

**ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI**

C.P. No.D-5333 of 2016

Sardar Elahi
Versus
Federal Secretary Education & others

Date	Order with signature of Judge
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For hearing of main case

Dated: 03.03.2020

Mr. Khalid Nawaz Khan Marwat along with Mr. Mahmood Khan Kakar for petitioner.

Mr. Kafeel Ahmed Abbasi, Deputy Attorney General.

Mr. Shakeel Ahmed Khan for respondents No.4 and 5.

Respondent No.8 Mr. Khursheed Hussain Shah Advocate in person.

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The case of the petitioner is that he was student of Federal Urdu University of Arts, Science & Technology. He appeared in LLM and on 02.02.2016 the result was announced and the petitioner was awarded second position. The grievance of the petitioner is that after some time his position was changed from second to third, therefore, he has approached this Court and filed this petition. The replies have been filed.

Respondent No.8 Mr. Kursheed Hussain Shah is present in person who is also an advocate of this Court who was awarded first position whereas the second position was awarded to one Sajid Mehmood, who has not been made party to this petition. The respondent No.4 (Registrar of Federal Urdu University of Arts, Science & Technology) has filed reply. Paragraph 4 of the reply is reproduced as under:-

“4. Para-4 of the Petition is admitted. However, it is submitted that Annual Examination - 2014 for L.LM Final held in March, 2015 in which one Khurshedd Hussain Shah S/o Altaf Hussain Shah stood first position with 484 marks, Petitioner inadvertently declared 2nd position with 469 marks while third position went to one Sajid Mehmood s/o Yaqoob Khan with marks 467. It is further submitted that one Muhammad Shahid Iqbal s/o Muhammad Ajmal Khan, who was a regular candidate, meaning thereby he passed his L.LM (First Year) annual examination 2013 held in March 2014 in first attempt, also appeared in final

examination. It is pertinent to mention here that said Muhammad Shahid Iqbal secured 501 Marks while Petitioner secured 484 marks but said Muhammad Shahid Iqbal was not considered for any position, despite the fact that he secured more marks than the petitioner, as he was inadvertently issued Roll No which is issued to a Repeater student meaning thereby a student who fails in any paper or some papers in First Year examination. It is worth to clarify here that Repeater students do not consider for all top three positions as such Muhammad Shahid Iqbal, despite securing 501 marks which higher than the petitioner was not placed at any top three position. However, when it revealed, at later stage, that said Muhammad Shahid Iqbal was not a Repeater student but a Regular students a three members committee was constituted to probe the matter and detail report, was submitted by the said Committee to the Competent Authority. As per the said report Muhammad Shahid Iqbal was inadvertently included in the category of Repeater that was why he was not considered for any three tops positions as such the said Committee recommended, among other recommendations, the Competent Authority that a correct Roll No. be issued to said Shahid Iqbal and place him at first position which was conceded by Competent Authority.”

The petitioner has raised various disputed questions of facts and it is well settled that factual controversy cannot be resolved in writ jurisdiction and proper course is to decide such dispute by the competent authority of the institute itself rather than approaching in constitutional jurisdiction. Learned counsel for Federal Urdu University as well as Deputy Attorney General proposed that directions may be issued to the Vice Chancellor of the University to provide an opportunity of hearing to the petitioner, respondent No.8 as well as Muhammad Shahid Iqbal and Sajid Mehmood and decide the matter. Accordingly, the Vice Chancellor shall decide the matter within 20 days after providing ample opportunity of hearing to the petitioner, respondent No.8 as well as Muhammad Shahid Iqbal and Sajid Mehmood.

Petition stands disposed of in the above terms.

A copy of this order may be transmitted to Vice Chancellor, Federal Urdu University of Arts, Science & Technology, Karachi, for compliance.

Judge

Judge