# HIGH COURT OF SINDH, CIRCUIT COURT HYDERABAD

**C.P No.D-2021 of 2025**

[*Fatima Ahmed v. Government of Sindh and 04 others*]

**Before:**
**Justice Arbab Ali Hakro**
**Justice Riazat Ali Sahar**

| | | |
|---|---|---|
| Petitioner by | : | Mr.Muhammad Asfand, Advocate |
| Respondents No.2 to 5 by | : | Mr.Ravi Kumar, Advocate |
| | : | Mr.Muhammad Ismail Bhutto, Additional Advocate General Sindh |
| Dates of Hearing | : | **12.02.2026** |
| Date of Decision | : | **12.02.2026** |

## O R D E R

**ARBAB ALI HAKRO, J:-** Through this petition filed under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, the petitioner seeks directions to the respondents for reinstatement of her current semester enrollment, issuance of all requisite academic documents including the examination/enrollment card and permission to appear in the ongoing examinations of the present semester without loss of academic standing. She further prays for a declaration that the act of freezing her semester is arbitrary, illegal and violative of the principles of natural justice.

2. The petitioner asserts that she is a law-abiding citizen and a duly enrolled second-semester student of the Fine Arts Department at Shaheed Allah Buksh Soomro University of Art, Design and Heritage, Jamshoro (SABS). She states that she voluntarily left her previous institution to pursue her academic career at the respondent University, citing the University's academic reputation. According to her, on 03.11.2025, the University abruptly froze her semester on the grounds of short attendance without issuing any notice, warning or opportunity of hearing. The petition records that "no official communication or show-cause notice was ever issued, violating principles of natural justice". The petitioner further avers that the

University published a list of "Not Eligible Students," in which her attendance was recorded as 63% (Page 13, Annexure A). She maintains that she repeatedly approached the authorities for clarification and, on 11.11.2025, personally appeared before the Vice-Chancellor along with her counsel, requesting provisional permission to sit in the examinations until the attendance dispute was resolved. The petition states that the Vice-Chancellor did not pay heed to her request nor consider the written legal notice. It is the petitioner's case that the impugned action is contrary to the University's statutes and regulations, constitutes educational maladministration and infringes her fundamental rights. She submits that the denial of examination opportunity would cause irreparable academic loss, as a lost academic year cannot be retrieved.

3. Respondents No.2 to 5 have filed their written reply raising preliminary objections that the petition is misconceived, not maintainable and suffers from non-joinder and mis-joinder of necessary parties. They further contend that the petitioner is not an aggrieved person. On merits, the respondents admit that the petitioner is a second-semester student but deny all allegations of arbitrariness. They assert that the petitioner was fully aware of her attendance shortage and that the eligibility list "was put on notice board" showing her attendance as 63%. They maintain that the petitioner was neither entitled to any notice nor to a warning, as the regulations themselves prescribe a minimum attendance. The respondents rely on Regulation 14(c), which requires 75% attendance for examination purposes, and Regulation 10(ii), which empowers the Vice-Chancellor to condone only up to 10% deficiency on sufficient grounds. They assert that since the petitioner's attendance was below 65%, she was not eligible for condonation. The reply states that no fundamental right of petitioner is violated and that the University acted strictly in accordance with its statutes and regulations Regarding the petitioner's appearance before the Vice-Chancellor, the respondents contend that she and her counsel were heard at length and were shown the entire record of attendance and regulations, but insisted on

being allowed to sit in the examination, which was declined. The respondents further submit that, pursuant to an interim order of this Court dated 13.11.2025, the petitioner was permitted to appear in six of the eight papers, and her answer sheets have been kept sealed pending further orders.

4. Learned counsel for the petitioner contends that the impugned action is patently arbitrary, illegal, and violative of the principles of natural justice. He submits that the petitioner was never issued any notice, warning or opportunity to explain her attendance position and that freezing a semester without due process is alien to the University's statutory framework. Learned counsel further submits that the University's conduct amounts to educational negligence and breach of fiduciary duty owed to enrolled students. He emphasises that the University's regulations do not authorise freezing a semester without notice, nor do they permit denying an examination opportunity without affording a hearing.

