

**ORDER SHEET
IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD**

C.P No.D-1093 of 2017

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| DATE | ORDER WITH SIGNATURE OF JUDGE |
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1. For orders on office objection.
2. For orders on MA 4943/17
3. For katcha peshi.

03.05.2017.

Mr. Ghulamullah Chang, Advocate for petitioner.

Mr. Kamaluddin, advocate for respondents /University.

Mr. Allah Bachayo Soomro, Additional A.G

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The petitioner is a student of MBBS at Peoples University of Medical and Health Sciences for Women Shaheed Benazirabad where she got admitted in the year 2012-2013 under Self Finance Scheme and thereafter regularly attended her classes and passed 1st to 6th semester examinations without any break. However, she fell ill in the year 2016 and failed in practical examination of one paper namely Otorhinolaryngology (ENT) in 7th Semester examination notwithstanding that she cleared the rest of four theories and three practical courses taken in the 7th semester examination. Notwithstanding her failing in the said practical examination, she was allowed to sit in 8th Semester examination which she passed with 3.36 GPA whereafter she subsequent to making payment of applicable Semester fee, took classes for the 9th semester. The petitioner contends that University is not issuing form for taking 9th semester examination scheduled to be held from 04.05.2017 and that she is being compelled to clear ENT practical which she failed in the 7th semester before she could be allowed to sit in the 9th semester examination. It was next contended that the fact that she has failed in the ENT practical of 7th semester was not known to her and she was given verbal promises that she had been given grace marks making her pass the said practical examination.

Through the instant petition the petitioner seeks indulgence of this Court that the act of the University of not allowing her to sit in the 9th semester examination is illegal and that since she has already been granted grace marks by the respondent No.2, she does not need to take 7th semester ENT practical any more. Thus she should be allowed to sit in the 9th semester examination commencing from 04.05.2017.

Mr. Kamaluddin Counsel for the respondents No.2 to 4 files parawise comments and admitted the fact that the petitioner is student which has passed all examinations up to 6th semester, however pointed out as rightly admitted by the petitioner that she failed in ENT practical examination of 7th semester, but vehemently denied that there is any policy of granting grace marks to students under the governing PMDC Regulations. Therefore, until and unless the petitioner passes ENT practical examination of the Semester, she would not be allowed to sit in the 9th semester examination about to commence in the near future. The learned Counsel reproduced portion of the prospectus of the University which clearly lays down Rules with regard to examinations. It was submitted that the 5 years MBBS program is composed of 10 semesters and Paragraph (d) at Page-29 is applicable to the case of the petitioner. The said provisions are reproduced hereunder:-

“d) Seventh and Eighth Semester Examinations.

Seventh Semester students who after appearing in seventh semester (regular) examination, either declared pass or fail will be allowed promotion to Eight Semester.

Upon promotion in Eight Semester, students who have either passed or failed in Seventh Semester examination both will be allowed to appear in Eighth Semester Examination.

Pending result of Eight Semester examination, if the classes for Ninth Semester are commenced, students of eight semester (either passed or failed in seventh semester) will be allowed to attend the classes of Ninth Semester.

After announcement of Eighth Semester examination result, students of Seventh and Eighth Semesters will fall in the following groups.

- a) Passed Seventh and Eight Semesters.*
- b) Passed Eight Semester but failed in Seventh semester.*
- c) Passed Seventh semester but failed in Eight semester.*
- d) Failed in both the semesters.*

The students under category b, c and d will then be allowed re-sit examinations of seventh and eighth semesters simultaneously while they remain under study process of Ninth Semester.

After announcement of re-sit (repeat) examinations results, of both seventh and eight semesters, the students will be bifurcated into the following groups.

- 1) Passed Seventh and Eighth Semester examinations completely they will continue in Ninth Semester.*
- 2) Students who failed either in seventh semester or in eight semester or both examinations shall be reverted i.e. termed back to seventh semester or in eight semester or both with junior batch. ”*

Heard the Counsel and perused the record. While it is evident that the petitioner has successfully cleared first 6 semesters, however admittedly she failed ENT practical examination of 7th semester and as per the policy of the University, student who fails 7th semester examination is allowed to sit in the 8th semester examination while he / she given a chance to repeat the failed subject. In the instant case, repeat examination was held for the 7th semester which was not attempted by the petitioner who believed that she has been given grace marks therefore, she is not required to sit in the repeat examination of 7th Semester. It is interesting to note that no document has been provided which shows that the petitioner was provided the claimed grace marks notwithstanding that such grace marks could not at all had been provided under the PMDC Regulations which require medical student to be the best of the best. Rules also provide that until and unless a student passes three years (i.e semester 7th and 8th both) he / she while may be allowed to sit in the 9th semester but could not be allowed to take examination of 9th semester because the student had yet to pass 7th Semester's examination.

In the given circumstances, no case is made out by the petitioner to allow her to sit in the 9th semester examination which are about to commence in the near future. However, since the repeat examinations for 7th semester are also taking place in the near future, as a special case the petitioner is allowed to take examination of the failed ENT practical examination and any fee paid by the petitioner in respect of 9th

semester if the petitioner prefers may be adjusted towards the applicable fee for re-sitting in the failed 7th semester ENT practical.

The petition is disposed of in the above terms alongwith pending application.

JUDGE

JUDGE