

IN THE HIGH COURT OF SINDH, CIRCUIT COURT,
HYDERABAD.

C.P. No.D — 41 of 2020.

Date of hearing: 17.12.2020.

Date of short order: 17.12.2020.

Date of reasons: 17.12.2020.

Petitioner: Through Mr. Dilber Leghari Advocate.

Respondents: Through M/s Allah Bachayo Soomro,
Additional Advocate General Sindh and
Kamaluddin Advocate.

J U D G M E N T

MUHAMMAD SHAFI SIDDIQUI, J.- The petitioner has invoked the jurisdiction of this Court for a declaration that the act of the respondents by not giving her admission in terms of her merit and by not replacing the seat from self financing (UEAP) to merit list-2018 is illegal, unlawful null and void.

2. Brief facts of the case are that petitioner applied for admission in Liaquat University of Medical & Health Sciences Jamshoro and appeared in the written test and her name appeared at serial No.26. There were only 16 seats of Jamshoro District on merit.

3. Contents of the petition reveals that she opted to apply for admission in BDS under self finance category as she was given offer letter on 4.12.2018 for provisional admission in first year BDS. The petitioner also received offer letter for admission in the first year MBBS course for self finance basis on 18.12.2018. She was then given admission in the first year of MBBS course under University Education Assistance Programs (UEAP) Academic Session 2018-19 vide letter dated 11.02.2019.

4. During verification of educational transcripts of the candidates it transpired that one of the candidate who was at serial No.08 and merit No.09 of

the MBBS course list (Annexure R-7) has submitted fake documents and the admission was cancelled vide letter dated 28.7.2019. Earlier the student at serial No.1 also opted for a Lahore Medical College. On coming to know, the father of the petitioner moved an application to the Vice Chancellor for reconsideration in admission terms and the replacement of her seat from self finance i.e. (UEAP) to regular merit list, whereas, Vice Chancellor was pleased to decline vide letter dated 27.11.2019.

5. It is a case of the petitioner that after cancellation of the admission of one of the candidate namely Avena Lohana since she is next in the merit list, therefore, she should be given admission on merit rather than self finance scheme.

6. Learned counsel in this regard has relied upon the merit list attached with the statement filed by respondents 2 to 4 and also the list attached with the parawise comments of respondents 2 to 4.

7. We have heard the learned counsel and perused the material available on record.

8. Petitioner's name in the overall merit list appeared at serial No.26 (Annexure R-6) filed through a statement dated 07.09.2020 and not denied by petitioner. The first candidate "Riffat Sajjad" opted for an admission in FJMC Lahore and she was excluded from the list of the merit. The admission of other candidate "Avena Lohana" who is at serial No.09 of the initial merit list and then at serial No.08 of the subsequent merit list after excluding "Riffat Sajjad" who opted for FJMC Lahore, was cancelled on account of fake documents. The next candidate on the main merit list is "Ali Raza" at serial No.17 was considered in place of "Riffat Sajjad" FJMC Lahore at the relevant time. When the merit list of 16 seats was completed rests of the candidates were given option to avail the admission on self finance basis as by that time issue of fake documents was not discovered. Petitioner opted to avail the admission on self finance basis as being at serial No.26, whereas the candidates who were in between 17 and 25 did not avail this self finance scheme and perhaps took their chances in some other medical colleges on account of shortage of seats as they were willing for

MBBS seats and not willing for BDS except one at serial No.23. So before petitioner there were many candidates willing for MBBS.

9. Mr. Kamaluddin learned counsel in addition to the above facts further relied upon the rules of admission. Rule-10 which is available in the prospectus of MBBS and BDS program disclosed as under:-

10. Seats which remain vacant at the time of selection, shall be filled by admitting the next candidate on merit list from the same district. District merit is strictly maintained according to district quota; if the seat still remains vacant, the same shall be filled by consideration of candidates on combined merit from the tagged districts. In case a seat falls vacant during the first sixty (60) days of the academic year of admission, the same shall be filled by adopting the aforesaid procedure. Any seat falling vacant thereafter shall not be filled and shall stand forfeited.

14. Those candidates who will be selected for admission under UEAP, UDP, Overseas Pakistani, Foreign Nationals and Afghan Nationals will not be converted in District merit seat after enrollment at any stage of the course.

10. The seat of the Aveena Lohana at serial No.09 of the merit list was cancelled after a delay of almost 08 months which is more than the required time of Rule 10, hence the subject seats which fell vacant could not be filled and shall stand forfeited. Similarly in terms of Rule 14 the candidates who opted for admission under UEAP, UDP, Overseas Pakistani, Foreign Nationals and Afghan Nationals were denied under the rule / policy from the conversion of their admissions on such scheme to District Merit Seats after enrollment at any stage of the Course. With these terms and understanding the petitioner who opted for UEAP Scheme and after a delay of almost 08 months on which date one of the candidate was ousted, the petitioner would not be entitled for the conversion of her seat from UEAP to District Merit List. Similarly, the petitioner is not even next in the Merit List as there are candidates who though took admissions on Merit in some other Universities but were not preferred or considered for admission on account of unavailability of Seats. If the seat is said to be available, it is for those who are next in the Merit List and not at

Serial No.26 who had already opted for Self Finance Scheme. The petitioner's case neither falls within the Merit of District Jamshoro nor the Admission Rules permit petitioner to convert her admission from Self Finance Basis to District Merit List. Consequently, the petition was dismissed and these are the reasons.

JUDGE

JUDGE

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