

**Judgment Sheet**  
**IN THE LAHORE HIGH COURT, MULTAN**  
**BENCH, MULTAN.**

**JUDICIAL DEPARTMENT**

Writ Petition No.5048 of 2013.

**Al-Manara College of Pharmacy**

**Vs.**

**Central Pharmacy Council of Pakistan etc.**

**JUDGMENT**

**Date of Hearing 18.12.2013.**

**Petitioner By: M/S Ch. Saghir Ahmad and Muhammad Javid Iqbal Adum, Advocates, for the petitioner.**

**Respondents By: Sheikh Jamshed Hayat, Advocate, for the respondents No.1 and 2 alongwith Nazir-ud-Din Ahsan, Secretary, Pharmacy Council of Pakistan.**  
**Mr. Shaukat Bilal Khan Bangash, Standing Council for Pakistan.**

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**C.M. No. 9494 of 2013.**

This is an application for placing on record the certain documents. The learned counsel for the respondents submits that he has no objection if these documents are placed on record. Accordingly, subject to all just and exceptions this application is allowed and the

documents are placed on the record of this writ petition.

**Main Case.**

**ABID AZIZ SHEIKH, J:-** This judgment will dispose of this Writ Petition No. 5048 of 2013 and connected Writ Petition No. 15243 of 2013, as the same question of law and facts are involved in both these writ petitions.

2. In writ petition No. 5048 of 2013, the petitioner Al-Manara College of Pharmacy has challenged the impugned order dated 17.03.2013 issued by the Secretary, Central Pharmacy Council of Pakistan, whereby the Council resolved not to permit the Petitioner-College to conduct Pharmacy Technician Programme, as the facilities with the petitioner are highly inadequate to conduct the said programme. Prayer is also made in this petition that Central Pharmacy Council of Pakistan be directed to recognize the Petitioner-College and grant the petitioner affiliation within the meaning of sections 18 and 19 of Pharmacy Act 1967 Whereas in Writ Petition No. 15243 of 2013, the petitioners, who are students of Al-Manara College of Pharmacy (Petitioner in Writ Petition No. 5048 of 2013) are seeking direction against the respondents to issue Roll No. Slip to the petitioner for examination of Pharmacy Technician and also direct the respondents not to interfere in any manner regarding the examination process of the petitioner.

3. The brief facts are that Al-Manara College of Pharmacy filed an application in the month of June, 2012 under section 25 (1) (b) of the Pharmacy Act 1967 to the Pharmacy Council of Pakistan, for recognition and affiliation of its College in order to enable the students/candidates to get their registration in Register (B) maintained by the Provincial Pharmacy Council of Punjab under section 24 (1) (b) of the Pharmacy Act 1967. In response to the application respondent No. 1 constituted an Inspection Team vide letter dated 03.09.2012 and after inspection, the respondent-Pharmacy Council of Pakistan, vide impugned letter dated 17.03.2013 conveyed to the petitioner that facilities in the Petitioner College were highly inadequate, therefore, the petitioner was not permitted to conduct the Pharmacy Technician Programme. The petitioner being aggrieved, filed Writ Petition No. 5048 of 2013, wherein vide order dated 10.07.2013 the petitioner was granted interim relief to admit 25 students per shift temporarily subject to the final decision of this writ petition .

4. The petitioners in Writ Petition No. 15243 of 2013 are claiming that under the interim arrangement they have attended the College and therefore, they are entitled to be issued Roll No. Slip to undertake the examination of Pharmacy Technician and respondents may be restrained from interfering in examination process in any manner.

