

# IN THE HIGH COURT OF SINDH AT KARACHI

CP D 1247 of 2013

Present: **Mohammad Ali Mazhar** and **Agha Faisal, JJ.**

Iqra University  
vs.  
Competition Commission of Pakistan

For the Appellant : Dr. Shah Nawaz Memon, Advocate  
For the Respondent : Mr. Ijaz Ahmed Zahid, Advocate  
: Mr. Ishrat Zahid Alvi  
Assistant Attorney General  
Date of hearing : 13.02.2019  
Date of Announcement: 13.02.2019

## JUDGMENT

**Agha Faisal, J:** Through this petition, the petitioner has challenged a segment of the order of the Competition Commission of Pakistan (“**CCP**”) dated 01.03.2013 (“**Impugned Order**”), the constituent whereof is delineated herein below:

“Similarly, for the same reasons, in cases belonging to the second category i.e. where the Undertaking had ensured/achieved accreditation prior to graduation of the students and none of the student who have graduated so far are without an accredited program degree and are thus eligible for registration with PEC as qualified engineers, we are taking a lenient view even in respect of such Undertakings. However, we must clarify that we have no doubt that the advertisements given by these Undertakings were deceptive as the terms ‘accredited by PEC’ was expressly used while advertising and inviting admission for 2011 programs is factually incorrect. Therefore, the written commitments to rectify the behavior and disclosure requirements for future advertisements as stated in paragraph 61(1) read with paragraph 63 would equally be applicable to these Undertakings namely:

- (a) PAF-KIET;
- (b) Fast;
- (c) Usman Institute of Technology;
- (d) Sir Syed;
- (e) University of Central Punjab;

- (f) Iqra University;
- (g) Sarhad University;
- (h) Foundation University;
- (i) CECOS;
- (j) Balochistan University;
- (k) NFC;
- (l) UMT;
- (m) Bahria;
- (n) Case;
- (o) Hamdard.”

2. Mr. Shahnawaz Memon had argued that the Impugned Order was unmerited as the advertisement given by the petitioner could not have been deemed to be deceptive marketing. The petitioner sought a declaration from this Court that it is not carrying any commercial or economic activity within the meaning of Competition Act, 2010 (“**Act**”); a declaration that the CCP had no jurisdiction to proceed against the petitioner; and to set aside the pertinent constituents of the Impugned Order. Learned counsel referred to a statement dated 13.09.2018 on the basis whereof it was sought to be demonstrated that the petitioner is included in the list of accredited institutions by the Pakistan Engineering Council (“PEC”) and a copy of the First Schedule of the Pakistan Engineering Council Act, as it was in 2011, (“**PECA**”) was also annexed therewith. It was thus argued that the advertisement of the petitioner using the phrase “accredited by the Pakistan Engineering Council” could not have been deemed to be deceptive marketing and it was thus argued that the present petition be allowed as prayed.

3. Mr. Ijaz Ahmed Zahid, Advocate argued the case on behalf of the CCP and submitted that pursuant to PECA engineering qualifications are required to be accredited. It was submitted that the petitioner, alongwith numerous other institutions mentioned in the Impugned Order, was asked to refrain from representing itself otherwise than in

accordance with law, however, no penalty was imposed as the directions were intended to correct the otherwise imprudent course being pursued. Learned counsel presented the recent advertisement of the petitioner and demonstrated therefrom that the offending phrase had been removed by the petitioner in compliance with CCP's directives. It was argued that in any event the petitioner was required to adhere to the dispute resolution mechanism prescribed in the Act and that the present petition was misconceived and even otherwise not maintainable.

4. We have considered the arguments of the respective learned counsel and have appreciated the documentation arrayed before us. It is observed that no cogent rationale has been advanced on behalf of the petitioner to justify the institution of the present petition, in place of availing the remedy prescribed under the Act. Learned counsel for the petitioner has been unable to demonstrate any jurisdictional defect with regard to the Impugned Order and even otherwise it was always possible to raise such a question before the appellate forum prescribed in the Act.

5. Learned counsel for the petitioner had drawn our attention to the advertisement of Pakistan Engineering Council dated 18.06.2012 and relied upon the following constituent therein:

“Iqra University, Karachi (Main campus)

- B.E. Telecommunication (From Intake of Batch 2004 upto 2007).
- B.E. Electronic (Intake Year 2002 upto 2006), excluding Batch2003 which was not inducted by the University.”

6. It is noted that the said advertisement clearly stipulates that the list being published is in respect of engineering programs accredited

with the PEC. We are also cognizant of section 10 of PECA, which is also reproduced by the petitioner in the memorandum of petition, wherein it is stated as follows:

“10. Accreditation of engineering qualifications granted by institutions in Pakistan:

(1) The engineering qualifications granted by engineering institutions in Pakistan which are included in the First Schedule shall be the accredited engineering qualifications for the purposes of this Act.

(2) Any engineering institution in Pakistan which grants an engineering qualification not included in the First Schedule may apply to the Council to have such qualification accredited and the council may, by notification in the official Gazette, amend the First Schedule so as to include such qualification herein.”

7. A bare perusal of the relevant provision of PECA manifests that engineering qualifications are sought to be accredited and any institution which grants an engineering qualification needs to have had such qualification accredited and upon such occurrence the same is included in the First Schedule to PECA. The learned counsel for the petitioner relied upon the very provision of the law and a bare perusal of the schedule, relied upon by the petitioner itself, demonstrated that the accreditation was in respect to specific batches of specified qualifications, hence, demonstrated that there was no omnibus accreditation contemplated under the circumstances.

8. It is also apparent from the Impugned Order, relevant content appearing at page 115 of the Court file, that prior to the rendering thereof the petitioner had in fact applied for re-accreditation and had also undertaken to abide by any decision taken by the CCP. The resultant decision was the Impugned Order and it is apparent from the

new advertisement of the petitioner, arrayed before us, that the petitioner has implemented the directives of the CCP.

9. In view of the foregoing we are of the considered opinion that the present petition is misconceived, and even otherwise not maintainable, hence the same, along with pending application/s, is hereby dismissed with no orders as to costs.

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