IN THE HIGH COURT OF SINDH, KARACHI

Constitutional Petition No. D-4378 of 2024.

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Before:-
Mr. Justice Riazat Ali Sahar,
Mr. Justice Ali Haider 'Ada'.

Petitioners:
Nabeela Riaz Butt and others *through* Mr. Javaid Ali Dars, Advocate for Petitioners.

VERSUS

Respondents:
Province of Sindh and others.

Mr. Abdul Jalil Zubedi, Additional Advocate General, Sindh, alongwith Zain-ul-Abidin Laghari, Director, Teaching license (STEDA), and Khalid Hussain Malik on behalf of Respondent No.5.

Mr. Khurram Rashid, Advocate for Respondent No.8.
Mr. Saiff Ali Akbar, Advocate for Respondent No.9.

Date of Hearing: 12.10.2026.
Date of Decision: 04.11.2026.

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ORDER

Ali Haider 'Ada' J.- The case of the petitioners, as set out in the instant Constitutional petition, is that they are serving as teachers in Government schools. Respondent No.3, the Secretary, School Education and Literacy Department, Government of Sindh, introduced the Teaching License Policy, 2023, duly approved by the competent authority, with the object of conducting a teaching licence test for the concerned teachers. In this regard, the services of respondent No.4, Sukkur IBA Testing Services (SIBA), were engaged for conducting the entire testing process, including the arrangements for the examination, assessment and declaration of results.

2. The petitioners applied for the said test and participated in the examination conducted pursuant to the aforesaid policy. However, they became aggrieved by the assessment criteria adopted by the testing service and the declaration of the results, whereby they were not declared successful. The petitioners have also questioned the criteria prescribed for passing the examination, particularly the determination and application of the passing marks in different components of the test. Their principal grievance is that the assessment criteria, including the requirement of obtaining minimum passing marks in each component, were not duly disclosed to them before the conduct of the examination and that the post-test determination of such criteria adversely affected their results. It is further their contention that the candidates, including the petitioners, had no prior knowledge of the assessment criteria subsequently determined and applied by SIBA, thereby rendering the process arbitrary and prejudicial to their rights.

3. On the other hand, the respondents have filed their comments and counter-affidavits, wherein the allegations levelled by the petitioners have been denied. Their principal stance is that the Teaching License Policy, 2023, was introduced with the object of improving the standard of education and ensuring the professional competence of teachers serving in Government schools. It is submitted that the testing process was conducted in a transparent manner and in accordance with the prescribed procedure. The respondents further contend that the petitioners, along with other candidates, participated in the examination under the same testing scheme and were assessed in accordance with the prescribed criteria; however, the petitioners could not secure the requisite scores to be declared successful. It is further submitted that the relevant syllabus, sample papers and other material relating to the examination had already been uploaded on the official website of the testing service, and that, pursuant to the Memorandum of Understanding (MoU), SIBA had made the requisite examination-

related material available to the candidates through its website. Accordingly, the respondents maintain that the testing process was conducted uniformly and that no discriminatory treatment was meted out to the petitioners.

4. The petitioners thereafter filed their rejoinder, wherein they reiterated their original stance and controverted the assertions made by the respondents in their comments and counter-affidavits. The learned counsel for the petitioners subsequently submitted written arguments along with a list of precedents in support of their contentions, which were taken on record.

5. Learned counsel for the petitioners submitted that the main controversy concerns the determination and application of the passing criteria in the Teaching License Test. According to him, no minimum passing criteria of 50% marks in each component of the examination had been communicated to the candidates before the conduct of the test, whereas the respondents subsequently introduced and applied the said requirement while assessing the candidates and declaring the results. It was contended that the application of such criteria after the examination amounts to retrospective application of an assessment requirement, which could not lawfully be imposed upon the petitioners after they had already participated in the examination. Learned counsel further submitted that the petitioners were not provided with adequate guidelines concerning the assessment of constructive-response questions, nor were they informed in advance of the manner in which such responses would be evaluated. He contended that the absence of prior disclosure of the applicable assessment criteria and the prescribed method of evaluation has materially prejudiced the petitioners and rendered the impugned assessment process questionable. Learned counsel for the petitioners further contended that the grievance-redressal mechanism contemplated under the Teaching License Policy, 2023, has not been constituted in accordance with the requirements prescribed therein. It was argued

that the composition of the Teaching License Test Committee does not conform to the prescribed policy requirements. He maintained that the impugned testing process, particularly the determination and application of the passing criteria, is liable to be declared unlawful in the light of the principles of fairness, transparency and equal treatment.

