



BEFORE THE DISCIPLINARY COMMITTEE OF PAKISTAN MEDICAL COMMISSION

In the matter of

Complaint No. PF.8-1901/2021-DC/PMC

Mrs. Anum Mahsud

Vs.

1. Dr. Ershad H. Kazmi
2. Dr. Shamsuddin Khoso
3. Dr. Inayatullah Magsi
4. Dr. Aman Ullah Bhutto

Professor Dr. Naqib Ullah Achakzai	Chairman
Professor Dr. Noshad Ahmad Shaikh	Member
Mr. Jawad Amin Khan	Member
Barrister Ch. Sultan Mansoor	Secretary
Expert of Forensic Medicines	

Mr. Arsalan Raja, Advocate (online)	Counsel for the Complainant
Hearing dated	21.11.2022

I. FACTUAL BACKGROUND

1. Mrs. Anum Mahsud (hereinafter referred to as the "Complainant") filed a complaint on 08.01.2021 against Respondents No. 1-4, for issuance of incorrect Final Postmortem and exhumation report dated 14.12.2020 of deceased Faisal Ramzan Mugheri, who died on 13.09.2020.

The complainant requested that strict disciplinary action may be initiated against the Respondents and their license to practice be canceled permanently.

II. SHOW CAUSE NOTICE

2. In view of the allegations leveled in the complaint a joint Show cause notice was issued to Respondent doctors on 02.06.2021 mentioning allegations in the following terms:

“....

3. **WHEREAS**, a complaint has been filed by Ms. Anum Mabsud (hereinafter referred to as the "Complainant") before the Disciplinary Committee of Pakistan Medical Commission (hereinafter referred to as the "Complaint") against Dr. Ershad H Kazmi (Respondent No.1), Dr. Shamsuddin Khoso (Respondent No.2), Dr. Inayatullah Magsi, (Respondent no.3) and Dr. Aman Ullab Bhutto, (Respondent no.4) which is attached at Annex-A and should be read as an integral part of this notice; and
4. **WHEREAS**, in terms of the Complaint it has been alleged that pursuant to order dated 10.10.2020 passed by the honorable court of 1st class civil judge and judicial magistrate Jacobabad, "Special Medical Board" was constituted vide letter no. DGHSSS/G IV/EXHUM/50283/294, dated 29.10.2020 to undertake the process of Exhumation and Postmortem of deceased Mr. Faisal Ramzan Mugheri, where respondents were appointed as Chairman and members of the Committee respectively; and
5. **WHEREAS**, in terms of Complaint it has been alleged that Respondents 1 to 4 issued "provisional Postmortem and Exhumation" Report no.2564 dated 31.10.2020 where the Respondents intentionally cited the incorrect name of deceased, his father name and didn't mention CNIC no. of the deceased and opined in the said report that "No cause of death could be ascertained on the postmortem examination"; and
6. **WHEREAS**, in terms of Complaint it has been alleged that Respondents 3 and 4 sent body samples/specimen of the deceased to the Punjab Forensic Science Agency (PFSA) for forensic pathology, trace chemistry & Narcotics Analysis/report to ascertain the actual cause of death of the deceased. Punjab Forensic Science Agency vide letter dated 10.12.2020 unfolded that Respondent failed to send samples of deceased's biological relatives which were required for identification of DNA and Serology analysis. Therefore, Forensic Agency was unable to trace the cause of death within the details provided by Respondents; and

7. **WHEREAS**, in terms of Complaint in the Final Postmortem Report no.3141/44 dated 14.12.2020, Respondents gave concocted findings and leveled false allegations on the deceased that "deceased was exposed to tobacco, cannabis, and alcohol which could have resulted in his sudden cardiac death"; and
8. **WHEREAS**, in terms of the Complaint no Histological Examination of Heart was conducted by the Respondents during postmortem of the deceased to establish sudden cardiac arrest. Punjab Forensic Science Agency vide letter dated 29.12.2020 clarified that samples were not proceed for alcoholic analysis and same may be based on doctor's own opinion, which indicates final postmortem report to be based on false information; and
9. **WHEREAS**, in terms of the Complaint Respondent No. 1 & 2 deliberately failed to examine the possibility of murder of deceased Faisal Ramzan Mugheri by Strangulation/ Suffocation, Asphyxia and throttling and further failed to conduct the Strangulation Forensic Examination of the deceased; and
10. **WHEREAS**, in terms of the Complaint the so-called "Final Postmortem Report" with false information and false allegations on the deceased and in the sheer absence of Strangulation Forensic Examination, Forensic Pathology, Trace Chemistry, Histological Examination of specimen / body samples, Histological Examination of Heart, DNA and Serology reports/ analysis has been prepared by the Respondent No. 1 to 4 to provide undue favor and shelter to the murderers;

