

C

IN THE ISLAMABAD HIGH COURT, ISLAMABAD

JUDICIAL DEPARTMENT

21638 / Writ
31-Aug-2021

From,

The Deputy Registrar(Judicial),
Islamabad High Court,
Islamabad.

To,

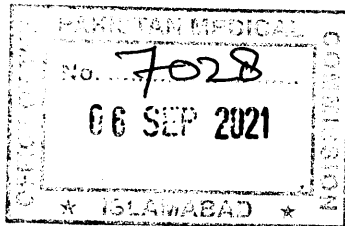
✓ 1_Pakistan Medical Commission
Maue Area, G-10/4, Islamabad, through its Secretary

3_Pakistan
through Secretary, M/o National Health Services, Regulations and Coordination, Kohsar Block, Pak Secretariat, Constitution
Avenue, Islamabad.

Subject: **W.P. 1637/2021 Colleges Admission (SB)**
Shahzad Hussain Khan-VS-PMC etc

Dear Sir,

I am directed to forward for information and immediate compliance a copy of this Court's order dated 13-08-2021 passed by Hon'ble Mr. Justice Aamer Farooq in the above noted case.



Yours Faithfully,


Assistant Registrar (Writ)

For Deputy Registrar (Judicial)

Decided Matter





IN THE ISLAMABAD HIGH COURT

In re

Writ Petition No. 1637/2021

1. **Shahzad Hussain Khan** S/O Mohammad Hussain Khan
2. **Areej Amin** D/O Rashid Amin
3. **Muhammad Rafay Majeed** S/O Abdul Majeed
4. **Hamdia Azeem** D/O Azeem Gul
5. **Muhammad Ali Raza** S/O Liaqat Ali
6. **Saba Yousaf** D/O Muhammad Yousaf
7. **Samra Arif** D/O Muhammad Arif Qureshi
8. **Muhammad Ahsan Akhtar** D/O Akhtar Hussain
9. **Muhammad Huzaifa Mahmood** S/O Mahmood Ahmad
10. **Abdullah Aslam Khan** S/O Raja Ali Ejaz Khan
11. **Hajra Qadir** D/O Qadir Bakhsh
12. **Ahmad Shams Tabraiz** S/O Shams Tabraiz
13. **Zara Inam** D/O Mirza Inam Ul Haq
14. **Zain Akhtar Barra** S/O Muhammad Akhtar Barra
15. **Hamza Khan** S/O Muhammad Naeem Khan
16. **Alia Khalid** D/O Muhammad Khalid
17. **Ghania Adnan** D/O Adnan Sher
18. **Shaheerah Khan** D/O Naeem Ahmad Tariq
19. **Muhammad Umar Majeed** S/O Abdul Majeed



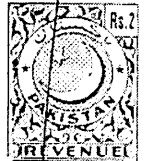
7257
030524

TRUE COPY

20. **Abdul Rauf** S/O Nadeem Rahman21. **Khush Bakht** D/O Dilraj Ahmad22. **Maryam Timsal** D/O Mian Wali Ullah23. **Said Afzal** S/O Aslam

Examined
Copy Supply Section
Islamabad High Court
Islamabad

- 24. **Mahnoor Babar** D/O Sardar Muhammad Babar Khan
- 25. **Uzair Ahmad** S/O Javed Iqbal
- 26. **Sheharyar Syed Mian** S/O Wasi Syed Mian
- 27. **Maria Zahid** D/O Mohammad Zahid Chaodhary
- 28. **Fatima Naveed** D/O Sardar Naveed Ashraf Khan
- 29. **Kainat Saeed** D/O Saeed Akhtar Khan
- 30. **Mulyika Asim** D/O Malik Asim Pervez
- 31. **Hamna Mansoor** D/O Mansoor Ul Haq
- 32. **Shahrukh Khan** S/O Naeem Ahmad Tariq
- 33. **Fatima Javed** D/O Muhammad Javed Sharif
- 34. **Aamina Khan** D/O Waqar Ahmed Khan
- 35. **Ayesha Ayub** D/O Muhammad Ayub Khan
- 36. **Malaika Shams Tabraiz** D/O Shams Tabraiz
- 37. **Danyal Khan** S/O Rauf Ahmad Khan
- 38. **Ahmad Naseem** S/O Muhammad Naseem
- 39. **Hamza Nawaz** S/O Muhammad Nawaz Naz
- 40. **Amina Azam** D/O Dr Muhammad Azam
- 41. **Mina Tariq** D/O Muhammad Tariq
- 42. **Sarosh Azhar Sane** S/O Azhar Naeem
- 43. **Ariesha Gillani** D/O Laeeq Ijaz Gillani