5. The learned counsel for the petitioner in Writ Petition No. 5048 of 2013 argued that the order dated

17.03.2013 is based upon incorrect and fake data about the facilities available in the premises of the Petitioner-College. Adds that the Petitioner-College is having comparatively better facility and arrangements comparing to other recognition /affiliation College with the Pharmacy Council of Pakistan, therefore, the impugned letter dated 17.03.2013 is discriminatory and that the respondents can revisit the premises of the petitioner to determine that the adequate facilities are being provided. Further submits that under sections 17 and 18 of the Pharmacy Act 1967, the Central Pharmacy Council of Pakistan can approve the course of studying and examination, however, there is no provision for affiliation, recognition or approval of institution, given under the said provisions, hence, the impugned order is not sustainable. Submits that Regulation No.11 of the Pharmacy Council of Pakistan examination in Register (B) Regulation 2006, prescribed the requirement of education facility and the petitioner fulfilled the entire prescribed requirements for registration in Register (B). Further contends that the petitioner has already incurred more than 6.00 Millions on the institution and if the recognition is not granted the petitioner will suffer an irreparable loss. Reliance is placed on the case reported as **Pakistan Medical and Dental Council versus Zia-ud- Din Medical University and others** (PLD 2007 Supreme Court 323).

6. The learned counsel for the petitioner in Writ Petition No. 15243 argued that as per the interim

relief granted by this Court dated 10.07.2013, the petitioners started their education with the Al-Manara College of Pharmacy. Adds that the examination fee has been paid by the petitioner to the said College, who further paid it to the Provincial Pharmacy Council of Punjab, the Examination Hall is already booked and the date sheet has been announced, therefore, the petitioners have the fundamental rights to take the said examination and the respondents are bound to issue the Roll No. Slip to the petitioner and not to interfere in examination process. Submits that the act of the respondents is malafide and this Court has the jurisdiction to act in aid of justice. Reliance is placed on the on the cases reported as **Muhammad Ismail Versus Abdul Rashid and 2 others** (1983 SCMR 168), **S.K. Masood and 3 others Versus Special Committee through Member, Board of Revenue (Settlement and Rehabilitation) and Secretary to Punjab Government and others** (1990 CLC 1174), **Brig. Muhammad Bashir Versus Abdul Karim and others** (PLD 2004 SC 271), **Syed Mahmood Akhtar Naqvi and others Versus Federation of Pakistan and others** (PLD 2013 SC 195), **Muhammad Yamin and others Versus Sara Bai and others** (2004 MLD 328), **Capt. S.M. Aslam and others Versus Karachi Building Control Authority through Chief Executive Nasim-e-Aala and others** (2005 CLC 759) and **Rehmat Ullah and others Versus Mst. Hameeda Begum and others** (1986 SCMR 1561).

7. Conversely, the learned counsel for the respondents argued that this writ petition is not maintainable as it is not alleged by the petitioners that the respondents have violated any provisions of law or rules and therefore, no vested right of the petitioners has been infringed. Further argued that the petitioner college does not have the required facilities to conduct the Pharmacy Technician Programme, and therefore, the same was rightly refused to the petitioner college and this Court in constitutional jurisdiction cannot resolve this factual controversy whether the petitioner college does or does not have the required facilities, which is the function of the competent authority appointed under the law. Further contends that under sections 17 and 18 of the Pharmacy Act 1967, it is the statutory duty of the Central Pharmacy Council of Pakistan, to ensure that the institution must undertake the approved course for studying, approved examination and standard of teaching be maintained. Further submits that in terms of section 17 sub section (2) of the Act, Regulations are framed vide SRO No. 298 (1)/2006 and as per Regulation No. 11, the requirement of education facility has been prescribed. Adds that the facilities of petitioner College was evaluated through a Team of Council, which visited petitioner college in September, 2012 and it is found that the said facilities are highly inadequate, therefore, the permission was not allowed to the petitioner to carry out the Technician Course. Contends that after the filing of the writ petition and getting interim relief on 10.07.2013, the petitioner college has neither

