



FEDERAL OMBUDSMAN

WAFAQI MOHTASIB (OMBUDSMAN)'S SECRETARIAT

C L O S U R E F I N D I N G S

Complaint No	:	WMS-HQR/0005929/23
Date of Registration	:	03.04.2023
Name & Address of the Complainant	:	Dr. Muhammad Ali (Rector), PIMSAT 177/2IEP Building Shahrah-E-Faisal Distt Karachi
Name of the Agency complained against	:	Higher Education Commission
Name & Designation of the Investigating Officer, Station	:	Raana Seerat, Sr. Advisor, H.O. Islamabad
Brief Subject	:	Mal-administration in refusal to allow admissions in PIMSAT by HEC.
Date when IO asked for report from Agency	:	05.04.2023
Date of Receipt of Agency's report in WMS	:	12.05.2023, 18.05.2023
Number & Dates of Hearing	:	i) Number: 04 ii) Dates: 26.04.2023, 27.04.2023, 12.05.2023, 18.05.2023
Name and Designation of the Agency's Representative who attended the hearing	:	Mr. Saim Pervaiz, AD, HEC
Whether the complainant attended the hearing?	:	Yes



The complaint is from Preston Institute of Management Science and Technology (PIMSAT), Karachi. It has been stated that the PIMSAT was established through a charter issued by the Government of Sindh vide Ordinance No. XIV 2001 dated 27.07.2001, and the HEC of Pakistan had upgraded vide letter No. 16-28/HEC/A&A/2005/1178 dated 28.12.2005.

In the year 2017 HEC of Pakistan had advised vide letter No. 4-131/HEC/DG-QAA/RP/2016/2560 the PIMSAT to construct its own building instead of functioning in a rented premises, accordingly they have constructed a state of the art campus at Karachi with the investment of rupees 1.5 billion. Now the infrastructure is ready to start academic programs.

There were number of complaints and grievances of HEC against the previous management of PIMSAT. Accordingly the then Rector, Registrar, Controller of Examination has been removed by the competent authority.

A new Board of Governors of eminent personals has been constituted by the competent authority.

In order to start its functioning at the new building, the HEC was requested to visit the premises and remove the caution from its website (banned) on new admissions. The Secretary Ministry of Federal Education and Professional Trainings has also advised the HEC officials to visit PIMSAT and allow giving new admissions to the students, but the HEC is not allowing it, hence this complaint.

2. Mr. Saim Pervaiz, AD, HEC appeared as the representative of the Agency. Dr. Muhammad Ali Rector/Vice Chancellor of PIMSAT was also present and the case was discussed with them in detail. Mr. Pervaiz was asked to furnish the following:-

1. A detailed report in response to the complaint with documentary evidence.
2. Rules of HEC after the Ordinance.
3. Is there any power available with HEC to ban the intake of students?

3. On 12.05.2023 Mr. Saim furnished the following report:-

Saim Pervaiz

"Preston Institute of Management Sciences and Information Technology (MSAT), Karachi is a chartered institution in private sector and as per its Ordinance No. XXVI of 2001, the Institution is allowed to impart education to the extent of its principal seat ^{vis} Karachi. However, the Institution has operated illegally through illegal campuses far and wide across the country in total violation of its own Charter as well as policy Guidelines devised by HEC. **In addition, the Institution has issued degrees from its principal seat at Karachi to its unlawful graduates who have studied at illegal campuses; without reflecting their actual campus on the educational transcripts.** Resultantly, the degree verification of PIMSAT was stopped and the institution was asked to provide separate lists of its legitimate and illegitimate graduates of campuses other than the main campus at Karachi.

On the basis of data received, the attestation process of legitimate students/graduates of principal seat of PIMSAT i.e. Karachi has been restored. The matter regarding recognition of graduates who have earned their degrees by studying at unlawful campuses (other than Karachi) was decided by Honorable High Court (LHC), Lahore in Writ Petition No. 872/2017. The court has mentioned in the decision that:

"After the scrutiny of above mentioned notification, correspondence, the relevant provisions of HEC Ordinance, guidelines (Cabinet Criteria) and the PIMSAT Ordinance we are of the view that before opening the campus at Lahore PIMSAT was required to have powers in its own Ordinance, whereby the Charter was granted, to establish an institution at Karachi, for establishment of any campus out of the Sindh Province.

