

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

Constitutional Petition No. D-6115 of 2024

(Shafaq Ishtiaq v Principal Government Elementary College of Education Hussain & others)

Date	Order with signature of Judge(s)
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Before:

Mr. Justice Muhammad Karim Khan Agha
Mr. Justice Adnan-ul-Karim Memon

Date of hearing and order:- 01.01.2025

Petitioner present in person.

Mr. Khurram Rashid advocate for respondents No. 6 and 7

Mr. Sandeep Malani, Assistant A.G

ORDER

Adnan-ul Karim Memon, J: Through this constitutional petition,
Petitioners have prayed as follows:

1. *Suspend the impugned decision dated 25.11.2024 whereby the educational activities of the petitioner have been suspended and she is restrained from attending the classes.*
2. *Direct respondent No.2 to own its words of impugned decision, the last condition of which says that “no absence of the petitioner will be counted during suspension period”*
3. *Direct respondent No.2 to provide the marks sheet of the last four Semesters issued by Respondent No.3 to all the students of Semester 5 so that students could be able to know their progress.*
4. *Direct the Respondent Nos. 1 and 2 to obey the rules of Respondent Nos. 3 and 4.*
5. *Direct the respondent Nos. 3 and 4 to enquire into the affairs of respondents Nos. 1 & 2 in respect of institutional/educational rules, and behavior with students.*
6. *Any other relief that this court may graciously be pleased to allow in the facts and circumstances as narrated above.*

2. The petitioner, a former student of the respondent college, claims to have been denied her academic records despite repeated requests. She alleges that the college administration, in violation of affiliation rules, withheld her semester mark sheets and failed to provide any results. Furthermore, the petitioner asserts that the college's response to her inquiries regarding a complaint against her was inadequate, lacking transparency and potentially infringing upon her right to a fair defense. Petitioner who is present in person has submitted that Respondent 1 is affiliated with Respondent 3. However, does not follow the rules of Respondent 3 or the policies of Respondent 4 and failed to adhere to its conditions in the Summative Assessment. She submitted that the Impugned Order/Decision dated 25.11.2024 whereby the education activities of the petitioner have been suspended is unsigned and unstamped, rendering it invalid and unenforceable. She further submitted

that Basis for Respondent 2's suspension of Petitioner's education, violated her fundamental right. She added that the Petitioner denied access to the complaint against her; that denied a fair opportunity to defend herself; and that the impugned decision lacks legal validity and may be set aside. She submitted that the petitioner, unlike other students who withdrew protests due to threats, continued to advocate for her concerns. She next submitted that the subsequent suspension order was illegal, vague, and unsigned. Respondent No. 2's prior threats through emails and verbal demonstrate a pre-determined intent to suspend the petitioner from academic activities, indicating malice. As the petitioner has no other effective remedy, this Court's intervention is necessary to address the violation of her fundamental rights.

3. Mr. Khurram Rashid, advocate for respondents 6 and 7, argued that the petitioner approached this court with unclean hands by deliberately concealing information; and that the college is not run by the Government but under a public-private partnership arrangement as such this petition is not maintainable; that respondent 1 (representing the Government) is not involved in college management, only assisting with training programs. He added that a key person responsible for college management is not included as a party in the petition. He prayed for the dismissal of the petition on the premise that the petition is not maintainable against the decision of the disciplinary committee which has been culminated into its logical conclusion by the concerned university based on the misconduct on the part of the petitioner.

4. We have heard the learned counsel for the Petitioner as well as learned counsel for the respondents and have perused the material available on record with their assistance.

5. Petitioner claims that she was not informed of the reasons for the Disciplinary Committee's formation against her, violating the law as well as Islamic Sharia. The administration of the college was not obligated to inform her and provide the committee's email, which they failed to do. She emphasized that there is no general law forcing students to apologize for truthful speech. She states that Islam encourages honest speech and the law protects free speech with limitations under the constitution.

6. During the hearing, it was revealed that the disciplinary Committee directed the petitioner to apologize to the faculty member by November 14, 2024. Following her failure to apologize, the petitioner was suspended for 15 days (November 26 - December 10, 2024). However, her suspension included restrictions on on-campus access and extracurricular activities. The suspension terms allowed for coursework completion and

electronic assignment submissions. In the event of missed classes during suspension would not count towards her absence quota. The petitioner was given an additional 15 days (until December 10, 2024) to apologize. Failure to apologize would result in further disciplinary action.

7. We have been informed that the Committee has reviewed the petitioner's appeal regarding disciplinary action and finds no grounds to overturn the original decision of the competent authority. Evidence, including voice notes and statements, supports the finding that the petitioner engaged in inappropriate and disrespectful conduct toward a Faculty Member. The Committee upholds the Disciplinary Committee's decision, which adhered to due process. Petitioner was provided with ample opportunity to present her case. The petitioners claim that cultural norms unduly influenced the decision and lack merit. However, respect for Faculty is fundamental to the educational environment. The petitioner was required to submit a written apology to the Faculty Member within three days, as previously directed however she failed as such her appeal was dismissed by the competent authority, compelling her to approach this court in a constitutional petition.

8. This Court has limited power to interfere in college disciplinary matters. Intervention is warranted only if bias, inadequate defense, unfair procedures, statutes, or regulations are breached, fundamental rights are infringed (Right to education, expression), and the decision is manifestly unjust. Courts prioritize fairness and uphold fundamental rights while respecting the autonomy of educational institutions. On the aforesaid proposition, we are guided by the decision of the Supreme Court in the case of *Khyber Medical University and others v. Aimal Khan and others*, **PLD 2022 Supreme Court 92**.

9. The aforesaid exceptions are missing in the present case. In such circumstances, this petition is found to be not maintainable and is dismissed accordingly with pending application (s).

JUDGE

JUDGE