improved its facility nor approached the respondents till date with the request to revisit its facility for the grant of approval/affiliation. Therefore, no permission can be granted to the petitioner to run college and take examination unless Petitioner College is approved, affiliated and provide adequate facility required under the law to the satisfaction of the concerned authorities. Further submits that as far as the question of issuance of Roll No. Slip to the petitioners in Writ Petition No. 15243 of 2013 is concerned, the interim relief granted by this Court on 10.07.2013 was clear in terms that it was interim arrangement subject to the final decision of this writ petition. Submits that as the petitioners college is not approved and recognized, no provision of law has been violated by the respondents, therefore, no vested right is infringed, hence writ petition is not maintainable and there is no question of issuance of Roll No. to the students of College, which is not affiliated with the Central Pharmacy Council of Pakistan. Further submits that the spirit of interim relief by this Court dated 10.07.2013 was that the petitioner college will improve its facilities and will also obtain the required approval/affiliation in the meanwhile, but the petitioner college misused the interim relief granted by this Court and instead of improving its facility and getting approval, it continued with the admission of students and now without seeking any approval or affiliation want that their students should also appear in the examination. The learned counsel adds that even otherwise the student of Petitioner College are not entitled for the

Roll No. for the reasons that the course of Pharmacy Technician is 2 years course. The present examination of Pharmacy Technician is about the students of First Year and in order to take this examination student should study for at least 12 months of this course with affiliated college. Submit that in the case of the petitioners, the interim relief granted to the petitioner college by this Court was on 10.07.2013 and today only after expiring of 5 months they want to take examination of First Year, which is not permissible under the law. Adds that the students, who were allowed study as an interim arrangement vide order dated 10.07.2013 must complete 12 months of study from approved institution before appearing in the examination of Pharmacy Technician. The learned counsel further submits that unless some law has been violated, this court does not have the jurisdiction to interfere in the policy matter of the statutory authorities. Reliance is placed on the cases reported as **Asdullah Mangi and others Versus Pakistan International Airlines Corporation and others (2005 SCMR 445)**, **Absar Ahmad and others Versus Government of Sindh and others (2012 CLC 876)**, **Sanchit Bansal and another Versus Joint Admission Board (JAB) and others (2012 SCMR 1841)**, **Messrs Ghani Herbal Pharma Laboratories Versus Secretary and others (PLD 2005 Lahore 93)**

8. The learned A.A.G appearing on behalf of the Provincial Pharmacy Council of Punjab argued that the petitioner Al-Manara College of Pharmacy is not



affiliation or registered College with the Central Pharmacy Council of Pakistan hence, Roll No. cannot be issued. Further contends that the course of study for which the petitioners are seeking Roll No. is of one year's course and the petitioners have not completed one year after the order passed by this Court on 10.07.2013, hence, they are not eligible to sit in the forth-coming examination.

9. I have given my anxious consideration to the arguments of the learned counsel for the parties and have gone through the record, appended herewith

10. The Central Pharmacy Council of Pakistan is a statutory regulatory body constituted by the Federal Government under section 3 of the Pharmacy Act 1967 (Act). The pre-amble of the Act reads as under:-

*“Preamble.--Whereas it is expedient to establish Pharmacy Councils to regulate the practice of pharmacy and to provide for matters connected therewith and incidental thereto;”*

The function of the Central Pharmacy Council of Pakistan is prescribed in section 17 of the Act for the purpose of convenience. The said section is reproduced here under:-

*“17. Functions of the Central Council.--*

*(1) The functions of the Central Council shall be:-*

*(a) to approve examinations in pharmacy for the purpose of qualifying persons for registration as pharmacists;*

*(b) to prescribe the subjects in which approved examinations shall be held;*

*(c) to approve the courses of study and practical training in pharmacy for the purpose of admission to approved examinations;*

*(d) to prescribe the conditions and procedure for admission of candidates to an approved examinations;*

*(e) to lay down the standard of teaching to be maintained by institutions conducting the approved courses of study;*

*(f) to prescribe the equipment and facilities to be made available to the students;*

*(g) to recognize degree or diplomas in pharmacy for the purpose of registration as pharmacists;*