"On the basis of Cabinet Criteria especially sub-para (xvi) of Para 4.3 the opening of sub-campus without the permission of the HEC was not competent. Even there is nothing on the record to show that the Board of Governors of PIMSAT Karachi (Institution) ever discussed agenda item and approved any mechanism for the establishment of sub-campus at Lahore"

The Honorable Lahore High Court dismissed the prayer of the petitioner to verify the degrees and transcripts of PIMSAT Karachi, issued to the students studied at Lahore Campus. Thereafter, the petitioners filed a Civil Petition against the mentioned decision of LHC Lahore in the Honorable Supreme Court of Pakistan vide C.P No. 2411-L/2019 titled Chaudhary Munawar Ahmad, etc. versus HEC. The Supreme Court of Pakistan dismissed the petition by declaring that:

Consequently, in the light of our afore-noted judgment, the facts of the case, we find that the impugned judgment of the learned High Court has arrived at the correct conclusion and there is no ground for interference therewith at all."

Furthermore, an inquiry against Chairman PIMSAT, Lahore, Principal PIMAT Lahore, Management of PIMSAT Lahore and Karachi and others is in process at the office of National Accountability Bureau, Lahore.

It is pertinent to inform that due to Institute's inability in conducting its operations, in violation of its own policies and HEC guidelines, which resulted in severe academic, administrative and financial mal-practice, several thousand students (24,889) are directly affected and resultantly, their future is at stake due to incompetence on part of the Institute. Based on the above facts (including the ongoing inquiry by NAB), request for resumption of fresh admission at PIMSAT, Karachi cannot be entertained at the moment.

HEC established under Ordinance No. LIII of 2002, provides for the evaluation, improvement and promotion of higher education, research and development in the country. Section 10(1)(d) of its Ordinance empowers HEC to "prescribe conditions under which institutions, including those that are not part of the State educational system, may be opened and operated ." Moreover, the HEC has devised a criteria for establishment of new University/Institution in public and private sector earlier in 2000 which got revised on February 27, 2002 by the Federal Cabinet and assented by the 1st meeting of the Chancellor's Committee on May 11, 2004 with some added parameters/safeguards. The respective safeguard which would be applicable to withdraw the accreditation of an Institution state as under:

Clause (7). The HEC would be the competent authority to grant accreditation, validate courses and syllabi of the Institute shall be subject to quality standards set by the HEC. The accreditation will be withdrawn if found that the institution is unable to satisfactorily demonstrate its ability and commitment to achieve and maintain national academic standards."

4. Dr. Muhammad Ali requested for some time to submit a rejoinder and the case was adjourned. Mr. Saim also stated that he would like to submit a report.

Muhammad Ali



5. Dr. Muhammad Ali submitted a rejoinder which is reproduced below:-

i. HEC has mixed up the facts of the matter as our application/complaint is for allowing the PIMSAT, Karachi to restart the academic process and to make the fresh admissions because, their said action is against the law.

ii. Dragging the issue of purported illegal acts on part of the PIMSAT, Lahore and mixing it up with the instant case is unethical and against the judicial verdicts as, fact of the matter is that the case of PIMSAT, Lahore has been decided by the High Court/ Supreme Court of Pakistan and their decision has attained finality. Neither, the PIMSAT, Karachi was arrayed in the said case nor, was ever implicated.

iii. Judgment of the Honorable Lahore High Court, Lahore in W.P.No.872 of 2017, Page 12 clearly states that the management of PIMSAT, Karachi is not involved in any illegal acts which is reproduced as under:-

"The Committee observed that the BOG of the PIMSAT, Karachi, even though not competent to do so, has even in fact never accorded any approval for opening and establishing any teaching establishment at Lahore. As mentioned above the BOG never instituted or recruited any faculty for teaching at Lahore. This shows that the sub-campus claimed to be of PIMSAT, Lahore has no connection with the PIMSAT, Karachi. Vide the said Judgment it is further stated that:-

"In view of the above facts this Committee has unanimously concluded that the Lahore establishment has no nexus whatsoever with the PIMSAT at Karachi and just one Officer of the Institute i.e. the Chairman was running his private establishment under the garb of Lahore campus of the PIMSAT, Karachi and he managed, in connivance with some other officers of the PIMSAT, Karachi the issuance of transcripts and degrees of the students of the alleged Lahore campus".