6. On the other hand, learned counsel for respondents as well as the learned Law Officer, have fully supported the Teaching License Policy, 2023, and the testing process conducted thereunder. Their common stance is that the policy was introduced with the object of improving the standard of education and ensuring the professional competency of teachers through a uniform and transparent testing mechanism. It was submitted that the relevant examination criteria, syllabus and other necessary material were duly published through the official website and that the candidates were provided with the requisite information concerning the testing process. They further contend that the petitioners, like other candidates, participated in the examination under the same prescribed scheme and were assessed in accordance with the applicable criteria. According to them, the mere fact that the petitioners could not secure the requisite marks does not establish any illegality, discrimination or lack of transparency in the testing process. They further submitted that the Sindh Teachers Education Development Authority (STEDA) is competent under the applicable law to introduce and implement the Teaching License Policy, 2023, for the purpose of improving the quality of education and professional standards of teachers. It was contended that the policy itself provides for a grievance-redressal mechanism and that the petitioners, despite the availability of such a forum, have directly invoked the Constitutional jurisdiction of this Court without first availing the remedy provided under the policy. The learned Counsel further submitted that a similar controversy has already been examined by this Court at its Sukkur Bench, where a Constitutional petition involving the same subject matter was

dismissed. Accordingly, they contend that the instant petition is not maintainable and is liable to be dismissed.

7. Heard learned counsel for the parties and perused the record.

8. A perusal of the record reflects that the School Education and Literacy Department, Government of Sindh, introduced the Teaching License Policy, 2023, vide Notification No. SO(G-III)/SE&LD/4- 509/2023, Karachi, dated 15.06.2023. The primary objective of the said policy is to enhance the quality of education by ensuring that individuals intending to enter the teaching profession, as well as serving teachers seeking to improve their professional competencies and acquire additional qualifications, obtain the requisite certification for professional development, career advancement and promotion opportunities.

9. In this context, a careful perusal of the policy reveals that the same has been framed under the authority of the Sindh Teachers Education Development Authority (STEDA), which derives its statutory mandate from the **Sindh Teachers Education Development Authority Act, 2012 (STEDA Act, 2012)**. The said Authority has been established under the Act and is legally empowered to formulate and implement policies relating to teachers' education, professional development and the standardization of teaching competencies. Thus, the Authority, as well as the Government, is competent to introduce such a policy within the framework of the applicable law.

10. A plain reading of the relevant provisions of the STEDA Act, 2012, makes it evident that one of the principal functions of the Authority is to take necessary measures for improving the quality of education through the enhancement of teachers' training, certification and professional competence. The introduction of the Teaching License Policy, 2023, therefore, appears to be consistent with the statutory objectives of the Authority and the legislative

framework governing teachers' professional development. For ready reference, the relevant provision is reproduced as under:–

> ***4. Powers and Functions of the Authority.***
>
> *(1) The Authority shall have the powers to –*
>
> *(a) take steps for ensuring planned and coordinated development of teachers education and for the determination and maintenance of standards for teachers education;*
>
> *(b) undertake surveys and studies relating to various aspects of teachers education and publish the results thereof;*
>
> *(c) make recommendations to Government, Universities and accredited institutions for the preparation of suitable plans and programmes in the field of teachers education;*
>
> *(d) lay down guidelines in respect of minimum qualifications for a person to be employed as a teacher in schools or in accredited institutions;*
>
> *(e) lay down guidelines for minimum criteria for promotions and career path of the teachers in schools;*
>
> *(f) lay down norms of specified category of courses or training in teachers education including minimum eligibility criteria for admission thereof and the method of selection of candidates, duration of the course and mode of curriculum;*
>
> *(g) lay down guidelines for compliance by accredited institution for starting new courses, programmes or training and for providing physical and instructional facilities, staffing pattern and staff qualifications;*
>
> *(h) lay down and monitor standards of examinations leading to teachers education, criteria for admission to such examinations and schemes of courses or training;*
>
> *(i) promote and conduct innovation and research in various areas of teachers education and disseminate the results thereof;*
>
> *(j) examine and review periodically the implementation of the guidelines and standards laid down by the Authority and to advise the accredited institutions;*
>
> *(k) evolve suitable performance appraisal systems, norms and mechanisms for enforcing accountability on accredited institutions;*
>
> *(l) formulate the schemes for various levels of teachers education and development programmes;*
>
> *(m) recommend standards and competencies for all educational professional posts;*
>
> *(n) design and publish a code of conduct for teachers and other professionals by engaging all concerned including the teachers*

associations, civil society and the people of the Province for developing and monitoring professional conduct of teachers;

(o) develop the standards and plans for mentors and teachers;

(p) accredit and oversee public and private sector and other service providers for teachers education and professional development.

