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IN THE LAHORE HIGH COURT BAHAWALPUR BENCH  
BAHAWALPUR

WP.NO. 2312 -2021/BWP

PRESENT  
MR. JUSTICE

Muhammad Sajid Mehanood Settler

*Sumama Noor Mazhar D/o Mazhar Mushtaq Ch R/o House No.8-E  
Satellite Town, Bahawalpur.*

..... Petitioners

*Versus*

1. *The Pakistan Medical Commission (Erstwhile Pakistan Medical & Dental Council) through its President Mauve Area G-10 Islamabad.*
2. *The University of Health Sciences through Its Vice Chancellor / Chairman Admission Board, Khayaban e Jamia Punjab Lahore.*
3. *Shahida Islam Medical & Dental College Multan Road, Lodhran through its Chief Executive Officer.*
4. *The Principal Shahida Islam Medical & Dental College Multan Road, Lodhran*

..... Respondents

WRIT PETITION UNDER ARTICLE 199 OF  
THE CONSTITUTION OF ISLAMIC  
REPUBLIC OF PAKISTAN 1973.

Respectfully sheweth

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Form No: HCJD/C-121  
**ORDER SHEET**  
**IN THE LAHORE HIGH COURT, BAHAWALPUR BENCH,**  
**BAHAWALPUR**  
**JUDICIAL DEPARTMENT**

W.P. No.2312 of 2021/BWP

Sumama Noor Mazhar

Versus

The Pakistan Medical Commission (Erstwhile Pakistan Medical & Dental Council) through its President, Islamabad & others

S. No. of order/ Proceeding	Date of order/ Proceeding	Order with signature of Judge, and that of Parties or counsel, where necessary
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01.04.2021. Mr. Nadeem Iqbal Ch., Advocate for petitioners in this as well as connected petition i.e. **W.P. No.2373 of 2021/BWP**.

Mr. Abdul Salam Alvi, Advocate / Legal Advisor for respondent-PMC.

This consolidated order shall dispose of instant writ petition along with connected petition i.e. **W.P. No.2373 of 2021/BWP** as common questions of law and facts are involved in these cases.

2. Through instant petition, petitioner has assailed public notice / clarification dated 16.02.2021 as well as letter dated 25.02.2021, issued by respondent No.1 / Pakistan Medical Commission ("**respondent-PMC**"), whereby permission to interview & admit the applicants of respondent-college against the vacant seats for BDS Program, was refused. Petitioner has also challenged the vires of order dated 10.03.2021, passed by Shahida Islam Medical & Dental College, Lodhran / respondent-college, whereby petitioner's representation for allowing her admission in BDS Program was rejected.

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3. Learned counsel for petitioner submits that respondent-PMC has misconstrued the Regulation No.19-D of the Admission Regulations (Amended), 2020-2021, because it does not specify the category of MBBS or BDS rather it pertains to all unsuccessful applicants who could not get admission in any college to apply against vacant seats in other colleges irrespective of the initial option mentioned in their applications, hence, impugned orders are unsustainable in the eye of law. In support, he has relied upon Peshawar Electric Supply Company Ltd. v. Wafaqi Mohtasib (Ombudsman) Islamabad and others (PLD 2016 Supreme Court 940) and Zahra Zando v. King Edward Medical College, Lahore through Principal and 2 others (2005 YLR 1703).

4. On the contrary, learned Legal Advisor for respondent-PMC defends the impugned order as well as public notice and submits that students who could not get admission in the colleges of their choice may, within seven days from last date of admission in private colleges, apply to seek admission on merit in the same program for which they had applied initially. Further submits that a student who never applied for BDS program in any college, cannot seek admission to BDS program. Contends that a student who has not been admitted till expiry of said seven days, shall not be registered with respondent-PMC as a student for current academic session. In support, he has referred to Pakistan Medical and Dental Council v. Dr. Raza Muhammad Khan (1992 SCMR 1621), Amna Sharif and another v. POF Board through Director Industrial and Commercial Relations (DICR) and others (2015 MLD 229), Mst.

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Momna Mehmood v. Vice-Chancellor University of Health Sciences, Lahore and others (2015 MLD 1784), M/s. Pharmawise Laboratories (Pvt.) Ltd., Lahore through Chief Executive Officer v. Government of the Province of Punjab through Secretary, Health C.S., Lahore and 2 others (PLJ 2016 Lahore 442), Federation of Pakistan v. Asad Javed and others (PLD 2016 Islamabad 53) and Karamat Hussain and another v. Election Commission of Pakistan through Provincial Election Commissioner (Punjab) and 7 others (PLD 2016 Lahore 491).

5. Arguments heard. Available record perused.

6. Admittedly, petitioner applied for admission in different colleges only for MBBS program, however, she willfully did not apply for BDS in a single college. Petitioner could not qualify for admission in MBBS program in public as well as private colleges, whereafter she tried to get admission in BDS program in Shahida Islam Medical & Dental College, Lodhran without initially applying for the same. Even otherwise, admission process all over the country has been closed.

7. Perusal of record shows that respondent-PMC issued public notice dated 16.02.2021 categorically stating therein that the admissions in Private Medical & Dental Colleges shall be subject to the same program for which the student had applied for initially. The relevant part of aforesaid public notice dated 16.02.2021 is as under:-

".....