2. It is also pertinent to mention that the NAB, Lahore is not conducting any inquiry against PIMSAT, Karachi.

3. Now, after the newly constructed purpose built premises of PIMSAT, Karachi are in place at a whopping cost of Rs. 1.5 billion, the new Board of Governors have been constituted

4. The PIMSAT, Karachi was fully functional for the last about 15 long years but after carrying out an inspection by the HEC in 2016, the said organization vide its letter No. 4-131/HEC/DG-QAA/RP/2016/25, dated 19.07.2017. Imposed illegal sanctions and undue restrictions which were beyond their legal mandate and jurisdiction.

i. In the year 2010, the subject of education is devolved under the 18th Amendment in the Constitution of Pakistan, 1973. Now therefore, vide the Government of Pakistan's notified Rules of Procedure under SRO No.741(1)/2020, dated 19th July, 2010 Rule 4, Schedule-I, Serial no. 12, the subject of "standards in institutions for higher education and research, scientific and technical institutions" is a power and function of the Council of Common Interests, IPC Division, Ministry of Inter provincial Coordination.

ii. That accordingly therefore, in its various meetings, the Council of Common Interest, presided over by the Hon'ble Prime Minister of Pakistan, the Chairman, HEC was directed to frame rules and revise its functions/ operations after consultation/ consensus with all the provincial governments. Specifically mentioned here are minutes of the 39th & 43rd Meeting of the Council of Common Interest held on 24th September 2018 & 11th November, 2020 and vide its Agenda Item No. 1.2(1) & ix it was decided in 39th meeting "the CCI unanimously directed the Chairman HEC to meet all the Chief Ministers to discuss the issues in a holistic manner in order to find out solutions and identity steps to raise the standards of higher education. The recommendations would be placed by Chairman HEC before CCI for consideration. The exercise shall be completed within a

WAFIQI MOHTASIB (OMBUDSMAN)
APPROVED
22 JUN 2023
ISLAMABAD

[Signature]

period of one month." Likewise in 43rd meeting it was decided that "the CCI directed the Chairman HEC to hold further consultations with provinces to evolve consensus upon the issue of functions to be performed by HEC and submit report in the next CCI meeting". However the same is still not done.

iii. The Honorable Lahore High Court, Lahore in case ICA No.1766/2016 vide its Order dated 15.02.2017 directed as under:-

"We also direct the Higher Education Commission, as well as, the Federal Government that in future, Higher Education Commission will work under the supervision and control of CCI and any policies or regulations prepared by the Higher Education Commission shall be routed through the CCI and will only be considered to be legally binding, if approved by CCI. "

iv. At the same time, in the post Devolution era, when the subject of Education is now a provincial subject and if ever, a Federal Government Institution like HEC (which has its jurisdiction in the Public Sector educational institutions under the federal government and private sector educational institutions in the federal territories only), could not have any jurisdiction in any of the institution duly constituted by a province whether, in public and private sector. Because, under Article 144 of the Constitution of Pakistan, 1973 it can/could assume such authority only if the provincial legislatures had authorized them for the same. But the same exercise has never been carried out and as such, the jurisdiction of the HEC over any institute like PIMSAT, Karachi is totally ousted.

v. The HEC Ordinance was promulgated in the Year 2002 by the Government of Pakistan but ever-since then, under Section 21 of the said Ordinance, no rules or regulations are/were ever framed through Statutory Regulatory Orders to regulate the academic and administrative functions of the educational institutions. However, some General Guidelines were issued by the HEC which are only advisory in nature and as such, has no legal binding as a Regulatory Framework. In view of the foregoing, any coercive or restrictive action by the HEC on the basis of the said guidelines is therefore, illegal and illegitimate.

5. Under Section 4 (i) & (ii) of the Ordinance No. XXVI of 2001, promulgated by the Government of Sindh on 31st July, 2001, the Preston Institute of Management, Science and Technology, Karachi is empowered to impart education and carry out its allied functions. The imposition of ban on the admissions of PIMSAT, Karachi through an executive order by the HEC without any legal mandate and jurisdiction is therefore, illegal and is liable to be set aside."

6. Mr. Syed Ali Jaffari furnished the following report:-

"To reiterate the order of the Honorable Lahore High Court (LHC), Lahore in Writ Petition No. 872/2017. The court has mentioned in the decision that:

"After the scrutiny of above-mentioned notification, correspondence, the relevant provisions of HEC Ordinance, guidelines (Cabinet Criteria) and the PIMSAT Ordinance we are of the view that before opening the campus at Lahore PIMSAT was required to have powers in its own Ordinance, whereby the Charter was granted, to establish an institution at Karachi, for establishment of any campus out of the Sindh province" (Para 11 of court orders).

