

JUDGMENT SHEET
IN THE HIGH COURT OF BALOCHISTAN QUETTA.

Constitution Petition No.1742 of 2023
(CC # 100107604559)

Allah-ud-Din & another
v.
Pakistan Medical & Dental Council (PM&DC) through its Chairman
Islamabad & others

Date of hearing: 17.04.2024 Announced on 06.05.2024

Petitioners by: Syed Muhammad Zahid, Advocate.

Respondent No.1 by: Mr. Tahir Ali Baloch, Advocate a/w Mr. Manzoor Ahmed, Superintendent PMDC Office Quetta.

Respondent No.3 by: Mr. Sultan Khalid, Advocate

J U D G M E N T

Shaukat Ali Rakhshani, J. The instant constitutional petition has been filed under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973 ("Constitution") by the petitioner, which carries the following relief;

- "A) Declare that the impugned act of respondents is against the law as well as natural justice.*
- B) To declare that public announcement regarding MDCAT 2023 issued by respondent No.1 vide letter No.176 dated 14.07.2023 is not applicable over the result of MDCAT 2023 and does not effect the right of petitioners.*
- C) To declare that respondent Nos.1 & 3 have illegally and unlawfully declined to receive the application of the petitioners for seeking admission in Medical Colleges for Sessions/Year 2023.*
- D) Further direct the respondents to entertain the application of the petitioners and same be considered for seeking admissions in the Medical Colleges on merits.*
- E) That the petitioners shall not be deprived from their rights due to the failure of the respondents to*

perform their duties well in time and further declare that the petitioners have approached to the office of respondents before 15.09.2023 and same was declined illegal.

F) Any other relief which this Hon'ble Court deems fit and proper may also be awarded, in the interest of justice, equity and fairplay”.

2. Facts relevant for disposal of the instant petition are that the petitioners appeared in the Medical & Dental College Admission Test (“MDCAT”) in the year 2021 for the Sessions 2022-23 which test was passed by them. Petitioner No.1 secured 139/210, whereas petitioner No.2 obtained 143/210 marks and as such the result cards were issued by National Medical Authority of Pakistan Medical Commission (respondent No.2) which was valid for admission in the Medical College for Sessions 2022-23 and that the result was held to be valid for two years as contemplated under section 10 (5) of Pakistan Medical Commission Conduct of Examinations Regulations 2021 (“Regulations 2021”), but when the respondents were approached time & again for submissions of their applications for admission for Sessions 2022-2023, they refused to receive their applications and informed them through a letter No.176 dated 14.07.2023 that the result of MDCAT 2022-23 is no longer valid for admission in session 2023, hence this petition.

3. In response to the petition, parawise comments was filed by Pakistan Medical & Dental Council (“PM&DC”) respondent No.1, contesting the petition on factual and legal premises.

4. Heard. Record perused, which reveals that the petitioners passed their MDCAT in the year 2021, who were issued result cards by respondent No.2 on 30.09.2021. The result cards

were statedly valid for two years as contemplated under section 10 (5) of the Regulations 2021, but subsequently they were denied admission. Respondent No.1 contested the petition mainly on legal ground that the MDCAT 2021 was conducted under the repealed PMC Act, 2020, however, upon promulgation of the PM&DC Act 2022 the provisions of PMC Act 2022 requires a fresh MDCAT for admission in Sessions 2023-24.

5. Clause (4) of section 17 of the PMDC Act 2022 is relevant, which for ease of reference and understanding is reproduced herein below;

“(4) the MDCAT result of one province shall be valid for the entire country and shall be valid for a period of three years. Each province, Gilgit-Baltistan and Islamabad Capital Territory shall give preference to the students having domicile of their respective province or territory as the case may be”.

[Emphasis added].

5. The provision *ibid* clearly manifests that the MDCAT result of a province shall be valid for the entire country and the same shall be valid for a period of three years. After repeal of the PMC Act 2020, the result of MDCAT of the petitioners have become invalid and as such after promulgation of the PMDC Act 2022 the petitioners have to take a fresh MDCAT under the PMDC Act 2022. Moreso, the admissions for the sessions 2023 have already been ended and the students are taking their classes regularly, thus the petition has become infructuous at this point of time.

6. For what has been discussed hereinabove, we are reluctant to exercise jurisdiction as contemplated under Article 199 of the Constitution.

7. In the light of the above, the petition being meritless is dismissed.

Announced in open Court:

On _____ May, 2024

Judge

Chief Justice

UNATTTESTED COPY