

61

IN THE HIGH COURT OF SINDH AT KARACHI
C.P.No.D-5501 of 2021
&
C.P.No.D-791 of 2023

Date Order with Signature of Judge

PRESENT:

MR. JUSTICE AQEEL AHMED ABBASI, CJ
MR. JUSTICE ABDUL MOBEEN LAKHO, J

C.P.No.D-5501 of 2021

Asif Waheed & another.....v/s.....The Government of
Islamia Law College &
others

C.P.No.D-791 of 2023

Aurangzeb.....v/s.....Federation of Pakistan
& others

18.03.2024.

Mr.Fahad Mushaffy, Advocate for Petitioners in C.P.No.D-5501/2021
along with Petitioner No.1.

Petitioner in C.P.No.D-791/2023 is present in person

M/s.Ameeruddin, Asad Ali Khan Sherwani, Aijaz Ali Tunio, Advocates
for Respondent (University of Karachi)

Mr.Akhter Hussain Mr.Abdul Rashid Rajar and Ms.Adeela Ansari,
Advocates for Pakistan Bar Council.

Mr.Amir Nawaz Warraich, Advocate.

Mr.Fareed Dayo, Advocate/Principal Sindh Muslim Government Law
College, Karachi.

Mr.Naseem Akhter, Vice Principal, Government Islamia Law College.

Mr.Saifullah, A.A.G.

Mr.Khaleeq Ahmed, D.A.G.

ORDER

1. Above constitutional petitions have been filed by the students of Sindh Muslim Government Law College, Karachi and Government Islamia Law College, Karachi, who took admission for LL.M on regular basis for the Session/Batch 2018-2019, whereas, University of Karachi conducted their exams for LL.M (Part-I) provisionally subject to approval by Pakistan Bar Council on the directions given by a Division Bench of this Court in C.P.No.D-4883/2020 vide consent order dated 13.10.2020 in the following terms:-

"13.10.2020

since 20 students have already been admitted in School of law where the First semester is under completion”.

Therefore, no further students above the capacity of 20 students cannot be accommodated.

Thanking you.

Sd/-
Controller of Examination
University of Karachi
Controller of Examinations
University of Karachi.”

5. Learned counsel for Respondent (University of Karachi) submits that in view of the order passed by this Court requiring the respondents to find a via media to enable the petitioners in the aforesaid petitions, who are students of Sindh Muslim Government Law College, Karachi and Government Islamia Law College, Karachi to complete their LL.M Part II Examination and also announce result of LL.M Part I Examination, which permission was awarded by the orders of this Court in C.P.No.D-4883/2020 a detailed letter was written on 26.02.2024 in response to which University of Karachi has expressed willingness to resolve the issue of petitioners, therefore, in order to save the academic session/career of the petitioners a via media has been found in the aforesaid terms and instant petitions can be disposed of accordingly. It has been further submitted that in the first instance the result of the LL.M Part I Examination of the Batch 2018-2019 held in the year 2020 will be announced, thereafter, the examination of LL.M Part II (Batch 2018-2019) shall be held by the University of Karachi within short period of time as per schedule, which will be shortly announced by the University of Karachi after completion of all codal formalities, however, not later than 03 months from the date of the order as may be passed in these petitions, and thereafter, the petitioners will be allowed to opt for 02 papers of LL.M. Final for preparation of their Thesis as per schedule which will be subsequently announced.

6. All the learned counsel as well as petitioners present in Court are agreeable to such proposition and disposal of instant petitions in the above terms. Accordingly, by consent, instant petitions are disposed of alongwith pending applications in the above terms.

Judge
Chief Justice

Petitioners present in person.

M/S.Moin Azhar Siddiqui, Naseem Akhtar and Ali Ahmed Turabi.

Advocates for Respondent No.1

M/S.Shoaib Mohiuddin Ashraf and Ameenuddin, Advocates for Respondent No.2 / University of Karachi a/w Professor Dr. Abdul Waheed, Registrar University of Karachi, Asif Mukhtar Director (Legal) and Zafar Hussain, Controller of Examination, University of Karachi.