"On the basis of Cabinet Criteria especially sub-para (xvi) of Para 4.3 the opening of sub-campus without the permission of the HEC was not competent. Even there is nothing on the record to show that the Board of Governors of PIMSAT Karachi

(Institution) ever discussed agenda item and approved any mechanism for the establishment of sub-campus at Lahore" (Para 13 of court orders).

(ii) The honorable Lahore High Court dismissed the matter, whilst refusing to grant the prayer of the petitioner to verify the degrees and transcripts of PIMSAT Karachi, issued to the students studied at Lahore Campus. Thereafter, the petitioners filed a Civil Petition against the mentioned decision of LHC Lahore in the **Honorable Supreme Court of Pakistan vide C.P. No. 2411-L/2019 titled Chaudhary Munawar Ahmad, etc. versus Higher Education Commission.** The Supreme Court of Pakistan disposed of the C.PLA by declaring that (Copy of court orders attached as **Annex-II**):

"Consequently, in the light of our afore-noted judgment, the facts of the case, we find that the impugned judgment of the learned High Court has arrived at the correct conclusion and there is no ground for interference therewith at all" (Para 4 of court orders).

(iii). It is pertinent to mention here that Judgment in ICA No.1766/2016 dated 15.02.2017 relied upon by the complainant has been assailed before the Hon'ble Supreme Court of Pakistan qua Civil Petitions No.2396, 2535, 2976 & 3075-3079 of 2017, relevant portion of the Order dated 09.10.2017 of the Hon'ble Supreme Court is reproduced below:

*"...It is further argued that the view expressed by the Division Bench of the learned High Court in the impugned judgment about the role of the Council of Common Interests is violative of the ratio of the law laid down by this Court in the judgment reproduced as **Messrs Gadoon Textile Mills and 814 others Vs. WAPDA and others(1997 SCMR 641)**. Leave is inter alia granted to consider the above." (Copy Enc.)*

Now the same is admitted vide Civil Appeal No. 1331 of 2017 pending adjudication before August Supreme Court of Pakistan.

(iv). Subsequently, the National Accountability Bureau (NAB) took up the matter for investigation pursuant to the decision of Hon'ble Supreme Court which upheld the Order of Lahore High Court. Now the matter is subject to investigation by NAB, the Representative of Higher Education Commission has attended the hearing of NAB.

(v). It is important to highlight here that the PIMSAT has committed fraud with more than 23,000 students and created a mockery of Higher Education Sector by issuing unauthorized degrees. Consequently, the Higher Education Commission has decided to stop the admissions of Main Campus to safeguard the students, As the matter of illegitimate students has already attained finality owing to the foregoing/cited judgments.

(vi). It is further necessary to add that the PIMSAT has no right to invoke the Jurisdiction of the Federal Ombudsman because the Federal Ombudsman has already issued a Memorandum Dated: 03.06.2016 circulating decision of the Worthy President of Islamic Republic of Pakistan:

"Neither the Mohtasib nor the President can interfere in the matters relating to academic standards, policy and criteria."

7. Statedly, HEC has give a caution on its website i.e. "banning of new admission by PIMSAT" which gave raise to filing the instant complaint allowing PIMSAT at Karachi to restart the academic process and make fresh admission after visiting premises by HEC. HEC's stance revolved around the litigation of the Lahore campus of PIMSAT wherein Lahore High Court concluded that the law related to establishment of PIMSAT does not have any provision of operating campus in other Provinces. This decision of Lahore High Court was upheld by the Supreme Court of Pakistan.

8. The PIMSAT has been established at Karachi under the Preston Institute of Management Sciences and Technology Ordinance, 2001. Admittedly, this Ordinance does not allow establishment of any campus of PIMSAT but HEC has failed to prove that PIMSAT Karachi has violated any policy or guidelines of HEC to run the Institution at Karachi but in the garb of illegal establishment of Lahore campus of PIMSAT, it has given caution on its website i.e. "banning of new admission by PIMSAT" at Karachi which is not justified.



9. In view of the preceding para, the case is referred to the Chairman, HEC in terms of Regulation 23 (1)(z) of the Wafaqi Mohtasib (Investigation and Disposal of Complaints) Regulations, 2013, to initiate the process of visiting the premises of PIMSAT at Karachi followed by allowing new admission to the students subject to fulfilling the required codal formalities by the latter.

10. Compliance report be furnished to this Secretariat within 30 days of the receipt of these findings in terms of Article 11 (2) of President's Order No. 1 of 1983.


(EJAZ AHMAD QURESHI)
WAFAQI MOHTASIB (OMBUDSMAN)