*(h) to cause inspection of institutions which conduct any courses of study in pharmacy and of the teachings imparted and examinations held by them; and*

*(i) to do such other acts and things as it may be empowered or required to do by or under this Act.*

*(2) The Central Council, with the previous approval of the Federal Government, may, by notification in the Official Gazette, make regulations for the purposes of sub-section (1).”*

11. Section 18 of the Act provide that examinations are to be approved by the Council, whereas Section 19 mandate that courses of study will be approved by Council. It is expedient to reproduce sections 18 and 19 of the Act as under:-

*“18. Approval of examinations:- (1) Any institution or authority, including a Provincial Council, which holds an examination in pharmacy, may apply to the Central Council for approval of the examination for the purpose of qualifying a person for registration as a pharmacist under this Act.*

*(2) The Central Council, if it is satisfied after such enquiry as it may think fit that the examination for the approval of which an application has been made under sub section (1) is in conformity with this Act and the regulations, shall approve the examination and, by notification in the official Gazette, declare it to be an approved examination for the purpose of qualifying a person for registration as a pharmacist under this Act.*

*19. Approval of courses of study.—(1) Any institution or authority which conducts a course of study in pharmacy may apply to the Central Council for approval of such course of study for the purpose of admission to an approved examination.*

*(2) The Central Council, if it satisfied after such enquiry as it may think fit that the course of study for the approval of which an application has been made under sub-section (1) is in conformity with this Act and the regulations, shall submit the application together with its recommendation to the Federal Government and shall, upon the approval of the course of study by the Federal Government, declare it, by notification in the official Gazette, to be an approved course of study for the purpose of admission to an approved examination.”*

12. Under section 17 sub section (2) the Central Pharmacy Council of Pakistan vide SRO No.298(1)/2006 framed regulations called the Pharmacy Council of Pakistan (Examination for Registration in Register “B”) (Regulation).

Regulation No. 11 of the said Regulation prescribed, the requirements of educational facilities in pharmacy institutions whereas Regulation No. 12 provide the course for studying for examination in Register (B). The perusal of various provisions of the Act and regulation, including Sections 17, 18 and 19 of the Act *ibid* shows that the Central Pharmacy Council of Pakistan being a regulatory authority has a duty to ensure that the pharmacy institutions must fulfill the uniform criteria of required education standard facility, approved course of studying, undertake approved examinations and also to recognize degrees and diplomas. Although the act does not expressly use the expression “recognition” and “Approval” for institutions but a combined reading of the preamble, Sections 17, 18, 19 of the Act and regulations would indicate that power to approve examination, approve courses, prescribe conditions for admission, to recognize degree and diploma, inspection of institution and requirement of facility by the Central Pharmacy Council of Pakistan, would entail, the Approval and Recognition of the institutions which are imparting education of pharmacy by Central Pharmacy Council of Pakistan. This legal position is also admitted by the petitioner college itself in writ petition No. 5048 of 2013 where in prayer clause it sought Recognition and Affiliation from the Central Pharmacy Council of Pakistan under section 18 and 19 of the Act *ibid*.

13. In the above context, it is an admitted position that Al-Manara College of Pharmacy (petitioner)

does not have any Approval, Permission, or Recognition from the Central Pharmacy Council of Pakistan to carry out Pharmacy Technician Programme or to run the institutions for imparting the education of pharmacy. The request of the petitioner college was already rejected on 17.03.2013 by the Central Pharmacy Council of Pakistan after physical inspection at the spot and it is found that facilities for conducting the Pharmacy Technician Programme is highly inadequate. It is also admitted position that after the filing of this writ petition and grant of interim relief on 10.07.2013, the petitioner never approached the Central Pharmacy Council of Pakistan with a plea that it has attained adequate facility. The argument of the petitioner college that it already had the adequate facility and therefore, approval should have been granted by the Central Pharmacy Council of Pakistan is a factual controversy, which cannot be embarked upon by this Court, sitting in a constitutional jurisdiction. The Central Pharmacy Council of Pakistan is a statutory expert regulatory Authority to carry out physical inspection of institution to ensure that the institution has adequate facilities to impart education of pharmacy and this Court cannot substitute or replace the function of Statutory Regulation Authority. In this regard reliance is placed on the law laid down by the August Supreme Court in the case reported as 2012 SCMR 1841, wherein it is held as under:-

