

**HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD**

Present:  
Mr. Justice Muhammad Shafi Siddiqui  
Mr. Justice Arshad Hussain Khan

**C.P. No.D-663 of 2023**

**[Muhammad Ahsan Shakeel versus Liaquat University of Medical and Health Sciences (LUMHS) Jamshoro and others]**

For petitioner: M/s Muhammad Hamayoon Khan and Manghal Menghwar advocates.

For respondents No.1&2: Mr. Hameedullah Dahri advocate along with Dr. Haji Muhammad Shaikh, Registrar LUMHS Jamshoro.

For Province of Sindh: Mr. Rafique Ahmed Dahri AAG Sindh.

Date of hearing : 21.09.2023

Date of decision : 28.09.2023

**ORDER**

**Muhammad Shafi Siddiqui, J.-** This petition is a second round of litigation that concerns with petitioner's marks sheet, claimed in the show cause notice as a forged and fictitious.

Earlier, petitioner challenged a cancellation of admission notice dated 19.01.2023 which was followed by a show cause dated 13.01.2023 purportedly served via whatsapp on 18.01.2023. Since only 1 day provided to petitioner to explain the accusation, cancellation order was set aside and case remanded, on 16.03.2023 in C.P. No.D-301/2023.

As a recourse in the above referred petition, 7 days were provided to petitioner to respond to the Show Cause Notice. Pursuant to orders of 16.03.2023 in the above petition, personal hearing was fixed on 28.03.2023 which is followed by the Cancellation of Admission Letter dated 6.4.2023, yet again.

The accusation concludes that a forged and bogus marks sheet was presented for admission as it later, on verification, discovered by university.

The subject revolves around response of (BISE) Board of Intermediate and Secondary Education which took some debatable stands in replying letters to both petitioner and university separately.

A brief history of BISE is that it was formed in 1961 to facilitate examinations for High School and Higher Secondary School. Though it was amended from time to time. The subject was then taken over by the Sind Boards of Intermediate and Secondary Education Ordinance 1972 and Rules with savings and transitional provisions such as sections 29 and 30, which are reproduced as under:

29. (1) *From the date of commencement of this Ordinance and till such time as the nominated and elected members are appointed, the Chairman and the ex-officio members shall exercise all the power and perform all the duties of the Board and its Committees.*

(2) *On the appointment of the nominated and elected members, the Board shall exercise all powers and perform all duties of the Committees of the Board till such Committees are constituted.*

(3) *If any difficulty arises in giving effect to the provisions of this Ordinance, the Controlling Authority may take such action to remove the difficulty as it may deem necessary.*

30. (1) *Notwithstanding anything to the contrary contained in this Ordinance and the Regulations made thereunder, everything done, action taken, obligation or liability incurred, rights and assets acquired, person appointed or authorized, jurisdiction or power conferred, endowment, bequest or fund created, donation and grant made, scholarship or award instituted, recognition granted and order issued under any of the provisions of the Board of Intermediate and Secondary Education, Hyderabad Ordinance, 1961 (West Pakistan Ordinance XVII of 1961) and the Board of Intermediate and Secondary Education, Karachi Ordinance, 1962 (West Pakistan Ordinance III of 1962) and the regulations and rules made thereunder, shall be continued and so far as may be, be deemed to have been respectively done, taken, incurred, acquired, appointed or authorised, conferred, created, made, instituted, granted and issued under this Ordinance or the Regulations made thereunder.*

(2) *The Board shall have the power to decide whether any regulation or rule framed under the Board of Intermediate and Secondary Education, Hyderabad Ordinance, 1961 (West Pakistan Ordinance XVII of 1961), and the Board of Intermediate and Secondary Education, Karachi Ordinance, 1962 (West Pakistan Ordinance III of 1962), is or is not consistent with the provisions of this Ordinance and the Regulations and Rules made thereunder.*

It is petitioner's case that he appeared in HSC (Intermediate Examination) premedical group, through Board of Intermediate and Secondary Education Mirpurkhas (BISE, Mirpurkhas) in 2021 under seat No.43951. He obtained 1042 marks out of 1100, however being dissatisfied by the marks obtained / awarded by Board, in physics and chemistry, he applied for "recalculation" described as "retotaling" after

following the codal formalities and making payment of requisite fee, through challans.

On the basis of his mark sheet with 1042 marks, he failed qualify to be admitted in MBBS but was offered BDS program, first time when he applied without an attempt of recalculation of marks.

