

IN THE HIGH COURT OF SINDH AT KARACHI

C P D - 7714 of 2018

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

Miss. Lamia Batool Rizvi
vs.
Province of Sindh and Others

For the Petitioner: Mr. Malik Naeem Iqbal, Advocate
Mr. Faizan H. Memon, Advocate
Saleem Khaskheli, Advocate
Mohammad Nasir, Advocate

For the Respondents: Mr. Miran Muhammad Shah
Assistant Advocate General
Mr. Shamsheer A Khan
State Counsel
Ms. Rukhsana Mehnaz Durrani
State Counsel

Professor Irfan Ashraf
Director Admissions
Jinnah Sindh Medical University

Professor Ata-ur-Rahman, Advisor
Jinnah Sindh Medical University

Date of Hearing: 14.11.2018

Date of Announcement: 14.11.2018

JUDGMENT

Agha Faisal, J: The present petition was filed assailing the treatment of equivalence, awarded to the petitioner for the General Certificate of Education "O" Level ("**O-Level**") and "A" Level ("**A-Level**") Examinations with respect to equivalent Higher Secondary School Certificates of Pakistan, while computing her aggregate score for consideration for admission to medical schools, on the grounds that the tabulation undertaken was in dissonance with the law.

2. Mr. Naeem Iqbal, learned counsel for the petitioner, submitted that the petitioner is a candidate for admission in one of the medical universities in the Province of Sindh and that she has already completed her O-Level and A-Level examination. It was demonstrated from the record that the Inter Board Committee of Chairman ("**IBCC**") has issued an Equivalence Certificate No. 022272 dated 11.09.2018 ("**IBCC Certificate**") wherein the equivalent aggregate percentile of the petitioner's O-Level and A-Level score has been stated. Learned counsel argued that respondent No.3, Jinnah Sindh Medical University ("**JSMU**") was required to take into consideration forty percent of the aggregate score provided vide the IBCC Certificate, however, the calculation undertaken by the **JSMU** in such regard is discrepant. Per learned counsel, the alleged miscalculation of the petitioner's score constitutes a failure by the respondents to follow the **IBCC** formula, hence, the said tabulation illegal and prejudicial to the petitioner. The learned counsel submitted that the present petition was filed to, inter alia, require that the 40 percent weightage of the petitioner's score, as represented by the IBCC Certificate, be factored to tabulate the aggregate score of the petitioner. Learned counsel placed reliance upon Pakistan Medical & Dental Council's ("**PMDC**") MBBS and BIS (Admission, House job and Internship) Regulations 2018 ("**Regulations**") and the judgment in the case of *Miss Mobeen Shaikh & Others vs. Federation of Pakistan & Others* reported as 1998 SCMR 2701 ("**Mobeen Shaikh**") in order to augment his submissions.

3. **JSMU** filed its comments and sought to demonstrate that the position taken by the petitioner was erroneous and misconceived. The Director Admissions JSMU argued that if the petitioner's argument was

sustained the same would amount to double calculation of the petitioner's O-Level score and the proliferation of such a methodology would permanently disadvantage students having completed their matriculation and intermediate, as compared to those who have cleared their O-Level and A-Level Examinations. It was submitted that as per IBCC's grade table, ten percent weightage is given to the result of Matriculation/O-Levels, forty percent weightage is given to the result of Intermediate/A-Level and that the said system was in practice for over twelve years. It was further demonstrated that the remaining 50 percent weightage is given to the score of NTS. It was thus argued that the system employed is fair, just and transparent. Therefore, it was prayed that the present petition be dismissed forthwith as the finalization of the merit list remains jeopardized by the pendency of the present proceedings.

4. The Court put a direct question to the learned counsel for the petitioner and asked whether it was correct that the petitioner sought the tabulation of her O-Level score twice. The learned counsel replied to the said question in the affirmative.

5. We have considered arguments of the petitioner's counsel and of the Director Admissions JSMU, in addition to having perused the record arrayed before us. The question for the determination of this Court is whether in the computation of equivalence of General Certificate of Education O-Level and A-Level Examinations, with respect to equivalent Higher Secondary School Certificates of Pakistan, the percentage awarded to candidates in the relevant O-Level Examination is permissible to be counted twice.