**Admissions – Private Medical & Dental Colleges**

The date of 15<sup>th</sup> February 2021 having passed for admissions for Private Colleges, all colleges with vacant seats have the option over the next 7 days (till

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22<sup>nd</sup> February 2021) to admit any student who may have applied to any other college in the same program (MBBS or BDS) and did not obtain admission subject to admissions being strictly on merit.

Contact information of applicants to other colleges has been provided on a secure online resource to the colleges and can be availed by each college.

Student who had applied and did not obtain admission in the colleges of their choice, may during this period of 7 days contact any other college to which they had not applied to seek admission if they fall within the merit. The admission shall be subject to the same program for which the student had applied for initially. Therefore, a student who never applied for BDS program to any college cannot during this period seek admission to BDS program.

Any student who has not been admitted by 22<sup>nd</sup> February 2021 shall not be registered with PMC as a student for the current academic session. There shall be no extension in this date."

8. Respondent-college, vide letter dated 16.02.2021, sought permission from Pakistan Medical Commission to interview and admit the candidates who could not get admission in MBBS program and were willing to join BDS program having higher merit. In response, respondent-PMC refused the abovesaid request vide impugned letter dated 25.02.2021, in the following manner:-

"Reference to your letter No.SIMC/DA/PMC/1259/21 dated 16.02.2021 on the subject cited above. This is to inform you that the admission shall be considered to the same program i.e. MBBS & BDS for which the student had applied on PMC admission portal initially. Therefore, a student who never applied for BDS program to any college cannot seek admission in BDS program."

9. It is transpired from record that petitioner filed **W.P. No.1854 of 2021/BWP** seeking direction from this Court for respondent-college to consider her for admission as per Admission Regulations (Amended),

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2020-2021, which was disposed of vide order dated 03.03.2021 with the following direction:-

"Learned counsel for the petitioner states that petitioner would be satisfied if matter is referred to respondent No.3 to hear and decide the grievance of the petitioner.

2. In view of the above, office is directed to transmit a certified copy of this petition along with its annexures to respondent No.3 (Principal, Shahida Islam Medical & Dental College, Multan Road, Lodhran) at the expense of the petitioner, who shall treat the same as representation filed on behalf of the petitioner relating to the matter agitated therein and decide the same either himself or through any other authorized person strictly in accordance with law, after providing an opportunity of hearing to the petitioner and the others concerned, expeditiously, preferably within a period of 10-days from the date of receipt of certified copy of this order. In order to regulate further proceedings, the petitioner shall appear in the office of the said respondent on 08.03.2021 @ 11:00 a.m. Learned Assistant Attorney General for Pakistan shall convey this order to the concerned authority for information. With this direction, the instant constitutional petition stands disposed of."

10. Pursuant to the above direction, respondent-college disposed of petitioner's representation vide order dated 10.03.2021, which reads as under:-

"In the light of all the above-mentioned facts and reasons the following are the submissions on behalf of Shahida Islam Dental College Lodhran.

- a. The Shahida Islam Dental College has the seat vacant in BDS program.
- b. The student Sumama Noor Mazhar is the applicant on PMC admission portal only for MBBS program.
- c. The student Sumama Noor Mazhar falls within the merit of Shahida Islam Dental College Lodhran.
- d. If the honorable **HIGH COURT** allows, then Shahida Islam Dental College Lodhran has no objection on her admission in BDS program.

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11. So far as petitioner's argument that as per Regulation No.19-D of the Admission Regulations (Amended), 2020-2021, petitioner is entitled to get admission to BDS Program in any college against a vacant seat irrespective of initial option mentioned in her application, is concerned, it suffices to say that Regulation 19-D ibid only permits the students who could not qualify merit in the colleges for their choice in the program in which they applied rather to change the status of their application filed online. For ready reference, aforesaid Regulation 19-D is reproduced hereunder:-

"19D. If any seats remain vacant after 15th February 2021, each college shall have 7 days to fill such seats from students who may have applied to other colleges but did not obtain admission in such colleges, subject to them being interviewed by the college and admission being on merit."

From bare perusal of the above said regulation, it is crystal clear that it gives the option of getting admission to those students only, who had applied in other colleges but could not get admission in the college of their choice in the program, thus, are allowed to be admitted in any other college on merit in the program in which they had applied. It does not entitle the students to get admission in the program other than they applied for.

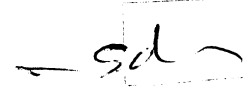
12. Needless to say that by creating suchlike exception, as sought by petitioner, thereby overriding settled policy which was within the knowledge of petitioner, the entire process of admission would be disrupted and merit list which had since been finalized would be thrown into disarray for which there is no lawful justification. Reliance is placed upon Gull-e-Raana v. Chairman Admission Board, UHS and 2 others

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(PLD 2015 Lahore 370). Even otherwise, it is well-settled that High Court while exercising jurisdiction under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973 does not interfere in transparent policy decisions of executive, aimed at achieving best possible result in managing its affairs and Court has very limited jurisdiction for examining such criteria. Reference is made to Saghir Ahmad v. Federation of Pakistan through Secretary, Ministry of Water and Power, Pak Secretariat, Islamabad and others (PLJ 2016 Lahore 999).


13. Learned counsel for petitioner has failed to point out any illegality or legal infirmity in the impugned orders. The case law relied upon by learned counsel for petitioner is quite distinguishable, thus, not applicable to the present scenario.

14. Resultantly, instant petition, along with connected petition, being devoid of any merit, is hereby dismissed with no order as to costs.

  
(Muhammad Sajid Mehmood Sethi)  
Judge

\*A.J.S.\*

  
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