By consent, Mr.Muhammad Aqil, one of the present members of Pakistan Bar Council present in Court, is appointed as amicus curiae in this case to assist the Court.

We have heard the petitioners and learned counsel for the parties as well as learned amicus at a considerable length. Learned counsel for respondent No.1 / Government Islamia Law College Karachi has made a categorical statement before us that the affiliation of the said college with respondent No.2 / University of Karachi is still intact and as such respondent No.1 is competent to admit students for LL.M examination and to allow them to take part in the said examination. Learned counsel for the respondents state that the respondents are conscious of the difficulty that is being faced by the petitioners due to non-issuance of admit cards for the forthcoming examinations of LL.M Part-I. As the examination are schedule on 15.10.2020, it has been suggested by the parties, their respective counsel and learned amicus that the petition be disposed of in terms of the joint statement filed and signed by them which reads as under:-

“It is respectfully submitted on behalf of the respondents that the petitioners students should be allowed to sit in LL.M Part one examination on provisional basis subject to decision of Pakistan Bar Council, University authorities have already received enrolment forms, and admit / examination forms will be submitted by respondent No.1 on 14.10.2020 positively. The Respondent No.2 shall comply with the Court order in letter and spirit.”

Needless to say the above treatment / facility shall be granted to all the enrolled students of respondent No.1 appearing in the forthcoming examinations of LL.M Part-I. In addition to the above, it has been agreed that if the issue of affiliation of respondent No.1 with respondent No.2 is not finalized by respondent No.3 till the announcement of the result of the forthcoming examinations of LL.M, the result of the petitioners shall be withheld by respondent No.2. By consent, the petition and listed application stand disposed of in the above terms with no order as to cost.”

2. In both the petitions, petitioners have mainly pressed for following relief:-

“(a) To direct the Pakistan Bar Council to give permission to University of Karachi to declare result of LL.M Part-I (Previous) and conduct examinations of LL.M Part II (Final) for 2018 LL.M Batch through S.M. Law College.

OR

To shift the academic year / session for LL.M Part II (Final) from S.M. Law College to University of Karachi and complete the LL.M Studies of 2018 Batch of S.M. College.

(b) To direct the Respondent Nos.2, 3 & 2 to allow to continue the LL.M Batch 2018 from Law College and complete the studies/session.

3. Keeping in view the peculiar facts and circumstances of above petitions on 13.02.2024 following order was passed:-

“13.02.2024

Petitioner present in person.

Mr. Akhter Hussain, advocate for the respondents No.2 & 3 along Ms.Adeela Ansari, advocate Mr. Ameeruddin, advocate for respondent No.5 along with Mr. Aijaz Ali Tunio, advocate Mr. M. Fareed Dayo, Advocate/Principal, Sindh Muslim Govt Law College is present Mr.Saifullah, AAG. Mr. Khaleeq Ahmed, DAG

Learned counsel for the parties have requested for time to examine the possibility of making arrangement for the petitioners and other students of LLM Part-1 at Sindh Muslim Govt. Law College to adjust them in Karachi University for LLM Part-II classes, so that their academic year may not be wasted. For such purpose, the matter is adjourned to 29.02. 2024 to be taken up at 12.00 noon.”

4. Today, pursuant to Court’s order learned counsel for Respondent (Karachi University) has referred to the compliance report submitted on 14.03.2024 in C.P.No.D-791/2023 particularly the letter dated 06-03-2024 issued by Controller of Examinations, University of Karachi which reads as follows:-

“Director Legal,
University of Karachi.

Subject: C.P.No.791 OF 2023 AURANGZEB V/S FEDERATION OF PAKISTAN

In compliance with the order of Hon’ble High Court, all students of law Colleges were allowed to provisionally appear for the LL.M Part I Examination 2019 held in 2020. But the results of the students of Law Colleges have been withheld as per the direction of the Hon’ble High Court.

The Hon’ble High Court will issue further orders, and then Karachi University will release the results and be allowed to sit for further Examinations.

It is further, as per the information of the Director, School of Law that “only 20 students are allowed at LL.M as per HEC/PBC resolution