*“18. In Maharashtra State Board of Secondary and Higher Secondary Education v. Paritosh Bhupeshkumar Sheth (1984 (4) SCC*

27: (AIR 1984 SC 1543) it was observed thus:-

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*...the Court should be extremely reluctant to substitute its own view as to what is wise, prudent and proper in relation to academic matters in preference to those formulated by professional men possessing technical expertise and rich experience of actual day to day working of educational institutions and the departments controlling them.”*

*In All India Council for Technical Education v. Surinder Kumar Dhawan (2009 (11) SCC 726 (AIR 2009 SC2322: 2009 AIR SCW 3124) this Court held:--*

*“The Courts are neither equipped nor have the academic or technical background to substitute themselves in place of statutory professional technical bodies and take decisions in academic matters involving standards and quality of technical education. If the courts start entertaining petitions from individual institutions or students to permit courses of their choice, either for their convenience or to alleviate hardship or to provide better opportunities, or because they think that one course is equal to another, without realizing the repercussions on the field of technical education in general, it will lead to chaos in education and deterioration in standards of education ....The role of statutory expert bodies on education and role of courts are well defined by a simple rule. If it is a question of educational policy or an issue involving academic matter, the courts keep their hands off. If any provision of law or principle of law has the objection petition interpreted, applied or enforced, with reference to or connected with education, the courts will step in. (Emphasis supplied).*

*This Court also repeatedly held that courts are not concerned the practicality or wisdom of the policies but only illegality.”*

14. The Central Pharmacy Council of Pakistan is under a statutory duty to carry out inspection and ensure that adequate facilities are provided by the institutions. The petitioner could not point out any violation of a statute or regulation on the part of the Central Pharmacy Council of Pakistan while passing the impugned order dated 17.03.2013. There has been a mushroom growth of education institution in private sector and there is a dire need to enforce the provisions of regulatory laws and Regulatory Authorities to promote better quality of professional education and to also enforce regulatory mechanism in private sector professional education. The august Supreme Court in the case reported as **Pakistan Medical and Dental council Versus Zia ud Din Medical University and others** (PLD 2007 Supreme Court 323) while dealing with the role of similar regulatory authority i.e. Pakistan Medical and Dental Council, held as under:-

*“We may observe that over the last few decades there has been a mushroom growth of Medical and Dental institutions in the private sector. The element of commercialization has been more pronounced than commitment to academic excellence. The travails of education in public sector are appalling and are partly attributable to the lopsided national priorities pursued by those at the helm of affairs. This tempted the private sector to fill the void. The rapid growth of educational institutions in the private sector on the one hand reflect the extent of public need/thirst for education and*

*on the other a deterioration or dearth of State run educational institutions. The quality of education in the private sector leaves much to be desired. Barring a few exception it reflects a pathetic state of affairs. There has been a complete absence of any regulatory mechanism in the domain of general education and people have been allowed mostly to fleece the students and their parents. The private sector has entered the realm of medical and dental education as well. In this domain there were regulatory laws but their application needs further improvement. The Pakistan Medical and Dental Council Ordinance and the regulations framed there under lay down a comprehensive procedure to ensure uniform and quality medical and dental education. Similarly the Medical and Dental Degrees Ordinance, 1982 has restricted and regulated the right to confer degrees, diplomas, licences and certificates to practice in the medical and dental domain and any violation thereof has penal consequences. There is a dire need to enforce the provisions of these laws with a view to promoting not only quality medical and dental education but also to provide better quality of professional services to the people. The need for regulatory mechanism in the realm of general education and in the domain of professional courses has never been greater. The Higher Education Commission has taken a number of regulatory steps to ensure qualitative improvement in the higher education. The Pakistan Medical and Dental Council through the Ordinance and the regulations framed there under is mandated to pursue the objective of a uniform standard of Medical and Dental education in the country. All the stakeholders should strengthen these and similar institutions in the country because it is only through these institutions that we can achieve the goals set out in their Charter.”*

