attested by HEC as per requirement, and on that score, their degrees are also illegal, unlawful, and appear fake.

3. At the very outset, the petitioner, in person, submits that the PhD degrees of respondents No.8 and 9 in Mathematics pertain to 2016, even though there were no programs in SALU that year. He submits that respondent No.8 and 9 showed their admission to the said degrees in the year 2010, which in itself makes their degrees illegal and unlawful. He further contends that SALU obtained the approval for admissions for PhD degrees in the Department of Mathematics on 03.11.2016, and it was finally recognized in 2018. However, the pass certificates regarding PhD degrees of respondents No.8 and 9 were issued on 27.10.2016 and 05.12.2016, respectively. He also contends that the required NOC from HEC and the criteria prescribed by the HEC have not been complied with as specified in the general letter dated 14.4.2005 by the HEC. He further contends that respondents No.6 and 7 advertised on 06.02.2018 for the post of Professors (BPS-21) in the Department of Mathematics, and respondents No.8 and 9 applied for the said post on the basis of illegal and unlawful PhD Degrees. Lastly, he submits that the PhD degrees of respondents No.8 and 9 in Mathematics are illegal, unlawful, and against the rules. Therefore, they are liable to be declared void, including their appointments as Associate Professors on the basis of

said degrees, which are not attested as per the requirement that the HEC should attest to them.

4. The learned counsel representing respondents No.3 and 4 conceded that after 07.11.2013, it was made obligatory for all public/private sector Universities of the Country to obtain NOC from HEC before launching any MS/MPhil and PhD programs. However, any program initiated before the above date does not require NOC. He has also acknowledged that the points mentioned in the letter dated 14.4.2005, issued by HEC, stipulating the minimum criteria for admission into MS, M. Phil/equivalent, and PhD programs are mandatory to be followed by all the public/private sector universities. Any conditions not fulfilled by the universities will be considered a policy violation.

5. The learned counsel representing respondent No.6 and 7 argued that respondent No.8 and 9 were registered in the MPhil Degree leading to the PhD program in the year 2010. He stated that the HEC changed the policies regarding the award of degrees in MS, MPhil, and PhD starting in November 2013. Before this change, there was no need for a NOC from the HEC, and SALU awarded the degrees to respondents No.8 and 9 after completing all codal formalities through statutory bodies. He also contended that SALU verified the PhD degrees of respondent No.8 and 9 and were duly attested by the HEC, and their appointments were made as per the prescribed procedure of the HEC. He further submits that the petitioner has not availed the remedy of filing an appeal before a competent forum and has directly invoked the Constitutional jurisdiction of this Court. Therefore, the petition is not maintainable and is liable to be dismissed.

6. The counsel for respondents No.8 and 9 contended that, according to Chapter II of the Code of 1986, the University is a corporate body and has the power to award and confer degrees to

those scholars, including respondents No.8 and 9, who have been admitted and have passed examinations under prescribed conditions. He contends that respondent No.8 and 9 were given PhD degrees upon successfully passing their examinations in accordance with the Code and notifications issued from time to time. He also contends that before obtaining PhD degrees by respondents No.8 and 9, SALU bestowed M.Phil degrees to Mr Zulfiqar Ali Siyal and Mr Soohrab Hajayano in the year 2003 and 2005, respectively, and in the year 2014, a PhD degree was bestowed to Dr. Ghulam Qadir Memon. He further contended that attestation of PhD degree is not mandatory for PhD scholars of Pakistan, but it applies to those scholars who have obtained a foreign degree. Lastly, he submitted that the question raised by the petitioner requires evidence and cannot be decided by this Court under Article 199 of the Constitution; therefore, it is liable to be dismissed.

7. Learned DAG and AAG, in their arguments, contend that the petition is not maintainable as the petitioner has not availed efficacious, adequate remedy available under the law; disputed facts are involved which require detailed enquiry which cannot be determined under constitutional jurisdiction.

8. We have heard the petitioner in person, learned Advocates for the respondents, Assistant Advocate General and Deputy Attorney General, and have perused the record with their able assistance.

9. The central issue raised by the petitioner is the legitimacy of the PhD degrees in Mathematics obtained by respondents No.8 and 9. The petitioner alleges these degrees to be fraudulent and illegal, arguing that when these degrees were obtained, SALU had no program for awarding PhD degrees in Mathematics. Furthermore, the petitioner questions the appointments of respondents No.8 and 9 as Associate Professors based on these alleged degrees. The petitioner also raises concerns about the application of respondents No.8 and 9

for the professor position, as advertised by SALU. The petitioner asserts that these applications were considered without verifying the attestation of their degrees from the Higher Education Commission (HEC), which is a mandatory requirement. SALU, however, has specifically denied the petitioner's claims. They assert that they have verified the degrees of the private respondents and that these degrees have been duly attested by the HEC. Despite their claim that attested copies of the degrees are attached, no such attested degree is found attached with the comments. In contrast, the private respondents argue that attestation of a PhD degree is not mandatory for scholars in Pakistan, but this requirement applies to scholars who have obtained degrees from abroad. This claim is contradicted by the HEC, which affirms in its reply that attestation from the HEC is mandatory after obtaining a PhD degree.