(q) frame coherent standards for continuing professional development for teachers;

(r) maintain and present reports for teachers, professional development provided to teachers from time to time by maintaining a database for the purpose;

(s) lay down the standards and quality assurance procedures for Initial Teacher Education;

(t) develop policy and take steps for certification of teachers;

(u) take all steps for help in devising self regulation mechanism for teachers education in private sector; and

(v) perform any other function and exercise such powers as may be prescribed.

11. Furthermore, the STEDA Act, 2012, also empowers the Government to issue directions to the Authority for the effective implementation of its policies and to ensure proper regulation and standardization in the field of teachers' education. This statutory power further reinforces the legal authority of the Government and the Authority to introduce and implement the policy in question, subject to the framework prescribed under the Act. For ease of reference, the relevant provision is reproduced as under:–

5. Government may, as and when it considers necessary, issue directions to the Authority on matters of policy, and such directions shall be binding upon the Authority.

12. It is evident from the record that the Teaching License Policy, 2023, was duly notified under the enabling provisions of the relevant enactment and, therefore, originates its legal authority from the applicable statutory framework.

13. Now, the pivotal question, however, is whether the criteria governing the conduct and assessment of the Teaching License Test were duly prescribed and made known to the candidates before the

examination. In this regard, it is an admitted position that the advertisement for the test was published after the Teaching License Policy, 2023, had already been notified on 15.06.2023. The said policy, therefore, was in existence prior to the examination and prescribed the criteria governing the Teaching License Test, including the qualifying requirements applicable to the candidates. Accordingly, the question requires examination in the light of the relevant provisions of the policy, particularly whether the passing criteria subsequently applied by the respondents were expressly stipulated therein or were introduced or determined at a later stage. For ready reference, the relevant clause of the policy is reproduced as under:–

> ***2. Teaching License Test***
>
> *2.1. The licensure test will be based on Professional Standards for Teachers at an appropriate level.*
>
> *2.2. The syllabus for the test and a model paper will be published on STEDA's website.*
>
> *2.3. The tests will be developed and administered by a Third Party, which will be appointed by the STEDA based on relevant expertise. The Third Party will preferably be a NACTE accredited organization.*
>
> *2.4. The test has to be aligned with teacher education curriculum in effect at the time of test development.*
>
> *2.5. The tests will be developed to assess both knowledge and pedagogical skills of the applicants. Tests of pedagogical skills can be developed on the pattern of 'Alternate to Practice' tests conducted in various fields.*
>
> *2.6. Applicants can re-appear in the test after at least 6 months or as per the next available test date announced by the STEDA, upon submission of a fresh license fee.*
>
> *2.7. In future, innovative assessment practices will be considered as per the readiness of the system and its teachers, for example: portfolio assessments, classroom observations, recorded practicum etc. Consultations will be carried out when the time is right.*
>
> *2.8. An appropriate teaching license fee and renewal fee will be determined and charged by the STEDA.*

2.9. Serving or incumbent teachers in the private education sector, who want to obtain teaching license, can also apply as per the requirements laid out in this policy.

14. The distinction between a criterion already having lawful force before the test and one introduced after completion of the test is material. In **Ayaz and others v. Mustafa Saeed and others (2025 SCMR 216)**, the Honourable Supreme Court stressed adherence to the prescribed framework and the requirements of transparency when changes were made to an advertised selection process without the requisite public notification. Although that case concerned recruitment by the Sindh Public Service Commission, the principle of legality in prescribing and communicating material selection conditions provides useful guidance in the present controversy.

15. Moreover, the record reflects that, prior to the conduct of the test, sample papers were uploaded by SIBA Testing Services for the guidance and facilitation of the candidates. This circumstance indicates that material relating to the nature and structure of the examination was made accessible to the candidates before the test. The petitioners' contention that they were unaware of the selection criteria, therefore, requires examination in the light of the policy notified on 15.06.2023, the relevant examination material and the criteria actually applied by the respondents. Where the governing policy had already prescribed the qualifying requirements and the relevant material had been made available before the examination, the mere assertion that the criteria were not separately reproduced in the advertisement would not, by itself, establish that the assessment process was unlawful. In this regard, **Government of Punjab through Secretary (S&GAD), Lahore and another v. Zafar Maqbool Khan and others (2012 SCMR 686)** emphasizes that eligibility is to be ascertained in the light of the advertisement, governing rules and such amendments or instructions as are backed by law. It follows that the probative significance of the uploaded material depends on what it actually disclosed: publication of the

syllabus and sample papers may establish prior disclosure of the subjects and pattern of the test, but cannot, without more, be equated with prior communication of every qualifying threshold.