15. In view of the criteria laid down by the august Supreme Court in the aforesaid judgment, which is also relied upon by the petitioner-college itself, I find



no illegality or infirmity in the order dated 17.03.2013, passed by Statutory Regulatory Authority which order was passed after physical inspection of the petitioner's facilities. The petitioner-college is bound to fulfill the requirements to the satisfaction of Regulatory body and obtain its approval before commencement of its Pharmacy Technician Programme.

16. Now coming to the question whether student of Petitioner College which is neither approved nor recognized can be allowed to take professional examination of Pharmacy Technician. I found substance in the arguments of the learned counsel for the respondents that besides the fact that Al-Manara College of Pharmacy is not approved and recognized under the Act by the Central Pharmacy Council of Pakistan and therefore, its students cannot undertake examination of Pharmacy Technician, even otherwise the complete course of Pharmacy Technician is of two years consisting of Part-I and Part-II, whereas the petitioner-College was allowed interim arrangement by this Court on 10.07.2013 to admit the students temporarily and since 10.07.2013 only 5 months have lapsed and therefore, the students of said College cannot undertake the examination for the Pharmacy Technician without completing one year course. The interim arrangement to admit 25 students per shift allowed by this Court vide order dated 10.07.2013, does not create any right in favour of the petitioner, as it was subject to final decision of the writ petition and the purpose behind the interim

arrangement was that in meanwhile petitioner will improve its facilities and obtain required approval from the regulatory authority to run the pharmacy technician course, but to my utter-dismay, the petitioner college after obtaining interim relief from this Court never even approached the regulatory authority for its approval/recognition. Though in terms of sections 17, 18 and 19 of the Act unless the institution is approved or recognized, it cannot run, approved pharmacy technician course consequently, its students cannot take approved pharmacy technician examinations, however, even if the students are given any indulgence and or permission to attend any further Class or appear in examination it would not yield any beneficial result as the Al-Manara College of Pharmacy is not an approved and recognized institution, and therefore, the students will not be eligible to get any recognized diploma and degree from the Central Pharmacy Council and unless they get education from an approved and recognized institution they will not get any job and it will be further wasting of their valuable time, energy and resources. In this regard, reliance is placed on the law laid down by a Division Bench in the case reported as **Absar Ahmad and others Versus Government of Sindh and others** (2012 CLC 876).

17. In view of above, there is no merits and substance in **these writ petitions and the same are dismissed.** However, before parting with this judgment keeping in mind the facts that some of the students are allowed admission, as an interim

arrangement in Al-Manara College of Pharmacy, therefore, it is the duty of the said College to improve its facility and obtain necessary approval and recognition from the Central Pharmacy Council of Pakistan. Accordingly the petitioner Al-Manara College of Pharmacy may apply again after improving its facilities and making up its deficiencies with detail report to Central Pharmacy Council of Pakistan for its revisit to petitioner-college to ascertain whether the petitioner has obtained the adequate required facilities to start the Pharmacy Technician Programme. If such application is filed with the Central Pharmacy Council of Pakistan by the petitioner-college, the Central Pharmacy Council of Pakistan, shall visit and inspect the facility without delay and if the requirements are fulfilled, will grant the required approval and recognition strictly in accordance with law.

**(Abid Aziz Sheikh)**  
**Judge.**

**Approved for reporting.**

**Judge.**

*M.Ashraf/Riaz Ahmad.*