5. Conversely, learned counsel for respondents No.2 to 4 submits that the petitioner's attendance was admittedly 63%, which falls below the condonable threshold. He argues that the petitioner was fully aware of her position on the attendance list, as the eligibility list was displayed on the notice board. He maintains that the University is bound to enforce its regulations uniformly and that any relaxation beyond the prescribed condonation limit would constitute illegality. Learned counsel submits that the petitioner and her counsel were duly heard by the Vice-Chancellor and the entire record was shown to them. He argues that the petitioner seeks to compel the University to violate its own regulations, which is impermissible in constitutional jurisdiction. He further submits that the petitioner has already been allowed to appear in six papers under interim orders, and her answer sheets are sealed; no prejudice survives. In support of his contentions, he relied upon case law reported as **2024 SCMR 46**.

6. Learned Assistant Advocate General (A.A.G) adopts the arguments advanced by learned counsel for respondents No.2 to 4 and submits that no

case for interference is made out, as the University acted strictly in accordance with its statutory framework.

7. We have heard learned counsel for the parties at considerable length and have carefully examined the material placed on record.

8. The petitioner's grievance is anchored in the assertion that her semester was "frozen" without notice and that she was denied the opportunity to sit in the final examinations despite her attendance being 63%. The University, on the other hand, asserts that the petitioner's attendance fell below the mandatory threshold of 75% and even below the condonable limit of 65%, thereby rendering her ineligible under Regulation 10(ii) read with Regulation 14(c) of the SABS Regulations for Semester System 2023-2024. The record confirms that the petitioner's attendance, as reflected in the "List of Not Eligible Students," stands at 63%. The Regulations unequivocally stipulate that a student "should have at least 75% attendance to appear in the Final Semester Examination," and that the Vice-Chancellor may condone "maximum 10%" only in genuine cases. The statutory text admits of no elasticity beyond this limit.

9. The petitioner's argument that the University was obliged to issue a notice or provide a pre-decisional hearing before declaring her ineligible does not find support in the regulatory scheme. The attendance requirement is a condition precedent to examination eligibility; it is not a punitive measure attracting *audi alteram partem*. The Regulations do not provide for any adjudicatory process to determine attendance; they merely require the Department to maintain and display attendance records. The petitioner's own pleading acknowledges that the list of ineligible students was published, and the respondents have stated that the list was displayed on the notice board. The petitioner's attendance percentage is not disputed even in her legal notice. Thus, the factual substratum is uncontested.

10. The petitioner's plea that she should have been provisionally allowed to sit in the examinations until her attendance dispute was "clarified" is equally untenable. The attendance percentage is a matter of objective

computation, not subjective satisfaction. The Regulations do not authorise provisional permission to sit in examinations where the attendance requirement is not met. To read such a discretion into the Regulations would amount to judicial legislation, which is impermissible.

11. The petitioner's reliance on alleged arbitrariness or breach of fiduciary duty must be examined in light of the statutory framework. The University is a creature of statute, governed by the Sindh Act XIV of 2020. Section 14 of the Act vests the Vice-Chancellor with the responsibility to ensure that the provisions of the Act, Statutes, Rules and Regulations are faithfully observed. The Vice-Chancellor's discretion is circumscribed by the Regulations; it is not an unbounded reservoir of equitable authority. The attendance requirement is a statutory command, not an administrative preference. The University cannot dilute it without violating its own Regulations.

12. The petitioner's argument that freezing of the semester is not expressly provided in the Regulations requires scrutiny. Regulation 27, dealing with semester freezing, contemplates freezing at the student's instance, not the University's. However, the respondents clarified that the petitioner was not "frozen" in the technical sense; she was declared ineligible to sit for the examination due to insufficient attendance. The use of the term "frozen" in the petitioner's narrative is thus a mischaracterisation. The University did not invoke Regulation 27; it merely enforced Regulation 10 and Regulation 14. The petitioner's academic progression is a natural consequence of her ineligibility, not an independent administrative sanction.