16. Furthermore, a perusal of the relevant qualifying criteria reveals that the requirement of securing at least 50% marks in each components, Content Knowledge and Pedagogical Content Knowledge, was intended to ensure that candidates possessed the requisite subject knowledge as well as the necessary pedagogical competence. The requirement was not limited to obtaining an aggregate score by combining the marks secured in both components; rather, a candidate was required to meet the prescribed minimum qualifying threshold in each component separately. Such a requirement appears consistent with the underlying objective of the Teaching License Policy, 2023, to improve the standard of education by ensuring that teachers possess the requisite knowledge and professional teaching competencies.

17. It is also pertinent to note that, according to the result announcement annexed with the petition as Annexure-A, approximately 4,000 candidates appeared in the test. The prescribed criteria were applicable to all candidates participating in the examination, and the petitioners have not, merely by questioning the qualifying threshold, established that a different standard was applied to them. The fact that a considerable number of candidates participated in the test does not, by itself, establish the legality of the assessment process; nevertheless, where the same criteria were uniformly applied to all candidates in accordance with a policy notified before the examination, an individual grievance concerning the outcome cannot, without more, render the entire process unlawful. The necessity of a fair and uniform process also finds support in **Munir Hussain and others v. Province of Sindh and others (2022 SCMR 650)**, wherein the Honourable Supreme Court reiterated that public selection procedures must be fair, transparent and founded upon the governing law and rules. The ratio of that

decision, though rendered in the context of appointments against competitive-examination vacancies, underlines that an unsuccessful candidate cannot claim a result in disregard of a legally applicable standard; equally, uniformity alone does not validate a standard which otherwise lacks lawful authority.

18. The question, therefore, is not whether the petitioners consider the qualifying threshold to be stringent, but whether the requirement of securing 50% marks in each component was lawfully prescribed, and whether the respondents subsequently introduced or altered that requirement after the candidates had appeared in the examination. If the said threshold formed part of the policy notified on 15.06.2023, and the assessment was conducted in accordance with that requirement, the petitioners' challenge to the qualifying threshold would not be sustainable merely on the ground that they failed to secure the requisite marks. The Honourable Supreme Court in **Punjab Public Service Commission and others v. Husnain Abbas and others (2021 SCMR 1017)** further explained, in the recruitment context, that participation in a selection process or inclusion in a merit list does not, of itself, create a vested right contrary to the applicable legal framework. The analogy is limited to the absence of an automatic right to a favourable outcome; it does not dispense with the necessity of proving the lawful source and timely applicability of the assessment conditions in the present licensing examination.

19. It is pertinent to observe that the formulation of policy and the framing of rules or guidelines thereunder, within the limits prescribed by law, ordinarily fall within the domain of the executive. The Constitutional framework of the Islamic Republic of Pakistan recognizes the principle of trichotomy of powers, whereby the legislature performs the function of law-making, the executive implements the law and the judiciary interprets and applies it. The respective functions of these organs are constitutionally delineated, and ordinarily, one organ should not encroach upon the domain

assigned to another. In this regard, reliance is placed upon **Executive District Officer (Revenue), District Khushab at Jauharabad and others v. Ijaz Hussain and another, reported as 2012 PLC (C.S.) 917 (Supreme Court of Pakistan),** wherein the Honourable Supreme Court reiterated the Constitutional significance of the trichotomy of powers and relied upon the principles discussed in **Dr. Mobashir Hassan v. Federation of Pakistan, reported as PLD 2010 SC 265**. The relevant observation is reproduced as under:–

> *"It is also to be borne in mind that Constitution envisages the trichotomy of powers amongst three organs of the State, namely the legislature, executive and the judiciary. The legislature is assigned the task of law making, the executive to execute such law and the judiciary to interpret the laws. None of the organs of the State can encroach upon the field of the others. [State v. Ziaur Rahman (PLD 1973 SC 49), Federation of Pakistan v. Saeed Ahmad Khan (PLD 1974 SC 151), Government of Balochistan v. Azizullah Memon (PLD 1993 SC 341), Mahmood Khan Achakzai v. Federation of Pakistan (PLD 1997 SC 426), Liaquat Hussain v. Federation of Pakistan (PLD 1999 SC 504), Syed Zafar Ali Shah v. General Pervez Musharraf (PLD 2000 SC 869), Nazar Abbas Jaffri v. Secy: Government of the Punjab (2006 SCMR 606), Sindh High Court Bar Association's case (PLD 2009 SC 879), Smt. Indra Nehru Ghandi v. Raj Narain (AIR 1975 SC 2299) and Minerva Mills Ltd. v. Union of India (AIR 1980 SC 1789)"*

