

ORDER SHEET
THE HIGH COURT OF SINDH, KARACHI
C.P. No.D-2867 of 2023

Dated: Order with signature of Judge(s)

1. For orders on Misc. No.13741/2023.
2. For orders on Misc. No.13742/2023.
3. For orders on Misc. No.13743/2023.
- 2.For Hearing of Main Case.

Yousuf Ali Sayeed, J.
Mohammad Abdur Rahman, J

Date of hearing : 06.06.2023:-

Petitioner : Dr. Muhammad Ghufraan and 10 others
through Tariq Ali Jakhrani.

Respondents : The Chairman Sindh Public Service
Commission and others.

ORDER

Mohammad Abdur Rahman, J. This Petition has been maintained by the Petitioner under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973 impugning an "Answer Key" that has been uploaded by the Respondent No. 1 on 9 May 2023 giving the answers for Multiple Choice Questions that were set by the Respondent No. 1 in respect of test that was conducted by the Respondent for the selection of Male and Female Medical Officers of BPS Grade 17 for service with the Government of Sindh.

2. The Respondent No. 1 had through an advertisement dated 13 October 2022 invited applications for the appointment of Male and Female Officers of BPS Grade 17 for service with the Government of Sindh as Medical Officers. The Petitioners after filing their requisite applications were issued Admission Letters and called to appear in a written test on 4 May 2023. They state that each of them appeared in a written test on that date and whereafter on 9 May 2023 the Respondent No. 1 uploaded an "Answer Key" to the questions that were set for the written test on 4 May 2023. The Petitioners are aggrieved by the "Answer Key" which they allege

has incorrect answers to the questions that have been set and impugn the Answer Key as being irrational.

3. Mr. Tariq Ali Jakhrani, Advocate advanced arguments on behalf of the Petitioners and contended that this Court in its jurisdiction under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973 should review the “Answer Key” that had been uploaded on the website of the Respondent No. 1 on 9 May 2023 and assess whether or not the answers were in fact correct or incorrect based on the various academic literature that has been presented before the Court along with the Petition. He stressed that when examined against the academic literature that had been submitted it would show that the “Answer Key” uploaded was in fact incorrect and was liable to be declared as ‘not correct/doubtful’ and that each of the Petitioners should be entitled to receive marks for various answers which he contends the Petitioner answered correctly but which is are conflict with the “Answer Key” uploaded by the Respondent No. 1 on its website on 9 May 2023. The Advocate for the Petitioner did not rely on any case law during the course of his arguments.

4. We have heard the learned counsel for the Petitioner and have perused the record. The jurisdiction of this Court under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973 was considered by the Supreme Court of Pakistan in ***Fida Hussain vs. Mst. Saiqa***¹ wherein it was held that:²

“ ... It is well settled by way of plethora of case-law laid down by Superior courts that the High Court is not to resolve the disputed questions of facts in exercise of constitutional jurisdiction under Article 199 of the Constitution. In the instant case, however, it appears that learned Single Judge proceed to record statement of the respondent No. 1Mst. Saiqa on 4-10-2010 (available at page 29 of the paper book.). Both the appellants, who were present in Court, were however not provided an opportunity to cross examine her and on the basis of her statement impugned order was passed same day ...”

¹ 2011 SCMR 1990

² *Ibid* at pg. 1992-1993

5. Regrettably, the Petition as framed will raise the same difficulties in adjudication as have been emphasised by the Supreme Court of Pakistan. Clearly the Petitioners contentions on the basis of the academic literature submitted by them, when compared as against the “Answer Key” will require an adjudication to be made on the principles of medicine which we are not able to give an authoritative finding on, least of all as we are not medical practitioners. We would therefore be called upon to appoint a commissioner to verify the “Answer Key” and which report of the commissioner would necessarily be subject to objection of either the Petitioner or the Respondent No. 1, which would be subject to cross examination and which exercise as stated by the Supreme Court of Pakistan is not permissible in our jurisdiction under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973.

6. For the foregoing reasons, while granting the urgent application we are constrained to dismiss this Petition along with all other applications as not being maintainable, with the observation that the Petitioners, if they deem appropriate, are free to agitate their claim before a court of competent jurisdiction.

JUDGE

Nasir P.S.

JUDGE