In the meantime he got his marks recalculated and marks were increased from 1042 to 1053 out of 1100 and revised marks sheet was issued to petitioner, as he claimed.

He could not succeed same year as his marks sheet with 1042 marks has already been considered and results were compiled for the said year. He again applied in the year 2022 on his revised marks sheet and this time he was offered admission in MBBS on 26.12.2022 provisionally. He then however upon scrutiny of revised marks sheet, received a show cause notice on 18.01.2023 via whatsapp with accusation of forged marks sheet being submitted, which formed part of earlier litigation / petition.

It is respondent No.1's case that upon scrutiny the alleged revised marks sheet found forged and fictitious.

Record contains two versions from the board and both letters are accepted by the representative / Deputy Director LUMHS, who appeared on 23.08.2023.

Board's letter dated 16.01.2023 and 09.05.2023 confirms that marks sheet with 1053 marks is Bogus whereas its letter of 27.02.2023 reveals differently. In response to first letter received from LUMHS on the strength of Board's letter of 16.01.2023 although CP No.D-301/2023 was filed, however a legal notice was also issued to Board by petitioner for verification of his revised marks sheet (recalculation) having 1053 marks. This letter was responded by Board on 27.02.2023 wherein it is claimed that it could be due to error and/or omission in computerized record. In this letter no allegation of forged and bogus marks sheet was raised. For reference reply of Board is reproduced as under:

*“ With reference to your Legal Notice dated 14.02.2023, the undersigned has to inform your client through you that his record with BISE-Mirpurkhas under Seat No.43951 has been re-checked whereupon it was discovered that only his first marksheet of HSC-II Annual Examinations is available in record and no other record is available which can happen due to possible error and/or omission in computerized record, however, as per first Marksheet which is on record your client have secured 1,042 out of 1,100 marks (Grade-A1).*

2. *In these circumstances, since no record is available with this Board regarding alleged re-checking of your result, the undersigned regrets to inform you that due to precautionary measures, your purported re-totaled marksheet cannot be ratified or confirmed, however, this Board does not have objection if your university admission can take place on the basis of your first HSC-II-2021 Marksheet containing 1,042/1,100 Marks, in the interest of your future.*

3. *Therefore, you are advised to withdraw your legal notice against this and approach the concerned department of LUMHS Jamshoro for redressal of your grievances, if any."*

This further says that re-checked record is not available and due to precautionary measures, purported recalculated marks sheet cannot be ratified or confirmed. Board had no objection if marks sheet containing 1042 marks is considered by University.

This gives a totally different picture than one given to University by Board vide letter dated 16.1.2023 and again vide letter dated 9.5.2023. It is not a case of "re-checking" of two subjects rather of calculating the marks.

Paid challan disclose credentials of petitioner and is meant for re-calculation / retotalling of marks of relevant subjects.

Challans were seriously disputed by the respondent No.1 university, on the count that this process was not on the recommendation of college.

Rules regarding re-checking of the marks in individual papers:

- (i) Rule 3 is meant for two processes i.e. retotaling (recalculation) and re-checking of the answer book.
- (ii) Similarly, Rule 7 is also for re-checking which is to be routed by the Head of the Institution / College through which a candidate appeared and recommendations to be made.
- (iii) Rule 10, as relied upon is for re-checking of answer book.

So there is a difference between re-totalling (recalculation) and re-checking of Answer Sheet and recommendation of Head of Institution is only for re-checking which is not the case of petitioner hence the paid challan in the absence of any recommendation from head of college cannot be questioned. Letter of 27.2.2023 disclose that the "record" of petitioner was re-checked (not the answer sheet) and only first mark sheet with 1042 marks was found and this could be a computer error, as stated.

Now the letters of the board are contradictory and should not be given preference and relied upon when the student himself can succeed on the strength of his undisputed marks sheet having 1042 marks out of 1100, as he stated.

Petitioner is pursuing his case for the last more than one year. It is not proved beyond reasonable doubt that petitioner has attempted to submit forged and fabricated marks sheet willfully, which could have been a computer error, as admitted by board itself vide letter dated 27.02.2023. Hence cancellation of admission notice dated 6.4.2023 is an extreme decision taken by university which is only required to be taken if a clear case of willful attempt of submitting forged and fictitious mark sheet is made out. The cancellation of admission letter is set aside and the marks sheet having 1042 marks be considered for his admission and if he comes on merit of the said year may be considered by the Respondent No.1.

JUDGE

JUDGE

Ali Haider