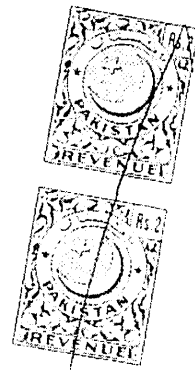
TRUE COPY

4

- 44. **Nazish Bibi** D/O Sajad Ahmed Shah
- 45. **Iqra Kaleem** D/O Malik Muhammad Kaleem Akbar
- 46. **Freeba Malik** D/O Sajid Nazir Malik
- 47. **Shahbaz Khan** S/O Muhammmad Arshad Iqbal
- 48. **Maha Anjum** D/O Mohammad Hussain Khan

Examiner
 Copy Supply Section
 Islamabad High Court
 Islamabad

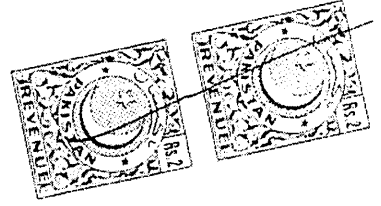
49. Iqra Azhar D/O Azhar Mehmood
50. Syeda Rabia Abbas D/O Ghulam Abbas
51. Najam-Ul-Haq S/O Muhammad Nisar Ul Haq
52. Abeer Tahir Mehmood Anwar Khan D/O Tahir Mahmood Anwar Khan
53. Esha Mukhtar D/O Mukhtar Rasool
54. Muhammad Yahya Iqbal S/O Zafar Javaid Iqbal
55. Sher Muhammad Khan S/O Sher Afgan Khanzada
56. Eisha Aziz D/O Abdul Aziz
57. Najaf Ali D/O Sabir Hussain
58. Gohar Ali S/O Shoukat Ali
59. Saliha Haroon D/O Haroon Hafeez Hashmi
60. Ch Saqib Hassan S/O Shoukat Ali
61. Ammar Khan S/O Muhammad Ghani
62. Manahil Wajahat D/O Wajahat Latif
63. Zoha Fatima D/O Dr. Muhammad Sher Gul Khan
64. Tehmina Shamsi D/O Farrukh Ziad
65. Areej Fatima D/O Irfat Mehmood
66. Syeda Areeba Zahoor D/O Syed Zahoor Hussain Shan
67. Muhammad Fahad D/O Rarrukh Ihsan
68. Sawera Iftikhar D/O Shabnam Iftikhar
69. Muhammad Umar Razee S/O Azhar Naeem
70. Samar Bakhtiar D/O Dr Sheikh Bakhtiar Ahmad
71. Afshan Yousaf D/O Muhammad Yousaf
72. Manahil Aftab D/O Aftab Rashid
73. Maira Riaz D/O Chaudhary Riaz Ahmed
74. Wajha Tahir d/o Tahir Mehmood



TRUE COPY

16 SEP 2021
 Examiner Section
 Copy Section
 Islamabad High Court
 Islamabad

75. **Zahra Nayab** d/o Dr. Nizam ud Din Malik
 76. **Aaiza Rasheed** d/o Muhammad Shafquat
 77. **Haya Ali** d/o Muhammad Ali Shahzad
 78. **Manail Zafar** d/o Zafar Iqbal Khan
 79. **Mahnoor Hamid** d/o Abdul Hamid



All students of MBBS-First Year at Rawal Institute of Health Sciences, Plot No.6, PIES Complex, Park Road, Chak Shahzad, Islamabad.

... **Petitioners**

VERSUS

1. **Pakistan Medical Commission**, Mauve Area, G-10/4, Islamabad, through its Secretary.
2. **Rawal Institute of Health Sciences**, Plot No.6, PIES Complex, Park Road, Chak Shahzad, Islamabad.
3. **Pakistan through Secretary**, Ministry of National Health Services, Regulations and Coordination, Kohsar Block, Pak Secretariat, Constitution Avenue, Islamabad.