III. REPLY TO SHOW CAUSE NOTICE

3. Dr. Syed Irshad. Hussain Kazmi (Respondents No. 1) submitted his reply on 30.06.2021 wherein he stated that:
 - a) The allegations levelled in the Show Cause Notice are denied as the same are misleading, misconceived and without placing the true picture before the PMC Disciplinary Committee. If all the facts would have been disclosed properly the Show Cause Notice would have never been issued. The facts of the case of the exhumation and post-mortem of Late Faisal Ramzan Mugheri are as under:
 - b) Late Faisal Ramzan Mugheri died on 13.9.2020. Twenty seven days after the death of the deceased, Mr. Zubair Jakhrani and the present applicant Ms. Anum Mehsud moved application for the post-mortem of Late Faisal Ramzan Mugheri. The 1st Class Civil Judge and Judicial Magistrate Jacobabad ordered for the post mortem on 10.10.2020. The order of the 1st Class Civil Judge and Judicial Magistrate Jacobabad was challenged before the Sessions Court Jacobabad which was upheld

on 16.10.2020. The revision was filed against that order in the High Court of Sindh Circuit Court, Larkana which also met with the same fate on 22.10.2020. Pursuant to the orders of the honorable court, Director General Health Services Sindh, Hyderabad constituted a four-member Special Medical Board.

- c) On 29.10.2020 (approximately a month and a half after the death of the deceased), the Special Medical Board conducted the post-mortem after disinterment (exhumation) as per protocols of the exhumation in Pakistan. Specimen were collected and sent to the respective laboratories for Pathology, Trace Chemistry and Narcotic Analysis. Provisional Report was submitted on 31.10.2020 and after receiving all reports, final report was also submitted to Honorable Court of 1st Class Civil Judge and Judicial Magistrate Jacobabad on 14.12.2020, who accepted the same.
- d) The exhumation/post mortem was conducted in the presence of 1st Class Civil Judge and Judicial Magistrate Jacobabad who passed the order. As far as the question raised in the Para 6 of the Show Cause Notice regarding DNA of Late Faisal Ramzan Mugheri is concerned, it is submitted that the concerned individuals (Mr. Ghaus Bux Khan CNIC No: 43102-6079852-5 and Mr. Waseem Hussain CNIC No: 43102-4448522-7) as well as representative of Ms. Anum Mehsud and Mr. Zubair Jakhrani and representative of other side identified the grave of Late Faisal Ramzan Mugheri in presence of Judicial Magistrate Jacobabad. The identity of the deceased was not disputed so DNA Test was not required. Therefore, the allegation by the complainant is void of logic and misleading. The Exhumation/Post-Mortem Report was challenged before the 1st Class Civil Judge and Judicial Magistrate Jacobabad by the complainant which was dismissed.
- e) The applicant Ms. Anum Mehsud filed appeal before the Sessions Court Jacobabad which was also dismissed. After that the complainant and Mr. Zubair Jakhrani filed Constitutional Petition before the Sindh High Court which was also dismissed. The order of the Honourable Sindh High Court, Circuit Court Larkana is reproduced as under:

"Learned counsel for the petitioners has challenged postmortem report. The postmortem report reveals that the deceased Faisal Mugheri was exposed to all of the above mentioned major risk factors associated with the abuse/ addiction of toxic substances (Tobacco, hashish/Chars, Alcohol and Cannabis/ Marijuana) which could have resulted in his Sudden Cardiac Death (SCD), which clearly indicates his life style. None of the other legal heirs of the deceased has challenged this finding which is carried out by a medical board consisting of four eminent doctors. It appears that petitioner has no locus standi in any event. We see no reason to Interfere with the postmortem carried out by the eminent



doctors and learned counsel for the petitioner has not been able to satisfy us as to any Infirmity in the postmortem report. Under these circumstances, the Impugned order is upheld and this petition is dismissed." The above order has not been challenged in the Honorable Supreme Court of Pakistan hence the same attains finality.

