

ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, LARKANA

C. P. No.D-712 of 2024.
(Ms. Rafia v. Vice Chancellor SMBBU Larkana & Ors)

DATE OF HEARING	ORDER WITH SIGNATURE OF HON'BLE JUDGE
--------------------	---------------------------------------

1. For orders on office objection 'A'.
2. For orders on M.A.No.2863/2024.
3. For orders on M.A.No.2865/2024.
4. For hearing of main case.

Date of hearing & Order: 27.02.2025

M/s Habibullah G. Ghouri and Abdul Rehman Bhutto, advocates for the petitioner.

Mr. Liaquat Ali Shar, Addl. A. G assisted by Mr. Aftab Ahmed Bhutto, Asstt. A. G.

Mr. Sarfraz Ali M. Abbasi, advocate for the respondents No.1 to 4.

-.-.-.-.-

ORDER.

ADNAN-UL-KARIM MEMON.J:- The petitioner requests this court to order the Respondents 1 & 2 to administer the petitioner's missed exam; he also seeks direction to Respondents 1-3 to conduct the third-semester exam and provide necessary forms; and allow the petitioner to attend third-semester classes; and suspend the ongoing BSN (Generic) examination proceedings.

2. A nursing student petitions the court, alleging she was wrongly denied a re-sit exam due to conflicting official timetables and administrative errors. She claims this has caused her to lose a year of study. The petitioner submits that conflicting schedules, misinformation, and improper exam administration, including the absence of the designated invigilator head and the misuse of the external head as a clerk, led to her missing the exam despite her attendance, which has been admitted in comments.

3. Learned counsel for the petitioner submits that the respondents violated Nursing Council examination rules regarding invigilators and opening of question paper seals. The controller of examination was illegally appointed. Due to the missed exam, the petitioner risks losing a year of study. The

8. The university stance is that the petitioner violated examination rules by arriving late, specifically Rule 02(3), Students arriving more than 15 minutes late are barred. Students must enter 30 minutes before the examination hall. The petitioner failed to appear on time and now seeks promotion despite this. The university also alleges the petitioner is relying on an erroneous duty schedule and has not produced the corrected version, demonstrating bad faith.

9. The petitioner asserts that she was wrongly denied her Anatomy & Physiology-II exam. She claims a university timetable scheduled it for 12:00 PM on November 5, 2024, but a subsequent duty schedule shifted it to 1:00 PM. Arriving before noon, she was turned away by an assistant citing the 1:00 PM time. When she returned at 1:00 PM, she was told the exam had already concluded at noon. She submits that the university fabricated a letter to retroactively change the exam time back to 12:00 PM, citing the Principal's letter, confirming the 1:00 PM schedule, which lacks mention of this change. Other university communications also fail to reference the alleged modification. The modified schedule appears only after she filed her petition. The assistant who denied her entry was improperly assigned and absent from attendance records. A leave application used to explain the confusion is not officially recorded. The petitioner contends that these discrepancies point to deliberate manipulation. She seeks only to retake the missed exam, not a promotion.

10. Be that as it may, it appears the petitioner did not intentionally miss the exam; unforeseen circumstances prevented her attendance. Allowing her to retake the paper would cause no harm and would enable her to continue her studies. In the *Alaptagin case*, **PLD 2004 Pesh. 307** the Peshawar High Court ruled that, despite PMDC regulations, a student's failure in Part I of the first professional medical exam cannot prevent their promotion to Part II, based on the interpretation of the Provincial Health Department's prospectus. The petitioner simply requests to order the Respondents 1 & 2 to administer the Anatomy and Physiology-II exam; just to facilitate her third-semester exams and classes.

11. The petitioner requested the court to order Respondents 1 & 2 to conduct the Anatomy and Physiology-II exam; and direct Respondents 1-3 to

petitioner paid the third semester fee, but was not issued an examination form. Applications to respondents No. 1, 2, and 3 for grievance redressal were unsuccessful. He prayed for allowing the petition. In his support he relied upon the case reported as **PLD 2006 Supreme Court 300**.

4. The learned counsel for the respondents argued the petition is not maintainable because the petitioner failed her 2nd-semester Physiology-II exam and cannot be promoted to the 3rd semester. He denied any wrongdoing and asserted they followed university rules and regulations. He added that University rules and academic council decisions prevent promotion without clearing all previous subjects. He denied the petitioner was a 3rd semester student. He confirmed the re-sit exam timetable and the petitioner's absence. He attempted to provide attendance records showing other students followed the timetable and stated that the petitioner had exhausted two of her four attempts to pass the failed subject. He explained that the vice principal took over the invigilation duties, due to the invigilator head's leave. He asserted that university examination rules were followed. He also denied allegations of rule violations and personal grudges. He added that the petitioner must clear all 1st-year subjects before being eligible for 2nd year promotion. He lastly argued that the petition may be dismissed. He relied upon the Time tables, attendance sheets, and the university rules, which are attached.

5. We have heard the learned counsel for the parties and perused the record with their assistance.

6. The respondents' position is that the petitioner is ineligible for the relief sought due to her failure to pass a required exam and that the university acted within its established rules and procedures.

7. Students who pass some, but not all subjects in the first-year annual exam may provisionally advance to the second year, pending the supplementary exam. However, he /she must pass the failed subjects in the supplementary exam to remain in the second year; otherwise, he/she must repeat the first year. Full promotion to the second year is contingent on passing all first-year subjects. According to PMDC regulations, students must achieve a passing grade in all subjects of their current class before being eligible for promotion to the next level.

facilitate her third-semester exams and classes. In response, and considering the petitioner's academic future, this court, via its order dated December 12, 2024, granted her permission to take the upcoming third-semester exams, which the respondents have since complied with.

12. Based on the compliance report, and without adjudicating the parties' claims, we hereby dispose of this petition. This order is specific to this case and should not establish a precedent.