

IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

C. P. No. D – 1833 of 2024

(Miss Mahjabeen Bango v. Government of Sindh & others)

Present:

Mr. Zulfiqar Ahmad Khan, J.

Mr. Khadim Hussain Tunio, J.

Date of hearing : **18.11.2024**

Date of decision : **18.11.2024**

Mr. Sohail Ahmed Khoso, Advocate for petitioner.

Mr. Ali Raza Baloch, Assistant Advocate General Sindh along with Professor Dr. Haresh Chand, Principal, Gambat Medical College, Gambat.

ORDER

Zulfiqar Ahmad Khan, J. – The petitioner, a student of MBBS at Pir Abdul Qadir Shah Jeelani Institute of Medical Sciences (PAQSJIMS) / Gambat Medical College, Gambat, claims to have appeared in the supplementary examination for Session 2020-21 in May 2024, passing all subjects except Pharmacology and Therapeutics, in which she was declared “Fail” in the theory paper. She alleges that her father, serving as the Legal Advisor of Gambat Medical College, on a dispute, has been threatened by respondent No.5 regarding the petitioner’s examination results and her MBBS degree. Additionally, the petitioner claims that her name is missing from the enrollment list for Batch-4 (Session 2020-21), and that her father’s application for rechecking and recounting the Pharmacology paper, submitted on 18.09.2024, has not been decided yet. Furthermore, the petitioner asserts that she has been prevented from submitting her examination form for the 4th year of MBBS, despite attending classes. Hence, this petition is filed.

2. Learned Counsel for the petitioner through a statement has filed a notification dated 13.07.2023, circulating Medical and Dental Graduate

Education (Admissions, Curriculum and Conduct) Policy and Regulations 2023, issued by Pakistan Medical and Dental Council ('**PMDC**') and a notification dated 04.06.2021, circulating Pakistan Medical Commission Conduct of Examinations Regulations 2021, issued by Pakistan Medical Commission. Another statement is also filed by him submitting Photostat copy of minutes of Special 29th Academic Council Meeting of Shaheed Muhammad Benazir Bhutto Medical University, Larkana ('**SMBBMU**'). The statements along with documents are taken on record.

3. The Principal (respondent No.5), present in Court, denies the allegations and submits that there are 100 MBBS seats available: 82 on merit for candidates from all over Sindh, excluding Karachi; 15 for local / self-finance students; and 3 for overseas Pakistanis. The petitioner was admitted under the overseas Pakistanis quota and was required to pay \$11,850 per year, which she was obligated to pay in an equivalent amount in Pakistani rupees. He claims that in the first year, he encouraged the petitioner to submit her examination form, which she did late. She failed in two subjects in the annual examination and then in one subject in the supplementary examination. She subsequently filed a Constitutional Petition, which was dismissed as withdrawn. In her second-year annual examination, the petitioner failed all subjects but cleared them in the supplementary examination. In the third year, she again failed, clearing two subjects in the supplementary examination, but was unable to pass the subject of Pharmacology, making her the only student to fail. Referring to the minutes of the Special 29th Academic Council Meeting of SMBBMU filed by learned Counsel for the petitioner, the Principal apprises this Court that the meeting addressed the high failure rate in the Pharmacology examination of third-year MBBS students. The committee had recommended discarding BCQ questions with a difficulty index of less than or equal to 0.2 and awarding 9 marks to students who answered these questions

incorrectly. The Principal asserts that the petitioner's application for recounting was processed, and no discrepancies were found in her paper.

4. The Principal further submits that he received the full fee for the 1st year only, while in the 2nd year, a payment of Rs.2,00,000/- was made, and in the 3rd year, a payment of Rs.4,70,000/- was received. He states that the grounds for allowing a candidate to sit in the next class include clearance of all fees, obtaining 75% attendance in the previous year, and passing the previous year's examination. However, the petitioner has met only one of the requirements i.e. 75% attendance in the previous year.

5. This Court is briefed in detail about the mechanism used by the University with regard to the opportunity to retake failed examinations, which guidelines were derived from the Medical and Dental Graduate Education (Admissions, Curriculum, and Conduct) Policy and Regulations 2023 of PMDC under Paragraph (15). We have also observed that the degree-awarding University in this case is respondents No.3 and 4, who have already filed their comments. A perusal of the requirements imposed by the PMDC Regulations, and those adopted by the University, shows that a student must complete his/her degree within 10 years from the date of admission, as per the Minutes of the Special 26th Academic Council Meeting of SMBBMU. The minutes also suggest that 04 attempts are allowed in the annual system to pass one examination per academic year. In the case at hand, the petitioner appeared in the 3rd year MBBS annual examination in 03 subjects and failed. She appeared in the supplementary examination, but failed again in Pharmacology.

6. The Principal states that, as per the resolution, the petitioner must take a term back for one year and then sit in the annual examination of the 3rd year for the subject of Pharmacology, which will take place after 27th December, 2024. If she fails again, she would still have the opportunity to sit in the supplementary examination, and this process may continue for 10 years. We are not comfortable with this arrangement, where students

are given a term back to complete the failed examination with junior batches, and where they may not be permitted to sit in classes. This does not serve the interests of either the student or the institution. Learned Counsel for the petitioner argues that these arrangements are prejudicial to the interests of the student.

7. With the consent of the Principal, present, let the petitioner's case be forwarded to the University, making her eligible to provisionally sit in the 4th year class (which had already started in February, 2024), where the examinations are expected to take place after 27th December 2024, so that her one year of education is not lost. Let such a case be presented to the college by the petitioner, to be forwarded to the degree-awarding University, which may specifically consider the petitioner's case, as she has already commenced sitting in 4th year and is apparently still prepared to appear in the examination. In the meanwhile, she may also be eligible to appear in the Pharmacology paper of the 3rd year, whenever it takes place, either annually or in the supplementary examination, so that her precious year is not wasted. The Court has been informed that such a decision can come from the Academic Council / Syndicate, probably within two weeks. Let the findings be communicated to the petitioner. However, the Court has been informed that if the findings are received after the last date for submission of the examination form has passed, she will still be given the opportunity to sit in the examination, subject to her payment of all arrears of tuition / examination fees based on the qualification she entered the college as a foreign student.

The petition stands **disposed of** in the above terms.

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