

JUDGMENT SHEET
IN THE HIGH COURT OF BALOCHISTAN QUETTA.

Constitution Petition No.2040/2022

(CC-100107505294)

Moeen ud Din & another

v.

Pakistan Medical Commission through its
Chairman & another.

Date of hearing: 23.12.2022 Announced on 04.01.2023

Petitioners by: M/s Manzoor Ahmed Rehmani & Sheikh Muhammad Akram and Munir Akhtar Khan Advocates.

Respondent

No.1 by: Syed Abuzar Haider, Advocate assisted by Manzoor Ahmed Coordinator Pakistan Medical Commission ('PMC') Quetta.

Respondent

No.2 by: Mr. Sultan Khalid Advocate

ORDER

Naeem Akhtar Afghan, CJ. - This order disposes of Constitution Petition No.2040 of 2022.

2. The petitioners had taken Medical and Dental College Admission Test ('MDCAT') Exam 2022 in which the petitioner No.1 has scored 148 out of 200 marks while petitioner No.2 has scored 152 out of 200 marks. Despite qualifying MDCAT examination 2022, both the petitioners are aggrieved with the contention that they have been assigned lesser marks and they have not been assigned marks for 13 questions which they had answered correctly but the 04 multiple choice answers to those questions were wrongly mentioned in the answers keys. It has been contended as follows by the petitioners in para-4 & 5 of the instant Constitution Petition:

4. *That, both the petitioners have done their papers to their 100% satisfaction but they were surprised to go*

through the answer key issued by respondent No.1 that, in the answer key several answers were wrongly marked in the answer key.

5. *That, the petitioners marked the correct answers as per relevant books as well as Google but the same were differently marked in the answer key. As such the petitioners could not be granted due marks because of negligence on the part of respondents examination department, who introduced wrong answer key deliberately and intentionally just to defraud the candidates, which has caused serious prejudice to the fundamental rights of petitioners. Hence instant petition on following inter alia other grounds”.*

4. The petitioners have prayed as follows in the instant Constitution Petition:

“Accordingly, respectfully prayed the respondent No.1 may be directed to rectify the answer key in the light of correct answer given in the test books as well as Google and thereafter to re-assess/recalculate the marks of each and every candidate including petitioners and thereafter to prepare fresh merit list.

Further any other relief which this Hon’ble Court deems fit and proper may also be given in the favour of petitioners, in the interest of justice”.

5. Learned counsel for respondent No.1/Pakistan Medical Commission (‘PMC’) and learned counsel for respondent No.2/Vice Chancellor, Bolan University of Medical & Health Sciences (‘BUMHS’) have contested the petition on the basis of available record without filing parawise comments with the contention that the question papers for MDCAT exam 2022 were prepared by BUMHS and National University of Sciences & Technology (‘NUST’) representatives from authentic question bank of PMC verified by Inter

Board Committee of Chairmen ('IBCC') and in the answer keys, out of 04 multiple choice answers to each question, 01 answer was the correct answer.

It was strongly contested and denied by learned counsel for respondent Nos.1 & 2 that the petitioners have not been correctly assigned marks for 13 questions. It was further contended by learned counsel for respondent Nos.1 & 2 that all the candidates of MDCAT were afforded opportunity by PMC for getting their papers rechecked through Exam Conducting Universities during the period from 23.11.2022 to 27.11.2022 but the petitioners never approached BUMHS with any grievance of whatsoever nature during that period.

6. After hearing learned counsel for petitioners assisted by the petitioners, learned counsel for respondent Nos.1 and 2, we have perused the available record. The MDCAT Exam 2022 in the Province of Balochistan was conducted by BUMHS in pursuance of an agreement executed with PMC in October 2022.

7. Record reveals that for achieving secrecy and transparency for preparation of question papers and answer keys, BUMHS had executed Memorandum of Understanding ('MoU') with NUST. It further reveals that representatives of NUST and Focal Person of BUMHS were in interaction with PMC for preparing 4x randomized sequences of question papers alongwith separate answer keys having different colored title pages for identification. All the questions for MDCAT Exam 2022 with multiple choice answers were selected from question bank of PMC verified by Higher Education Commission ('HEC') and IBCC.

8. We have also gone through white question paper and answer key of petitioner No.1 and pink question paper and answer key of petitioner No.2 (provided by learned counsel for respondent No.2) and have also gone through the relevant topics of different text books (provided by the petitioners).

After perusal of all the above, it is concluded that the contention raised by the petitioners in para-4 & 5 of the instant Constitution Petition is not supported/substantiated by the available record.

9. Despite affording opportunity by PMC for approaching the concerned University for MDCAT 2022 rechecking during the period from 23.11.2022 to 27.11.2022, the petitioners did not approach BUMHS with any grievance of whatsoever nature and they have filed the instant Constitution Petition on 12.12.2022 i.e. when the process for admission in MBBS/BDS Course Session 2022-23 has commenced.

10. In view of above facts and circumstances, the petitioners are held not entitled for the relief claimed for in the instant Constitution Petition.

For the above reasons, the Constitution Petition is dismissed.

Announced in open Court
On 4th January 2023

CHIEF JUSTICE

JUDGE