... **Respondents**

**WRIT PETITION UNDER ARTICLE 199 OF THE CONSTITUTION OF THE ISLAMIC
 REPUBLIC OF PAKISTAN**

Respectfully Sheweth:

1. That the petitioners are all students of MBBS-First Year in respondent No. 2 medical college, namely, Rawal Institute of Health Sciences, which is a medical institution duly recognized by respondent No. 1 i.e. the Pakistan Medical Commission ("PMC") under the Pakistan Medical Commission Act, 2020 (hereinafter "PMC Act 2020").

TRUE COPY

04 FEB 2021
 Examiner
 Copy No. 3. Section
 Islamabad High Court
 Islamabad

That the petitioners were duly admitted to the respondent No. 2 college pursuant to an admissions process conducted under the provisions of PMC Act 2020 read with the Admissions Regulations (Amended) 2020-2021 (hereinafter "PMC Admissions Regulations") made under section 8(2)(f) read with section 40(g) of the PMC Act 2020.

That the petitioners underwent a rigorous merit-based admissions process including passing the mandatory Medical and Dental Colleges Admission Test (MDCAT) conducted pursuant to section 18 of the PMC Act 2020 by securing minimum 60% marks therein alongwith securing minimum 65% marks in FSc or equivalent exam which together constituted the eligibility criteria for admission in a medical college as

JUDGMENT SHEET
IN THE ISLAMABAD HIGH COURT,
ISLAMABAD

CASE NO. : W.P. NO.1637-2021

Shahzad Hussain Khan etc.

Vs.

**Pakistan Medical Commission through its Secretary, Islamabad
etc.**

- Petitioners by** : Mr. Afnan Karim Kundi, Advocate & Barrister
Adeel Aftab, Advocate for petitioners (W.P.
No.1637 & 1638-2021)
Qazi Rafi-ud-Din Babar, Advocate, Mr. Adil Aziz
Qazi, Advocate and Mr. Jamil Fayyaz Rajput,
Advocate for petitioner (W.P. No.1045-2021)
Mr. Arif Khan, Advocate for petitioners (W.P.
No.1630-2021)
Mr. Qausain Faisal Mufti, Advocate and Mr.
Noman Amin Farooqi, Advocate for petitioners
(W.P. No.1893-2021)
- Respondents by** : Sardar Taimoor Aslam Khan, Advocate for PMC
with Ms. Nadia Nabi Member (Legal), PMC.
Barrister Khalique Zaman, Advocate for
respondent No.4 in W.P. No.1637-2021
Mr. Fawad Saleh, Advocate for respondent No.2
in W.P. Nos.1637 & 1638-2021)
Mr. Attique-ur-Rehman Siddiqui, Assistant
Attorney General with Majid Khan, A.D. (Legal),
Ministry of NHSR & C
- Date of decision** : 13.08.2021

AAMER FAROOQ J. This judgment shall dispose of instant
petition as well as petitions mentioned in the Schedule attached
herewith, as all the petitions assail advertisement dated 29.04.2021
appearing in Daily 'Dawn', whereby Pakistan Medical Commission has
offered applications for admission in the 1st Year of different Medical
Colleges mentioned in the advertisement on the basis that admissions
conducted by the said Colleges, were not transparent and the students
with marks less than threshold marks have been admitted. Prior to the

TRUE COPY

Examined
Copy Submitted
Islamabad High Court
Islamabad

W.P. Nos.1637-2021 etc.

advertisement, Pakistan Medical Commission also passed order, whereby admissions which lacked transparency and had lower Benchmark merit, were suspended.

2. Mr. Afnan Karim Kundi, Advocate, appearing for the petitioners in W.P. No.1637-2021, inter alia contended that petitioners have been condemned unheard; that on similar facts, Hon'ble Lahore High Court, vide its judgment dated 09.06.2021 passed in W.P. No.30346-2021, has set aside the advertisement. It was also contended that impugned order, to suspend the admission, was never communicated to the private medical colleges and even the students, who are already studying, were not intimated about the same.

3. Learned counsel for petitioners, appearing in other petitions, adopted the arguments by learned counsel for the petitioners.

