

**IN THE HIGH COURT OF SINDH, AT  
KARACHI**

**Present:**

Muhammad Ali Mazhar and  
Yousuf Ali Sayeed, JJ

**Constitutional Petition No. D-7681 of 2019**

Petitioner : Sharqa Jan Magsi, through  
Ahmed Ali Ghumro, Advocate.

Respondent No.1 : Province of Sindh, through  
Shehryar Mehar, AAG.

Respondents : Dow University of Health  
Nos. 2 to 4 Sciences  
& others, though Muhammad  
Wasiq, Advocate.

Date of hearing : 05.10.2020

**ORDER**

**YOUSUF ALI SAYEED, J** - The Petitioner professes to have completed the prescribed application process for admission to the Pharma-D course for the session 2019-20 offered by the Respondent No.2 (the “**Program**”), and has invoked the jurisdiction of this Court under Article 199 of the Constitution asserting that her application was excluded from consideration.

2. As can be discerned, the case set up by the Petitioner turns on the premise that she was a candidate who had submitted a valid application for admission to the Program within the prescribed timeframe, in conformity with the eligibility criteria, but was denied entry to the designated campus on the date of the written test despite holding an Admit Card.

3. Purporting to espouse such a grievance, the Petitioner has prayed that her exclusion from the written test by the Respondent No.2's functionaries (i.e. the Respondents Nos. 3 and 4, being the Academic Council and the Director Admissions) be set aside, with their being directed to refrain from publishing the merit list of candidates and to instead reconduct the test with her participation. From that standpoint, paragraph 5 of the Petition and paragraph 6 of the Objections are relevant, which contrarily read as follows:

The Petition

“5. Having completed the prescribed application process for the proposed course, the petitioner was issued Admit Card for entry test without any observation as to whether the petitioner had domicile form Karachi Division or otherwise.”

[SIC]

The Objections

“6. That the contents of Para 5 are categorically denied for being frivolous, falls, incorrect and far from fact. It is submitted that the respondent issued Admit Card to every eligible candidate with the signature and official seal and sent through TCS courier service at his / her residence address. It is pertinent to mention herein that annexure attached with the memo of petition as annexure D neither signed nor stamped as well as no proof of issuance of admit card. It is further submitted that that annexure attached with the memo of petition as annexure D is actually a form attached with the Prospectus which need to be filled by the student.”

[SIC]

4. Additionally, in Paragraph 3 of the Affidavit of the Respondent No.4, it has been further stated as follows:

“3. I say that DUHS issued admit cards only those students who fulfil the eligibility criteria for Pharm-D Program and there is not a single complaint from any student who was issued admit card but DUHS did not allow him / her to sit in the entry test.”

[SIC]

5. As such, the very fact of whether the Petitioner even submitted an application for admission to the Program is in serious doubt, and when pressed in that regard, learned counsel merely invited attention to a Challan reflecting that a sum of Rs.2000/- had been deposited on behalf of the Petitioner on 15.10.2019 in the bank account of the Respondent No.2 under the head of admissions to the Program, with the due date being shown as 22.10.2019. He submitted that this proved that the Petitioner had applied, and within time. We are unable to subscribe to that line of argument, in as much as the challan does not of itself demonstrate that the Application was submitted to the Respondent. Indeed, the copy of the Application Form filed along with the Petition (Annexure "C") is bereft of any acknowledgment from the side of the Respondents, and even the copy of the Admit Card (Annexure "D") is inchoate in as much as the portion for "Official Use" remains blank, signifying that the same had not been formally issued, bringing the very issuance/validity of the so-called Admit Card into doubt and rendering the very entitlement of the Petitioner to appear in the written test dubious.

6. Needless to say, it is well established that disputed questions of fact, such as those which apparently arise under the given circumstances in the matter at hand, cannot be properly determined in exercise of jurisdiction under Article 199 of the Constitution. That being so, we are of the view that the Petitioner has failed to make out a fit case for the exercise such jurisdiction by this Court, and the Petition is accordingly dismissed, along with all pending Miscellaneous Applications.

**JUDGE**

**JUDGE**

Karachi

Dated \_\_\_\_\_