13. The petitioner's invocation of fundamental rights must be assessed in the constitutional context delineated by the Federal Constitutional Court in the case of ***Altaf Hussain Somroo***[1]. The Court has emphatically held that High Courts, while exercising jurisdiction under Article 199, cannot grant relief on considerations of compassion, equity, or hardship where the law is silent or prohibitive. The Judgment underscores that courts are "courts of

---

[1] Passed in F.C.P.L.A No.14 of 2025 (Vice Chancellor Shaheed Mohtarma Benazir Bhutto Medical University & others v. Altaf Hussain Somroo)

law, not courts of benevolence," and that judicial intervention in academic matters must be strictly tethered to statutory mandates. The Federal Constitutional Court has cautioned against judicial overreach in educational governance, reiterating that courts cannot compel universities to act in contravention of their Regulations.

14. The petitioner's plea that denial of examination opportunity violates her right to education is misplaced. Article 25-A obligates the State to provide free and compulsory education to children aged five to sixteen. The petitioner is an adult university student; the University's statutory framework governs her rights. Even otherwise, the right to education does not confer a right to bypass academic discipline or regulatory requirements. The Federal Constitutional Court, in the case of Altaf Hussain Somroo (supra), has clarified that courts cannot invoke Article 25-A to rewrite academic regulations or create exceptions not contemplated by law.

15. The petitioner's contention that she was not afforded a hearing before being declared ineligible must also be viewed in light of the Federal Constitutional Court's pronouncement that courts cannot impose procedural requirements where the statute does not provide them. Attendance eligibility is a mechanical determination; it does not involve the adjudication of misconduct or the imposition of a penalty. The doctrine of natural justice is not attracted to every administrative action; it applies only where rights are being curtailed through a discretionary or punitive process. Here, the petitioner's ineligibility flows automatically from the Regulations.

16. The respondents' assertion that the petitioner and her counsel were "heard at length" by the Vice-Chancellor, though not required by law, further weakens the petitioner's grievance. The respondents have stated that the entire attendance record and Regulations were shown to them. The petitioner does not dispute that she was heard; she merely disputes the outcome. Judicial review does not extend to substituting the Court's view for that of the competent academic authority, particularly where the authority has acted within the four corners of the Regulations.

17. The interim order of this Court permitting the petitioner to appear in six papers does not create any vested right. The answer sheets have been kept sealed. An interim indulgence cannot override statutory ineligibility. The Federal Constitutional Court, in the case of Altaf Hussain Somroo (supra), has expressly held that courts cannot, by interim or final orders, compel universities to conduct examinations or permit appearances in contravention of the Regulations.

18. The cumulative effect of the statutory scheme, the Regulations and the binding pronouncement of the Federal Constitutional Court leaves no room for judicial intervention in favour of the petitioner. The University acted strictly in accordance with Regulation 10 and Regulation 14. The petitioner's attendance fell below the threshold for condonation. No statutory right has been infringed. No procedural impropriety is demonstrated. No mala fides are alleged or proved. The petitioner seeks, in essence, an equitable relaxation of a mandatory statutory requirement, a form of relief this Court is constitutionally barred from granting.

19. The Court is mindful of the academic consequences for the petitioner; however, as the Federal Constitutional Court in the case referred above has authoritatively held, "**compassion cannot undo the diktat of the law.**" Judicial sympathy cannot be permitted to supplant statutory discipline. The University's Regulations are designed to ensure academic rigour and uniformity. To carve out an exception for one student would be to undermine the integrity of the entire academic framework.

20. In view of the foregoing analysis, we find that the petitioner has failed to establish any illegality, arbitrariness or violation of statutory or constitutional rights. The University's action is firmly rooted in its Regulations and is immune from judicial interference. The petition, therefore, merits no indulgence.

21. For the reasons recorded in the foregoing findings, this petition is **dismissed**. Resultantly, the interim permission earlier granted to the petitioner to sit in six papers created no vested right. The sealed answer scripts shall remain unopened and shall be treated as having no legal effect. However, the

petitioner is at liberty to continue her academic progression strictly in accordance with the Regulations applicable to the next academic session.

**JUDGE**

**JUDGE**

AHSAN K. ABRO