4. Sardar Taimoor Aslam, Advocate, appearing for Pakistan Medical Commission, at the outset, objected to the maintainability of instant petitions. In this behalf, he submitted that under section 37 of Pakistan Medical Commission Act, 2020, Medical Tribunal Constituted under the Medical Tribunal Act, 2020, has the exclusive jurisdiction in the matter. It was further contended that as a matter of policy, a report is being filed

before the Medical Tribunal with respect to proceedings pending before it, arising out of same facts and circumstances, wherein stance is being

taken that the admissions, already conducted by private medical

Examiner

Copy Succession
Islamabad High Court
Islamabad

colleges, shall not be disturbed and they will be allowed to continue,

however, the applicants who have filed applications pursuant to the

advertisement, shall be adjusted in the next year. It was also contended

W.P. Nos.1637-2021 etc.

that against the judgment of Hon'ble Lahore High Court, a petition for Leave to Appeal has been filed (CPLA No.4132-2021), which has not been listed for hearing.

5. Ms. Nadia Nabi, Member (Legal), Pakistan Medical Commission, present in the Court, affirmed the stance taken by learned counsel for Pakistan Medical Commission.

6. Arguments advanced by learned counsel for the parties have been heard and the documents, placed on record, examined with their able assistance.

7. Since objection has been taken regarding maintainability of instant petitions, hence the said submission is taken up first, as the same is dispositive.

8. Under section 37 of Pakistan Medical Commission Act, 2020, if any person including an employee of Pakistan Medical Commission is aggrieved of any order or direction passed by Pakistan Medical Commission, he may file an appeal before the Medical Tribunal within thirty days of the date of receipt of the order. For the sake of convenience, section 37 is reproduced below:-

"37. Appeals to the Medical Tribunal.- (1) Any person including an employee of the Commission aggrieved by any order or direction of the Commission, including the Council, Authority or disciplinary committee, under any provision of this Act, or rules or regulations may prefer an appeal only before the Medical Tribunal within thirty days of the date of communication of the impugned order of direction.

(2) An appeal to the Medical Tribunal shall be in such form, contain such particulars and be accompanied by such fees as may be prescribed".

TRUE COPY

24 SEP 2021
Examiner
Copy Supply Section
Islamabad High Court
Islamabad

W.P. Nos.1637-2021 etc.

9. The Medical Tribunal was not functional at the time when instant petitions were filed but, since now, it is functional and its Chairman and Members have been appointed, hence the matter falls within its jurisdiction.

10. The petitioners are students of private medical colleges upon whom there are allegations that they procured admissions by means other than the merit and are aggrieved of decision by Pakistan Medical Commission and/or advertisement to induct fresh admissions in their place. The students can always file an appeal by approaching the Medical Tribunal, however, since a statement/submission has been made on behalf of Pakistan Medical Commission that petitioners shall not be disturbed or removed from the roll, hence no case for any grievance, as such, is made out.

11. For what has been stated above, instant petitions are not maintainable due to availability of remedy before Medical Tribunal, hence are accordingly dismissed.

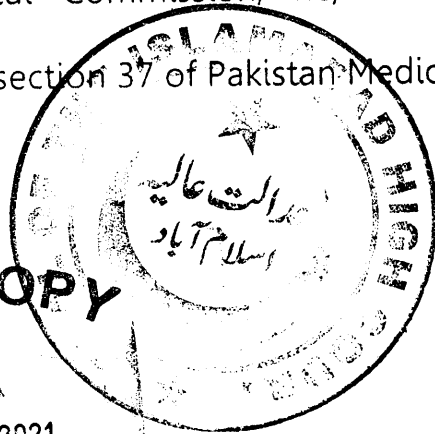
12. Needless to observe that if any of the petitioners has any grievance with respect to any order passed or decision taken by Pakistan Medical Commission, he/she can approach the Medical Tribunal under section 37 of Pakistan Medical Commission Act, 2020.

TRUE COPY

Zawar

01 SEP 2021

Examiner
Copy Supply Section
Islamabad High Court
Islamabad



-sd-
(AAMER FAROOQ)
JUDGE

Serial No.	CASE NO./YEAR	TITLE
1.	W.P. No.1630-2021	Sara Zia Khan etc. Vs. Federation of Pakistan etc.
2.	W.P. No.1638-2021	Hafiz Abdul Mateen Ahsan etc. Vs. Pakistan Medical Commission etc.
3.	W.P. No.1893-2021	Saad etc. Vs. Pakistan Medical Commission etc.

TRUE COPY

01 SEP 2021

Examiner
Estm Supply Section
Islamabad High Court
Islamabad