6. We have reviewed the prospectus for MBBS and BDS Session 2018-19 for Medical Universities and Colleges of Sindh Province ("Prospectus") and the formula for working out over all merit has been prescribed therein in the following manner:

"FORMULA FOR WORKING OUT OVER ALL MERIT

- a) Matric Science/ O Level Equivalence Examination 10% weightage
- b) HSC (re-Medical)/A Level Equivalence Examination 40% weightage.
- c) Entry Test 50% weightage.

Note: Only science subjects Biology, Chemistry and Physics) will be considered in HSC result for making district merit list:

Example:

If a Candidate has obtained the following marks:

- a) Matric Science/O Level Equivalence Examination 650/850 or 76.471%
- b) HSC/A-Level Equivalent Examination 440/600 or 73.000%
- c) Entry Test Marks 300/400 or 75.000%

His/her Merit will be calculated as follows

- a) Weightage for HSC/O Level Equivalent = $76.471\% \times 0.1 = 7.647$
- b) Weightage for HSC/A Level Equivalent = $73.333\% \times 0.4 = 29.333$
- c) Weightage for Entry Test = $75.000\% \times 0.5 = 37.500$
- d) Weightage for Entry Test

Over all Merit of the Candidate $a+b+c=7.647+29.333+37.500 = 74.480$

All calculation in percentages will be rounded up to three decimal points:

Similarly, the merit calculation of A Level/Equivalent candidates will be based on 3 Science subject (Biology, chemistry, and Physics) according to the IBCC formula given below for final merit calculation:

| | |
|----------|--------|
| A* Grade | 90/100 |
| A Grade | 85/100 |
| B Grade | 75/100 |
| C Grade | 65/100 |
| D Grade | 55/100 |
| E Grade | 45/100 |

Example of formula applied for merit calculation of candidates with A Level/Equivalent exam: If a candidate has secured following grades in science subject

| | | | | |
|-----------|-------|---------|-------|--------|
| Biology | ----- | A Grade | ----- | 85/100 |
| Physics | ----- | A Grade | ----- | 85/100 |
| Chemistry | ----- | B Grade | ----- | 75/100 |

Total-----245/300

Since the HSC (Pre-Medical) examination has 200 marks in each science subject (Biology, Chemistry, and Physics making a maximum total of 600 marks, therefore, acquired and

$$245 \times 2 / 300 \times 2 = 490 / 600$$

Now, 40% of 490 marks will be considered f weightage in the total marks for final merit of an A Level/Equivalent candidate to be at par with HSC (Pre-Medical) candidate.”

7. The record also reflects that the formula for consideration of equivalence by the IBCC in respect of O-Level and A-Level (“IBCC Formula”), as demonstrated from the IBCC Website by the petitioner herself and available at page 27 of the memorandum of petition, is as follows:

“B) GCE ‘A’ Level and Equivalent:
GCE ‘O’ and ‘A’ Level are considered equivalent to Higher Secondary School Certificate (HSSC/Intermediate) subject to meeting the specified requirement for various stream/groups as under:

- i) Pre-Medical Group: Eight/five ‘O’ level subjects (including English, Mathematics, Physics Chemistry and Biology) and three ‘A’ levels (Physics, Chemistry and Biology) with minimum E Grade...”

8. Upon the request of the Court, a statement of tabulation was prepared by JSMU to demonstrate the basis of the aggregate score awarded to the petitioner and the same was filed in Court today. Relevant content whereof is reproduced herein below:

| | Chemistry | Physics | Biology | Total |
|-------|-----------|---------|---------|-------|
| Grade | B | C | A | |
| IBCC | 75 | 65 | 85 | 225 |

Calculation

Chemistry-----B Grade-----75/100
Physics-----C Grade-----65/100
Biology ----- A Grade-----85/100

Total-----245/300

Since the HSC (Pre-Medical) examination has 200 marks in each science subject (Chemistry, Physics and biology) making a maximum total of 600 marks, therefore, acquired and maximum marks of A Level candidates will be multiplied by two.

$$\text{A level ---- } 225 \times 2 / 300 \times 2 = 450/600$$

$$\text{O level examination obtained marks} = 776/900$$

Candidate has obtained the following marks and Merit will be calculated as follows:

