

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI
CP D 5998 of 2019

Order with signature of Judge

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

Hassan Raza

vs.

Province of Sindh and others

1. *For hearing of Misc. 26608 of 2019*
2. *For hearing of main case*

26.09.2019

Mr. Aijaz Ali Hisbani, Advocate for the petitioner.

Mr. Jawad Dero, Additional Advocate General Sindh.

Mr. Muhammad Ameen, Advocate and Mr. Khursheed Javed, advocate have filed their Vakalatnama for the respondents 3 & 4.

Mr. Abdul Saeed Manager Academics, National University of Computer and Emerging Sciences and Syed Masroor Ali Manager Admin and External Liaison, National University of Computer and Emerging Sciences are present.

Agha Faisal, J. Present petition was filed seeking directions to the National University of Computer and Emerging Sciences (“NUCES”) to award a gold medal to the petitioner, at the upcoming convocation on 28.09.2019, and further seeking a restraint upon NUCES not to award the gold medal to any person other than the petitioner.

2. Briefly stated, the petitioner was a student of NUCES and has completed his education thereat. During the pendency of his educational career he was found in violation of the code of conduct and as a consequence thereof was subjected to disciplinary action. The said disciplinary action was demonstrated by the letter of NUCES dated 09.02.2018, in respect whereof the petitioner admittedly filed no appeal and/or review whatsoever. The present petition was filed on 21.09.2019 seeking a gold medal for the petitioner in place of another student, Rozeena Jamali, who has not been made party to this petition.

3. Mr. Aijaz Ali Hisbani, Advocate for the petitioner submitted that denial of the gold medal to the petitioner was contrary to his fundamental rights and that there was no provision within the governing

regulations of NUCES to substantiate the action being taken. It was further argued that the petitioner was already subjected to disciplinary action, therefore, denial of the medal thereto in addition to the disciplinary action was manifestly unjust.

4. Mr. Muhammad Ameen Advocate and Mr. Khursheed Javed Advocate appeared on behalf of respondents 3 and 4 and submitted the charter thereof. Section 20 was pointed out to the Court which delineates the powers and duties. The learned counsel drew our attention to the constituents of the aforesaid provision to demonstrate that the power to regulate the conduct and discipline of the students of NUCES was specifically contained therein. Learned counsel also filed a copy of the Academic Rules and Regulations of NUCES, clause 8.18 whereof expressly states that a student who is found guilty of an academic or any other violation by a Disciplinary Committee is disqualified from any academic honor e.g., a medal or a scholarship. It was further demonstrated that the petitioner never assailed the order of the Disciplinary Committee dated 09.02.2018 and is now seeking directions of the Court to obtain a honor for which he is demonstrably disentitled.

5. We have heard the arguments of the respective learned counsel and have also perused the documentation to which our surveillance is solicited. The primary issue before us is whether the petitioner had been able to make out a case for the exercise of writ jurisdiction of this Court.

6. The petitioner has prayed that he may be awarded gold medal at the upcoming convocation as he claims to be better entitled than another student, Rozeena Jamali. The record clearly demonstrates that the designated student has not been made a party to this petition and the learned counsel for the petitioner has failed to provide any justification in such regard.

7. We have noted that the disciplinary action was demonstrated vide the decision of the Disciplinary Committee dated 09.02.2019. The petitioner admittedly has never challenged the same and in addition thereto the culpable action, referred to in the aforesaid document, has

not been denied before us during the course of the hearing and on the contrary the petitioner himself attempted to justify the same.

8. The charter of NUCES has been seen by us and it clearly empowers the Academic Council to make rules and regulate the conduct and discipline of students. The relevant regulation, being clause 8.18 of the Academic Rules and Regulations, disqualifies a student from any academic honor if the said student is found guilty of an academic or other violation by the disciplinary committee. A reiteration of the said regulation is contained in the very documents relied upon by the petitioner to maintain his petition. The regulations of the NUCES are not challenged before us and the petitioner has been unable to demonstrate his entitlement to an academic honor in view of the specific bar contained therein.

9. The regulation barring a student, subject of disciplinary action, from academic honors does not amount to a condition subsequently imposed, in addition to the disciplinary consequence. Per the record produced before us, this corollary to disciplinary proceedings is contained in the relevant regulations and would apply immediately upon a student having been found culpable.

10. Notwithstanding the forgoing, it is the primary duty of a petitioner to demonstrate an existing fundamental right in order to claim infringement thereof and maintain a writ petition in such regard. In the present facts and circumstances, the petitioner has failed to even cite a provision of the Constitution which may allegedly have been violated by one or more of the respondents. The petitioner is bound by the rules and regulations of the institution where he has studied and has been unable to demonstrate any infraction of his rights emanating therefrom.

11. It is imperative to reiterate at this juncture that while the learned counsel for the petitioner has vociferously sought the award of the gold medal thereto, hence, the denial thereof to another student, yet the learned counsel has failed to justify as to why the said person, who is sought to be deprived of an academic honor, has not even been impleaded as a respondent in this petition.

12. In view of the reasoning and rational herein contained. We are of the considered view that the petitioner has failed to make out a case for the exercise of a Constitutional jurisdiction of this Court, therefore, this petition, along with pending application/s, is hereby dismissed.

J U D G E

J U D G E

*Farooq PS**