- f) The facts regarding challenging the post-mortem report before the competent forums and their dismissal has not been disclosed by the complainant in her complaint filed before the PMC Disciplinary Committee for the obvious reason that if such fact would have been disclosed, the show cause notice would have never been issued.
- g) That, the post-mortem report has been issued after observing all the protocols and even the specimens were sent to the Punjab Forensic Science Agency, Home Department, Government of Punjab @Lahore so that the transparency should not be compromised.
- h) That the name of the deceased as mentioned in the Order of the Director General Health Services Sindh (No: DGHSS/G-IV/Exhum:-/(JCD)/ 50283/94-Dated 16.10.2020 was mentioned in the Provisional Report. It was Faisal Rehman Mugheri.
- i) The body of the deceased was in advanced stage of decomposition and putrefaction and no cause of death could be ascertained on post-mortem examination. That's why decomposed viscera were sent to the laboratories for Pathology, Trace Chemistry and Narcotic Analysis. On the basis of undeniable evidence Special Medical Board was firmly convinced that the deceased was a smoker and he consumed Alcohol, Hashish (Charas) and Marijuana. Tetrahydrocannabinol and Cannabidiol (constituents of Cannabis) were detected in the stomach contents and liver of the deceased in the Toxicology Analysis.
- j) The Histopathology Examination of the decomposed organs is not done in graveyards. Even Punjab Forensic Science Laboratory couldn't express histological opinion because some specimens were autolyzed.
- k) The Special Medical Board was well aware that it was a case of suspected homicide. All possibilities were therefore explored.
- l) Special Medical Board submitted its report before the Honorable Court with all honesty and as per rules which was accepted by the Court and upheld by the Honorable High Court of Sindh, Circuit Court Larkana which in fact certified the authenticity of the report hence the application moved by Ms. Anum Mehsud before the PMC Disciplinary Committee is totally misconceived and liable to be dismissed.

4. Respondent No. 2, No. 3 and No. 4 also submitted their separate replies wherein they reiterated the stance taken by Respondent No.1 in his reply.

IV. REJOINDER

5. Replies submitted by the Respondents were forwarded to the Complainant for rejoinder. The Complainant filed her rejoinder on 29.07.2021 wherein she stated that;

- a) *As per Final Postmortem & Exhumation Report" the deceased was exposed to Tobacco, Cannabis and Alcohol which could have resulted in his Sudden Cardiac Death. It is important to note that "Histological Examination of Heart" was not conducted by the Respondents or Punjab Forensic Science Agency (PISA) which could establish "Sudden Cardiac Attack Death & the actual cause of death of the deceased".*
- b) *The specimens/body samples of the deceased sent by the Respondents, to PFSA, were sent "without fixative chemicals resultantly the specimens body samples were completely "autolyzed & putrefied" consequently no Histological Examination(s) of Heart, Lungs & Brain were performed by the PFSA, which could establish the cause of death of the deceased.*
- c) *That the deceased was just 29 years old and the Postmortem & Exhumation of the deceased was performed after 45 days, after the deceased mysteriously died. It is a well-established medical practice/law that "Forensic Analysis can be conducted even at stages subsequent to skeletonization, however the Respondents purposely failed to conduct Strangulation Forensic Examination, Forensic Pathology, Trace Chemistry, Histological Examination of specimens/body samples, Histological Examination of Heart, D.NA etc.*
- d) *Also, qualification of Cannabis (High Risk or Low Risk) was not performed by the PSA due to compromised nature of the specimen body samples of the deceased. It is submitted that the Respondents utterly failed to submit any evidence suggesting that the deceased was exposed to "excessive Cannabis".*
- e) *The deceased was very religious person and accordingly was not exposed to "alcohol tobacco" or "excessive cannabis hence the allegations on the deceased are absolutely false.*
- f) *In the utter absence of the correct name, father name and CNIC number of deceased. it was impossible for The Punjab Forensic Science Agency to conduct 'DNA Tests' to ascertain that the "body samples" sent by the Respondents, truly pertains to the deceased's body.*

