

**IN THE HIGH COURT OF SINDH, AT KARACHI**

**C.P.No.D-5623 OF 2023**

**PRESENT:**

**MR. JUSTICE AQEEL AHMED ABBASI  
CHIEF JUSTICE**

**MR. JUSTICE ABDUL MOBEEN LAKHO**

Petitioner Fatimah Quaid  
through Khurram Lakhani, Advocate

Respondent No.1 The Principal, S.M. Law College, Karachi  
through Mr.Muhammad Fareed Dayo, Advocate

Respondent Nos.2-3 The V.C. and Registrar of Karachi University  
through Mr.Yousuf Moulvi and Ms.Rafia Murtaza,  
Advocates

Mr. Akhtar Hussain and Ms.Adeela Ansari, Advocates for Pakistan Bar Council.  
Mr. Saifullah, A.A.G.  
Mr. Khaleeq Ahmed, D.A.G.  
Prof. Dr. Anila Amber Malik, Secretary Affiliation, Karachi University *and*  
Prof. Abdul Waheed, Registrar, Karachi University are present in person.

Date of hearing 07.12.2023.  
Date of Order 07.12.2023.

**ORDER**

**ABDUL MOBEEN LAKHO, J:** Through instant petition, the petitioner has expressed her grievance against the act of respondents with the following prayers:-

- a) To direct the Respondent No. 1 to resolve the matter of issuance of enrolment cards to petitioners with consultation of Respondent No. 2 to 4.
- b) To direct the Respondent No. 2 not to hold the annual examination of BA LLB Part 1 of 100 students without considering the merits of petitioners and other 44 students of SM Law College.
- c) To direct the Respondent No. 2 and 3 to act as per the list uploaded on 05.05.2023 on website of the Karachi University.
- d) To direct the Respondent No. 1 not to take any coercive action and disciplinary action against the petitioners for filing this petition, which have been filed in order to save the precious academic year of the petitioners.

- e) To Pass Order to the Respondent No. 2, to immediately issue the Enrolment Cards to the petitioners as they are eligible for appearing in annual examination.

2. Brief facts of the case are that the Petitioner on the basis of clearance of LAT was eligible to apply for getting admission in B.A. LL.B (Five year program) in S.M. Law College, Karachi, therefore, the petitioner and all other eligible students had applied for the admission in B.A. LL.B and after fulfilling all requisite formalities including depositing of admission fee and Enrolment Fee through Pay Orders in favour of Respondent No.1, but to their utter surprise, one merit list of hundred students were pasted on the Notice Board of the College, whereas, names of Petitioner and remaining Students, were not published on the merit list, however, they immediately approached the Principal of S.M. Law College regarding their names, not listed in the merit list. In response, the Respondent No.1 informed that sorting out process was underway and remaining final list of students would be available within two days' time. After waiting for two or three days, a phone call was received to the Petitioner and Students regarding their names to be available on the merit list of the College and their admissions were confirmed and after issuance of College Cards the petitioner and other students were allowed to attend the classes and to mark their attendance and they also witnessed that on 04.10.2023 enrolment cards were issued to the certain students, whereas, on the other hand, they kept waiting, but neither their names were called nor they were issued their enrolment cards. The petitioner alongwith other 44 students have been in mental agony, whether they would be allowed by the Respondent No.2 (Karachi University) to appear in the upcoming annual examination of B.A. LL.B Part 1. The petitioner and other students have been continuously requesting the Respondent No.1, but till now needful has not been done. The University of Karachi (Respondent No.2) has also uploaded a list of Government College, at Page No.31 at Serial No. 2 that the S.M. Law College has been allowed to conduct the B.A. LL.B Program of 150 students, but on the other hand, the Respondent No.1 is on constant denial and playing with the future of the Petitioner and Students.

3. Learned counsel for the petitioner argued that Petitioner and other students of B.A. LL.B Part-1 are not being allowed to submit enrolment form to appear in the forthcoming examination despite having payment of the requisite fee. Learned counsel for the petitioner argued that Respondent Nos.2 and 3 (Karachi University) is denying such opportunity to the students, who have

already paid their fee and attended classes, whereas, instance of the petitioner has been duly supported by the Principal S.M. (Government) Law College, Karachi as well as Pakistan Bar Council. Learned counsel for the petitioner has argued that the act of respondent Nos.2 and 3 (Karachi University) is against the norms of justice and equity as well as tantamount to ignoring the right of education. Learned counsel for the petitioner also pointed out that the Principal of S.M. (Government) Law College has also written letters from time to time to Karachi University as well as Pakistan Bar Council for increasing of 50 more seats for admission in L.L.B. Five Year Programme but all in vain.

