

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI

C. P. No. D-5873 of 2019

&

C. P. No. D-3959 of 2019

Date	Order with signature of Judge
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Present:

Mr. Justice Muhammad Ali Mazhar.

Mr. Justice Yousuf Ali Sayeed.

C. P. No. D-5873 of 2019

Karachi Institute of Technology
& Entrepreneurship-----petitioner

Versus

Province of Sindh & others-----respondents

C. P. No. D-3959 of 2019

Syed Zain Hasan-----petitioner

Versus

Higher Education Commission
Islamabad & others-----respondents

13.02.2020.

Mr. Muhammad Vawda, advocate for the petitioner in C.P. No. D-5873 of 2019. Afaque Riaz Ahmed, President of the Petitioner is present.

Mr. Aamir Raza Naqvi, Advocate for the petitioner in C.P. No. D-3959 of 2019.

Mr. Owais Jamal, advocate for respondent No.2.

Mr. Muhammad Jawwad Dero, Addl. A. G.

Mr. Ghulam Mohiuddin, DAG.

Muhammad Ali Mazhar-J: The Petitioner being an educational institute, has challenged Letter No. CIEC/2367/2018 dated 09.11.2018 (the “**Impugned Memorandum**”) issued by the Deputy Director, Chartered Inspection & Evaluation Committee (CIEC), Sindh Higher Education Commission, Universities & Boards Department, Government of Sindh, with regard to the recognition of its degrees and transcripts. In fact this letter was communicated for withdrawal of the recognition granted to the Petitioner vide letter dated 03.10.2017 issued by the same Sindh Higher Education Commission (the “**SHEC**”).

2. Learned counsel for the SHEC has submitted a statement in Court today along with a copy of a Letter dated 20.11.2019 communicated on behalf of the SHEC under signature of Prof. Dr. Abdul Qadeer Khan Rajput to the founder and President of the Petitioner, reflecting the withdrawal of the Impugned Memorandum, subject to certain amendments to be made in the Karachi Institute of Technology and Entrepreneurship Act 2015, promulgated by the Provincial Assembly of Sindh (Sindh Act No. XXV of 2016) (the “**KITE Act**”), whereby the Petitioner has been constituted.

3. Apparently, the bone of contention in this case is that vide subsection (vi) of Section 2 of the KITE Act, the “Commission” has been defined as meaning the Higher Education Commission, Islamabad. As per the contention of counsel appearing on behalf of the SHEC, that reference is to be substituted vide a suitable amendment so as instead signify the provincial authority.

4. The learned Additional Advocate General, Sindh has also invited attention to the Sindh Higher Education Commission Act, 2013 notified on 01.03.2013 and submits that as per his understanding, due to an inadvertent error the reference to the Higher Education Commission, Islamabad, has crept into the KITE Act, and submits that a corrective amendment is to be made accordingly in the 2016 Act so as to bring it in harmony with the Sindh Higher Education Commission Act, 2013, made after the 18th Amendment to the Constitution.

5. The President of the Petitioner is present and submits that in view of the letter dated 20.11.2019 communicated by the Chairman, Chartered Inspection & Evaluation Committee (CIEC), Sindh Higher Education Commission, Universities & Boards Department, Government of Sindh, the Petitioner is amenable to the proposed amendment and would apply to the competent authority for the necessary change to be made to the KITE Act so to obviate any complications and difficulties as may arise in future.

6. Learned counsel for the Respondent No.2 agrees to such proposal and submits that upon the Petitioner applying for the envisaged amendment, the request would be forwarded by the SHEC to the Secretary, Law Department for necessary action. However, at this juncture, learned counsel for the Respondent No.2 has referred to Section 20 of the KITE Act, which provides that general supervision and control of the affairs of the Petitioner and its power to lay down policies shall vest in the Board, and points out that the same is to include the Chairman of the Commission or a whole time member of the commission nominated by him. He submits that the grievance of the SHEC is that the Petitioner has failed to appoint its

nominee to the Board. Be that as it may, at this juncture, when the SHEC is itself asking for amendment of the KITE Act, as aforementioned, no fruitful directions can be given for inclusion of the nominee of the SHEC as the Commission presently means Higher Education Commission, Islamabad.

7. As such, in our view, an appropriate amendment is to firstly be made in the KITE Act, failing which any such direction would be futile. Resultantly, both the Petitions are disposed of with the directions to the Petitioner in C.P. No. D-5873/2019 to propose the appropriate amendment(s) to the Secretary, Universities & Boards Department, Government of Sindh as well as the Secretary, Law Department, Government of Sindh, and on submission thereof the Law Secretary shall promptly put up the matter for necessary amendments in the KITE Act as required by the SHEC in their letter dated 20.11.2019. However, till the proper amendments are made by the Provincial Legislature, the SHEC Sindh shall not take any coercive action against the Petitioner with regard to its recognition.
8. Copy of this order may be transmitted to Chief Secretary Sindh, Secretary Law, Government of Sindh and learned Advocate General, Sindh.

JUDGE

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