

# IN THE HIGH COURT OF SINDH, KARACHI

*High Court Appeal No. 264 of 2022*

*along with*

*High Court Appeal No. 265 of 2022*

PRESENT:

**MR. JUSTICE AQEEL AHMED ABBASI**  
**JUSTICE MRS. KAUSAR SULTANA HUSSAIN**

**Fresh Case**

**H. C. A. No. 264 of 2022**

1. *For orders on office objection a/w. reply at 'A'.*
2. *For orders on CMA No.2424/2022.*
3. *For hearing of main case.*
4. *For orders on CMA No.2425/2022.*

**H. C. A. No. 265 of 2022**

1. *For orders on office objection a/w. reply at 'A'.*
2. *For orders on CMA No.2427/2022.*
3. *For hearing of main case.*
4. *For orders on CMA No.2428/2022.*

**18.08.2022:**

Mr. Arshad Tayebaly, advocate for the appellant in HCA No.264/2022.

Mr. Salahuddin Ahmed, advocate for the appellants in HCA No.265/2022.

M/s. Abid S. Zuberi & Ayan Mustafa Memon, advocates for the respondents.

## **ORDER**

1-4. Above High Court Appeals have been filed by the appellants, against an order dated 12.08.2022 passed by the learned Single Judge in Suit No.1491 of 2022 filed by the respondents seeking declaration, mandatory and permanent injunction, whereby, according to learned counsel for the appellants, while issuing notices ad-interim order has been passed whereby, the appellants have been restrained from interfering with the degree awarding process of the plaintiffs and further restrained from requiring the students of Isra University Karachi and Islamabad campuses from getting their degrees verified, attested etc. from them.

It has been contended by the learned counsel for the appellants that various Suits are already pending between the parties, wherein, ad-interim orders are operating, however, by filing subject Suit, the respondents have obtained an ad-interim order without notice to the

appellants, which has adverse effect and bearing on the Suits pending before the learned Single Judge and the orders already passed in such Suit, whereas, such Suits have been partly heard and now fixed for hearing on 23.08.2022. According to learned counsel for the appellants, the appellants do not recognize the respondents as Chancellor and the Vice Chancellor, therefore, issuance of any degree by such respondents will be illegal and in violation of directives issued by HEC, therefore, the same will not be verified or recognized by the competent authority. Per learned counsel, the ad-interim order passed in the aforesaid terms was not warranted in law and facts, as through impugned order the right of the respondents has been recognized without appropriate order to be passed in the subject Suit after recording evidence. It has been prayed that the operation of the impugned ad-interim order may be suspended till final decision of the application in the subject Suits.

Conversely, M/s. Abid S. Zuberi & Ayan Mustafa Memon, Advocates, present in Court pursuant to Notice under Order 43 Rule 3 CPC, waived notice of instant High Court Appeal on behalf of the respondents, claimed copy alongwith annexures, and requested for time to file vakalatnama and objections/reply. However, learned counsel for the respondents has raised objection as to maintainability of instant High Court Appeals, which according to learned counsel, have been filed against an ad-interim order passed by the learned Single Judge, wherein, the next date of hearing is fixed on 23.08.2022, and the appellants are still at liberty to file reply/objections to the injunction application and to seek modification or recalling of such ad-interim order. According to learned counsel for the respondents, the respondents do not recognize the appellant Prof. Dr. Nazir Ashraf Leghari in HCA No.264/2022 as Vice Chancellor of Isra University, main campus, Hyderabad, as according to learned counsel, as per Sindh Act No.V of 1997 Isra University Act, 1997, the Chancellor Prof. Dr. Hameedullah Kazi has appointed Ahmed Waliullah Kazi as Vice Chancellor, pursuant to an order passed by the learned Single Judge in above referred Suit, whereas, according to

learned counsel as on today, Mr. Asadullah Kazi is the Chancellor of the Isra University, therefore, respondents are authorized to issue degrees to the students in accordance with the Isra University Act, 1997.. It has been prayed that instant High Court Appeals besides having no merits are also pre-mature, therefore, are liable to be dismissed.

Heard the learned counsel for the parties, perused the impugned order and the record of the case with their assistance, which reflects that no final adverse order has been passed, whereas, an ad-interim order has been passed by the learned Single Judge while issuing notices to the other side, whereby, the appellants have been restrained from interfering with the degree awarding process of the plaintiffs and further restrained from requiring the students of Isra University Karachi and Islamabad campuses from getting their degrees verified, attested etc. from the appellants. Further directions have been issued to the appellants not to initiate any action and/or from lodging complaints against the respondents relating to issuance of degrees of Isra University Karachi and Islamabad campuses, till next date of hearing, whereas, subject Suits are already fixed on 23.08.2022 before the learned Single Judge for hearing the pending applications. We are of the view that no final determination with regarding to the legality or otherwise of issuing degrees to the students by the respondents has been determined through impugned order. Moreover, such order of issuance of degrees, if any, will be subject to law and the Act of the Isra University and further orders as may be passed by the learned Single Judge, after hearing the parties in the instant Suits.

Accordingly, in view of hereinabove facts and circumstances of the case, we would dispose of instant High Court Appeals with the directions to the appellants to approach the learned Single Judge by filing reply/objections to the injunction application by raising all such factual and legal grounds as may be available, whereas, it is expected that the learned Single Judge, may pass appropriate order on such application at an early date, after hearing the learned counsel for the parties, in accordance with law. However, it is clarified that the ad-interim order

passed by the learned Single Judge is subject to law and final order as may be passed by the learned Single Judge on the injunction application after hearing the learned counsel for the parties.

Instant High Court Appeals stand disposed of in the above terms along with listed applications.

***JUDGE***

***JUDGE***

Nadeem