- a) 10% weightage of O level ----- $776/900$ or $82.222\% \times 0.1 = 8.622$
- b) 40% weightage of A level ----- $450/600$ or $75.000\% \times 0.4 = 30.000$
- c) 50 % weightage for Entry Test ----- $74.000\% \times 0.5$

$$\begin{aligned} \text{Overall Merit of the candidate} & \text{----- } a+b+c=8.622+30.000+37.000 \\ & = 75.622 \end{aligned}$$

9. We have noted from the aforesaid that ten percent of the total score is the weighted average of the petitioner's O-Level score and the subsequent forty percent weightage is with respect to her A-Level score. We are unable to agree with the contention of the petitioner that the forty percent weightage had to be given in respect of the score stipulated vide the IBCC Certificate, since the score stated therein was the aggregate of her O-Level and A Level scores. If the contention of the petitioner was accepted then the O-Level score of the petitioner was to be counted in the initial 10 percent weightage apportioned for the O-Level score and the said result once again would feature in the subsequent 40 percent sought to be apportioned only with respect to her A-Level scores. This would not only be methodologically illogical but would also place the O-Level/A-Level candidates at a distinct advantage over their counter parts who had completed their matriculation and intermediate, as in the latter scenario the matriculation score is counted only once and the requisite ten percent weightage is afforded thereto.

10. It was brought to our attention that there are roughly 24,000 present candidates for the admission to medical institutions, of which roughly 800 are candidates who fall within the category of O-Level / A-

Level graduates. In the event that the IBCC formula was to be construed in the manner sought by the petitioner and the score of O-Level examination was counted twice then same would be prima facie to the disadvantage and detriment of the remaining 97 percent of the candidates having availed the matriculation / intermediate route.

11. The **JSMU** had also filed minutes of its third meeting of the Provincial Admission Committee which was held on 8th November, 2018, to demonstrate that the PMDC was represented at the said meeting when the following was resolved thereat :

“04. The issue of O and A level was discussed in detail, Honourable Addl. Chief Secretary health and many other members were of the opinion that since the matter is before Honourable High Court, Karachi, therefore, the matter would be decided as per the order of Honourable High Court. Otherwise the procedure would be carried out as per criteria/procedure given in the prospectus of section 2018-19. The Committee decided that reply to Honourable High Court will stress that the formula adopted for O+A Level calculation is the same which is traditionally followed for several year and is also printed in our prospectus. The IBCC formula for calculation of O-level is the same as ours but in calculation of A-level we only take three subjects Biology, Physics and chemistry. Were as IBCC calculate on eight subject five of O-level again and three of A-level Physics, Chemistry and Biology. The number of students of A-level is about 800 in the total of 24,000 as compare to HSC students. This will alter the merit.

12. The reliance of the learned counsel of the Petitioner upon the Regulations is unfounded as the cited provision thereof, being Regulation 7, does not augment the petitioner’s case and in no manner can be interpreted to sanction the petitioner’s demand to have her O-Level score counted twice in the tabulation of her aggregate score. *Mobeen Shaikh* also does no merit to the contention of the petitioner as

it, *inter alia*, requires IBCC to work out a formula which should be transparent and does not suffer from any inconsistency or unreasonableness. Learned counsel for the petitioner has been unable to demonstrate that IBCC Formula, admittedly framed post *Mobeen Shaikh*, is discrepant. Even otherwise it is apparent from the prayer clause of the present petition that the petitioner's case was never that the IBCC Formula is unlawful. On the contrary it had been prayed that it may be made incumbent upon the respondents to follow the IBCC Formula.

13. In view of the rationale cited herein above it is apparent that the tabulation of the petitioner's score was undertaken in pursuance of the Prospectus, which is applicable indiscriminately to all candidates regardless of whether they have completed their O-Level/A-Level or Matriculation/Intermediate. The Prospectus, in turn, is demonstrated to be commensurate to the IBCC Formula.

14. It is thus the considered view of this Court that no illegality has taken place with respect to the computation of the petitioner's score and the petitioner has failed to raise any sustainable grounds to merit the exercise of the writ jurisdiction of this Court. Therefore, this petition, along with pending application/s, was dismissed vide order dated 14.11.2018. These are the reasons for the aforesaid short order.

J U D G E

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Karachi.

Dated 15th November 2018.