20. It is, therefore, a settled principle that the Superior Courts ordinarily exercise restraint in matters involving policy choices made by the executive, particularly where such choices require technical expertise, administrative assessment or consideration of broader institutional objectives. However, such restraint does not exclude judicial review where a policy decision is shown to be arbitrary, mala fide, contrary to the governing statute or otherwise violative of Constitutional or legal requirements. The scope of judicial review remains available to examine the legality of the decision-making process, even where the policy itself falls within the executive domain. In this regard, guidance may be drawn from the judgment of the Honourable Supreme Court in **Abdul Hameed and others v. Water and Power Development Authority through Chairman, Lahore and others, reported as 2021 SCMR 1230,**

wherein the principle of judicial restraint in policy matters was recognized, subject to the established grounds for judicial interference. Accordingly, this Court is not required to substitute its own assessment of the appropriate qualifying threshold for that adopted by the competent authority, provided that the prescribed criterion is lawful, rationally connected with the object sought to be achieved and uniformly applied.

21. Accordingly, this Court is not required to substitute its own assessment of the appropriate qualifying threshold for that adopted by the competent authority, provided that the prescribed criterion is lawful, rationally connected with the object sought to be achieved and uniformly applied. In particular, **Ayaz and others v. Mustafa Saeed and others (2025 SCMR 216)** illustrates the corresponding limit on judicial restraint: where the competent authority departs from a binding framework or makes material alterations to selection conditions in breach of applicable publicity requirements, judicial review remains available notwithstanding the administrative or technical nature of the selection exercise. Conversely, a court ought not to recalculate marks or replace a lawful technical benchmark merely because individual examinees have not qualified.

22. With regard to the petitioners' contention that the qualifying criteria were not specified in the advertisement, it is necessary to distinguish between the eligibility conditions expressly stated in an advertisement and the further requirements forming part of the governing policy, statutory rules or valid instructions applicable to the selection process. The terms of an advertisement cannot be examined in isolation from the legal framework under which the recruitment or examination process is conducted. Consequently, the omission of a particular detail from the advertisement would not, by itself, invalidate the process where the relevant requirement was already prescribed by the governing policy and instructions previously posted in website and was lawfully applicable to the candidates. Reliance in this regard is placed upon **Government of**

Punjab through Secretary (S&GAD), Lahore and another v. Zafar Maqbool Khan and others, reported as 2012 SCMR 686. The principle emerging from the relevant legal framework is that the applicable eligibility and assessment requirements must be determined by reference to the advertisement read together with the governing service rules, statutory provisions and valid policies or instructions. Similarly, **Punjab Public Service Commission and others v. Husnain Abbas and others (2021 SCMR 1017)** recognizes the controlling effect of the applicable law and valid governmental notifications over an asserted expectation founded only upon the earlier administrative process. These authorities, however, proceed upon the existence of a legally operative condition; they do not authorize an examining body to impose an undisclosed material cut-off retrospectively merely because the examination has concluded.

23. In addition, the formulation of policy ordinarily falls within the executive domain. The Courts are not expected to assume the role of the policy-making authority or to substitute their own preferences for those of the competent executive body. Guidance in this regard may be drawn from **Peshawar Electric Supply Company Ltd. (PESCO) and another v. SS Polypropylene (Pvt.) Ltd., Peshawar and others, reported as PLD 2023 SC 316; Messrs Sadiq Poultry (Pvt.) Ltd. v. Government of Khyber Pakhtunkhwa through Chief Secretary and others, reported as PLD 2023 SC 236; and Sikandar Ali and others v. Province of Sindh through Secretary, Education and Literacy Department, Sindh Secretariat, Karachi and others, reported as 2023 PLC (C.S.) 566**.

24. In view of the foregoing discussion and reasons, no justification has been made out for interference with the impugned testing process or for declaring the same null and void, as no material has been brought on record to establish arbitrariness, illegality or any other compelling ground warranting interference by this Court in its Constitutional jurisdiction. Consequently, the

instant petition is hereby dismissed, along with all listed applications, if any, with no order as to costs.

JUDGE

JUDGE

Approved for Reporting.