V. HEARING DATED 04.06.2022

6. The Disciplinary Committee heard the instant Complaint earlier on 04.06.2022 and after hearing the parties, directed as under:

- a. *The Complainant is directed to provide certified copies of the entire set of proceedings specifically, the original petitions, revisions/ appeals of further proceedings and all orders thereon, as issued by the learned courts. Certified copies of the aforementioned record shall be submitted by the Complainant to the Disciplinary Committee within 14 days.*
- b. *After consideration of the record, once received, the Committee shall determine whether the matter is to be proceeded further or not including hearing, if required, on the issue of maintainability.*

VI. HEARING DATED 26.10.2022

7. The Disciplinary Committee conducted another hearing on 26.10.2022. On the said date the counsel for the complainant was present in person. Respondent No. 3, Dr. Anyat Ullah Magsi and Respondent No.4 Dr. Aman Ullah Bhutto appeared through zoom. Whereas Respondent No. 1 Dr. Irshad Hussain Kazmi and Respondent No. 2 Dr. Shams Uddin Khoso remained absent.
8. The counsel for the Complainant submitted that they had applied for exhumation and autopsy of deceased husband of the Complainant which was allowed by the Magistrate. First report issued by the respondents stated that no cause of death could be ascertained however in final report the respondents have declared that the deceased was alcoholic. The counsel further submitted that no evidence was available in support of findings of respondents. The histological examination was never performed and how could it be concluded without any supporting forensic report. The complainant also pointed out that respondent no 1 has never represented before the committee even in the previous hearing. No histological samples of brain and heart was performed. He further pointed out that no DNA test was performed for identification of deceased and his name was incorrectly mentioned on the report. He further submitted that neck x rays and pictures taken during examination were never placed on record.

9. Dr. Inayat Ullah Magsi raised objection regarding the maintainability of the case. He highlighted that the complainant side challenged the post mortem report before the Honorable District Judge, Jaccobabad but their appeal has been rejected. Further the report issued by the respondents have been upheld by the Honorable Sindh High Court mentioning that since senior professionals have given the reports therefore the Court shall not intervene.

VII. EXPERT OPINION

10. An expert of forensic medicines was appointed to assist the Disciplinary Committee in this matter. The Expert opined as under:

“I, with completed Committee have heard the complainant and then respondents. After going through provided documents we have following questions which respondents were unable to answer:-

- 1. Howe exhumation after months’ dates were not confirmed by the respondents___Declared presence of Alcohol and Canbis Indica. Whether jaw of the deceased was examined for Canabis stain?*
- 2. Forencis Science Lab- reported Viscera were autolysed- how substances like Canabis Indica can be found. All respondents were confused on cross examination unable to explain their point of view.*

Conclusion:

In this case cause of death Alcohol and C-Indica cannot be possible and exhumation after 3 months (___?) cause of death is very difficult to declare with Autolysis of Viscera.”

11. On 10.11.2022, Dr. Irshad Hussain Kazmi (Respondent No.1) submitted an application stating that he has not received the notice of hearing in time. He reiterated his previous version taken in his reply to show cause notice. Furthermore, he requested that if the Disciplinary Committee intends to proceed with the complaint despite detail reply of respondents it should call all the Respondents through fresh notices.
12. In view of the fact that the hearing notice dated 24.10.2022 was not received by Respondent Dr. Irshad Hussain Kazmi in time. The matter was again fixed for hearing before the Disciplinary Committee on 21.11.2022 to provide opportunity of hearing to the said Respondent in the interest



of justice. Notices dated 16.11.2022 were issued to the Complainant as well as the Respondent on fresh address provided by him.