4. Mr. Muhammad Fareed Dayo, learned counsel/Principal S.M. Law College, Karachi argued that in view of the judgment of Hon'ble Supreme Court of Pakistan in the case of *Pakistan Bar Council v. Federal Government (2019 SCMR 389)* in para 9 it has been observed that the Rules have an overriding effect, therefore, law degree awarding Institutions must comply with the guidelines and Rules framed by the Bar Councils from time to time. It has been further observed that once Pakistan Bar Council granted 50 additional seats in B.A.LL.B. Program then University of Karachi could not raise any objection and Pakistan Bar Council has rightly granted 50 additional seats of B.A. LL.B. Program. In support of his contention, he referred to a letter dated 12.08.2022 issued by Pakistan Bar Council addressed to Acting Principal, Sindh Muslim (Government) Law College, Karachi conveying the following decision:-

“Therefore, the Committee after deliberation recommended that the Pakistan Bar Council may consider the possibility of enhancing 50 more seats for LL.B 5 years programme for the S.M. (Govt.) Law College, Karachi while relaxing the Rule 5(ii) of the “PBC Legal Education Rules, 2015”, since it is renowned and old Law College of the Sindh and building and infrastructure is also available there and many Lawyers and Judges have obtained their law degrees from the said Law College, so it deserves to be granted 50 additional seats.”

5. Mr. Yousuf Moulvi, learned counsel for Respondent Nos.2 and 3 (Karachi University) argued that they had already intimated Rules/Policy for the increase of Seats several times for the said program to the College, that as per decision of the Hon'ble Supreme Court of Pakistan every College and University is bound to give admission to only 100 students in the First Year of Five years B.A. (Law) program, therefore, College need to send a reviewed order from the Honorable Supreme Court of any extra seat, therefore, the University will not go against the earlier Supreme Court's order. He further

argued that S.M. Law College program for LL.B is still pending for regularization as the College still need to comply with the condition to improve and appoint permanent faculty members in six months, but the college did not appoint any regular faculty, and not yet send any compliance till date, therefore, final approval for the increase of seats of the B.A. LL.B program is subject to the reviewed order of Supreme Court and outcome of the inspection for the said purpose. He also referred to the Rule 5(ii) of Pakistan Bar Council Legal Education Rules, 2015, which reads as under:-

“5(ii) The Total number of students admitted in 1<sup>st</sup> year LL.B. in any case shall not accede 100.

However, in special circumstances, the Committee in case of main campus of a University, may allow admission of students to 1<sup>st</sup> year LL.B. not acceding 150 keeping in view infrastructure and facilities available in main campus of the concerned University.”

6. We have heard the learned counsel for the parties, perused the material available on record and also considered the submissions as well as case law cited by them. Prima facie, it appears that no reasonable explanation has been given in the comments filed on behalf of respondent Nos.2 and 3, *whereby*, the students, who were granted admission in B.A. LL.B, in S.M. (Government) Law College are not being allowed to submit examination forms by Karachi University (Respondent Nos.2 and 3), inspite of the fact that as per list of Government Colleges issued by office of the Affiliation Committee, University of Karachi, seating capacity of 150 students has been approved. It further appears that different instances have been placed before us by the learned counsel for Respondent Nos.2 and 3 to deny such opportunity to the students, who have already paid their fee and attended classes, *whereas*, the stance of the petitioner has been duly supported by the Respondent No.1 (Principal S.M.(Government) Law College, Karachi) and learned Advocate General Sindh, who have referred to the relevant provisions of Pakistan Bar Council Act and the correspondence on the subject controversy, which reflects that Pakistan Bar Council is supporting the case of petitioner.

7. Indubitably, education being an indispensable and primary fundamental right is the course of action of accelerating learning, or the attainment of knowledge, competence, values, moral beliefs and habits and this right flows directly from right to life which is also concomitant to the fundamental rights enshrined in our Constitution. The benefit of education cannot be restricted to one or the other genera or classes. The effect and end result of holding right to education is implicit in the right to life which the State cannot deprive.

Education is somewhat worthy contrivance which transforms educated people as a valuable source of knowledge for the society. Reference can be made to the case reported in **PLD 2021 Sindh 476 (Shumail Salman Shah & others v. Federation of Pakistan & others)**

8. In view of the above, we vide our short order dated 07.12.2023 had allowed instant petition and these are the reasons thereof.

Judge

Chief Justice

Jamil/nasir