10. In the legal proceedings, the onus of substantiating a claim typically rests with the petitioner. This burden of proof requires the petitioner to furnish documentary evidence that lends credence to their assertions. However, the petitioner has not successfully provided such supporting evidence in this case. The situation is further complicated by the specific denial from SALU and private respondents, which contradicts the petitioner's claims. This contradiction has resulted in a disputed question of facts. A disputed question of facts arises when there is a disagreement about the truth or falsity of a factual matter. In such instances, the Court must examine the evidence and determine the veracity of the conflicting claims. However, the instant writ petition cannot resolve the current matter. A writ petition is a formal written request to a court asking for a specific judicial action, but it is not the appropriate avenue for adjudicating a disputed question of facts. Therefore, the matter may need to be addressed through a different legal process, allowing a more thorough examination of the evidence.

11. Notwithstanding, the rules and regulations set forth by public educational institutions, which act as the administrative policy of the respective institutes, these policies are acknowledged and implemented for all candidates without bias. When it comes to academic matters, the university authorities are the most competent to interpret the rules and regulations they have established. Courts usually only interpret these rules if there is a severe injustice, which otherwise pose challenges for universities in managing their operations. This principle is illustrated in the case of Muhammad Ilyas v. Bahauddin Zakariya University, Multan and another(2005 SCMR 961). The Supreme Court of Pakistan ruled that *the rules and regulations established by the University Authorities for the purpose of conducting and standardizing examinations should be interpreted by the University Authorities themselves. Courts should refrain from interpreting these unless a case of severe injustice is demonstrated.*

12. In light of the preceding facts, it is clear that this Court cannot validate or invalidate the degrees of respondents No.8 and No.9 and other documents presented by the petitioner. The responsibility of determining the authenticity of these degrees, along with any claims and counterclaims, is left to the competent authority. Consequently, the constitutional petitions filed by the petitioner on this basis cannot be sustained.

13. The issue of counterfeit or manipulated PhDdegrees, which has been raised in the current petition, is profound. Despite the SALU submitting their reply and para-wise comments, they have failed to attach or produce any supporting documents. This raises suspicion of collusion between the private respondents and SALU. Furthermore, the HEC has not clarified whether the PhD degrees obtained by the private respondents are genuine and in accordance with the law. Given these circumstances, it would be unwise to ignore the issue of fake degrees. This issue needs to be addressed urgently because the

seeds we sow in the classroom, the way we nurture them, and the strength they gain at various stages of growth will all determine the quality of the educated youth that our nation produces. These young individuals, who will graduate from our schools, colleges, and universities, will shape the future of our country. Therefore, it is imperative that we ensure the integrity and authenticity of their education.

14. In our perspective, a degree conferred by a university holds paramount significance in an individual's life. A degree in a specific subject represents a student's standing on a scale of intensity, quantity, or quality. It is a distinct, identifiable position in a continuum or series, particularly in a process. In essence, a degree is an accolade bestowed by a college or University, signifying that the recipient has satisfactorily completed a particular course of study. On the flip side, the circulation of counterfeit degrees and certificates poses a grave menace to society. It undermines the integrity of the certificate or degree holder and the educational institutions that awarded it. The proliferation of such fraudulent credentials not only devalues the hard work and dedication of genuine students, but also tarnishes the reputation of the educational institutions involved as well. It creates an environment of mistrust and skepticism, which can have far-reaching implications for the educational system and society at large. Therefore, it is crucial to curb this menace and uphold the sanctity and credibility of academic degrees.

15. In light of the above discussion, we hereby direct the Chairman, Higher Education Commission of Pakistan to inquire into the authenticity of the PhD degrees held by the private respondents. This inquiry will be conducted in response to the allegations made in the present petition, as discussed in the preceding paragraphs and subsequent events. The Chairman (HEC) will provide ample opportunity for a hearing to the parties. If the aforesaid degrees are

found to be invalid, then the Chairman will assign responsibility and take action against any delinquent officials strictly in accordance with the law. The chairman is directed to submit a report to this Court through the Additional Registrar within 90 days from the date of receipt of this order.

With these observations, the writ petition is **disposed of accordingly.**

JUDGE

JUDGE

Suleman Khan/PA