VIII. HEARING DATED 21.11.2022

13. The Counsel for the complainant appeared before the Disciplinary Committee through zoom however the Respondent Dr. Irshad Husain Kazmi remained absent. At about 02:15 pm on 21.11.2022 a letter was received from Respondent Dr. Irshad Hussain Kazmi through email wherein he stated that


- a) *The undersigned has received your notice dated 16 November 2022 for the hearing of the above subject matter on 21/11/2022 at 9:30 am at Pearl Continental Hotel Lahore.*
- b) *It is very surprising that all the members of Special Medical Board belong to Sindh and officially work there in spite of that matter has been fixed at Lahore though the PMC has offices in all provincial capitals including Karachi and in all fairness the matter should have been fixed at Karachi instead of private hotel rooms or lobbies. Calling the members of board at Islamabad or Lahore is totally unwarranted.*
- c) *He reiterated his stance taken in his earlier written reply to the Show Cause Notice. He requested that the proceeding may be filed as matter has already been decided by the Honorable High Court and present application/proceeding are nothing but amount to flogging the dead horse. Despite the orders of the Honorable High Court the Disciplinary Committee wants to continue these proceeding it may be fixed at Karachi in the office of PMC with at least a week prior notice to all the members of medical board. It is further informed that the undersigned will not be able to attend the hearing on 21/11/2021 at Pearl Continental Hotel Lahore for the reason mentioned in this letter.”*

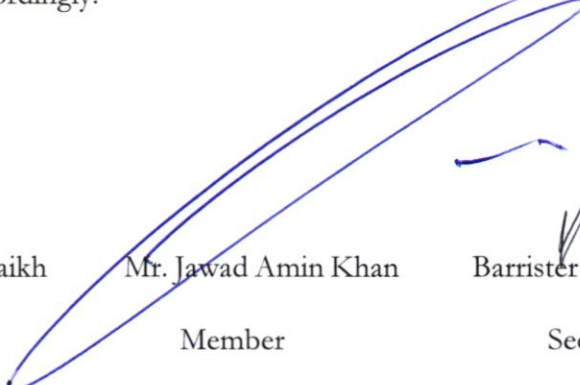
IX. FINDINGS AND CONCLUSION


14. The Disciplinary Committee observes that the Respondent No. 1 through a written application raised the objection that he did not receive notice of hearing for the Hearing dated 26.10.2022. Therefore, in the interest of justice the Respondent No.1 was provided with another opportunity

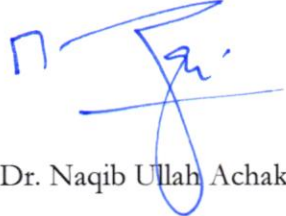
of hearing and was directed to appear before the Committee on 21.11.2022, however he miserably failed to tender appearance despite receipt of notice dated 16.11.2022.

15. The Committee has already heard the Respondent No. 3 and 4 on 26.10.2022, who could not defend their stance. Similarly, the Respondent No. 1, who was granted opportunity to explain his position did not appear before the Committee. The Respondent No. 2 remained absent during the proceedings and no communication has been received from him except his initial response to Show Cause Notice.
16. After thorough perusal of the record, submission of parties and considering the expert opinion the Disciplinary Committee decides that Licenses to Practice of Respondent No. 1 Dr. Irshad Hussain Kazmi, Respondent No. 2 Dr. Shamsuddin Khoso, Respondent No.3 Dr. Inayat Ullah Magsi (26648-S) and Respondent No.4 Dr. Aman Ullah Bhutto (22320-S) be suspended for a period of five (5) years and fine of Rupees Five hundred thousand (Rs.500,000/-) is imposed upon each respondent separately. The Respondents are directed to pay the amount of fine in the designated bank account of the Commission within 14 days from the issuance of this decision and forward a copy of the paid instrument to the office of the Secretary to the Disciplinary Committee. Disposed of accordingly.


Prof. Dr. Noshad Ahmad Shaikh
Member


Mr. Jawad Amin Khan
Member


Barrister Ch. Sultan Mansoor
Secretary


Prof. Dr. Naqib Ullah Achakzai
Chairman

21/11 December, 2022