

2024 S C M R 1887

[Supreme Court of Pakistan]

Present: Qazi Faez Isa, CJ, Naeem Akhtar Afghan and Aqeel Ahmed Abbasi, JJ  
ALL PUBLIC UNIVERSITIES BPS TEACHERS ASSOCIATION (APUBTA)  
through President---Petitioner

Versus

The FEDERATION OF PAKISTAN through Secretary Federal Education and  
Professional Training, Islamabad and others---Respondents

Constitution Petition No. 7 of 2024, decided on 29th August, 2024.

Constitution of Pakistan---

---Art. 184(3)---Constitution petition before the Supreme Court---Public Sector Universities---Posts of Vice-Chancellors, Pro Vice-Chancellors, Rectors, Presidents, Vice-Presidents, Registrars, Heads of Faculties and Departments, Controller of Examination, Director Finance and other tenured positions either lying vacant and/or held on acting charge basis---Legality---Public sector universities must comply with their respective laws, and if those in charge of them are disregarding the same for no justifiable reason, then they must demonstrate that they are still competent to hold their respective positions---Laws governing these universities require that the meetings of syndicates, senates, boards of governors and boards of trustees, as applicable, must be periodically held---Universities must not leave vacant important positions of vice-chancellors, presidents, vice presidents, registrars, heads of faculties and departments, controller of examination and director finance as in doing so they contravene the applicable laws---This state of affairs whereby the law is disregarded cannot be allowed to continue---Considerable amount from the public exchequer is spent on public sector universities---These universities must abide by their respective laws---Unfortunately, many are being run in contravention of their laws on the personal whim of those placed in charge thereof---These transgressions adversely affect academics, the reputation and standing of Pakistani universities and also undermine the degrees awarded by them---Supreme Court directed that copies of present order be sent to the respective Vice Chancellors/Rectors and to all those not compliant who shall submit within two weeks of the receipt of the notice their response under their own signatures explaining why they are not complying with the law governing their university and why appropriate actions may not be recommended to be initiated, or be initiated, as the case may be, against them, and they shall also be in attendance on the next date of hearing---Supreme Court observed that Higher Education Commission (HEC) has prescribed an ideal ratio of academic to non-academic staff to be 1:1.5, which nearly all universities are failing to abide by in that the non-academic staff far exceeds the said ratio; that this appears to be one of the reasons for the financial problems being faced by the universities---Supreme Court directed that the Federation, Provinces and the Islamabad Capital Territory

shall submit whether directions have been issued to ensure that the universities restrict/stop further employment of non-academic staff.

Umer Ijaz Gilani, Advocate Supreme Court for Petitioner assisted by Muhammad Alee, Advocate.

Malik Javed Iqbal Wains, Additional Attorney-General for Pakistan, Abdul Sattar Khokhar, Sr. Joint Secretary, Ministry of F.E & P.T. and Dr. Agha Haider, Deputy Director, (Legal), Ministry of F.E & P.T. for Respondents Nos. 1-2.

M. Nazir Jawwad, Advocate Supreme Court, Nazeer Hussain, Director-General, Coordination H.E.C., Ahad Mehmood Raza, Assistant Director (Law), H.E.C. for Respondent No. 3.

Waseem Mumtaz Malik, Additional Advocate-General, Punjab and Muhammad Rehman, Sr. Law Officer, HED, Lahore for Respondent No. 4.

Shah Faisal Utmankhail, Advocate-General, KP, Shah Faisal Ilyas, Additional Advocate-General, KP., Ghulam Saeed, Special Secretary, HED, KP and Asif Khan, Litigation Officer, HED, KP for Respondent No. 5.

Hassan Akbar, Advocate-General, Sindh, Jawad Dero, Additional Advocate-General, Sindh and Feroze A. Mahar, Director for Respondent No. 6.

Muhammad Ayaz Swati, Additional Advocate-General, Balochistan, Jehanzeb Mandokhail, Addl. Secretary, Colleges, HED, Balochistan for Respondent No. 7.

Asif Sohail, Director Legal for Ministry of Health.

Najeeb Mandokhail, Section Officer for Ministry of Science and Technology.

Parasmahesar, Section Officer for Ministry of Kashmir Affairs and Gilgit Baltistan.

Date of hearing: 11th July, 2024.

## ORDER

1. Notices were issued on 15 May 2024 to the respondents who were called upon to submit their comments with regard to the public sector universities within their respective jurisdictions, including identifying the public sector universities in which the position of Vice-Chancellor and other tenured positions are still lying vacant and/or are held on acting charge basis. It was further ordered that the comments should also disclose the statutory requirements regarding the periodic holding of meetings stipulated in their respective laws of such universities and whether they were compliant therewith.

2. This Court through the said order dated 15 May 2024 had also directed as under:

'The posts of Vice-Chancellors, Pro Vice-Chancellors, Rectors, Presidents, Vice-Presidents, Registrars, Heads of Faculties and Departments, Controller of

Examination, Director Finance which are mentioned in the applicable laws, wherever lying vacant, should be filled-in as soon as practicable and this be done in accordance with the applicable laws.'

3. The learned Additional Attorney-General ('AAG') submitted report (CMA 5934/2024) on behalf of the Ministry for Federal Education and Professional Training ('the Ministry'). The report mentions that there are only 12 universities under the Ministry's purview, and attends to them as under:

- (1) Hyderabad Institute for Technology and Management Sciences, Hyderabad: As per the report, the Rector has been appointed on 21 July 2023, while all other tenured positions, including that of the Registrar, Director Finance and Controller Examination are still lying vacant. The Rector of the University shall submit explanation in writing within fourteen days of receipt of this order why the applicable law continues to be violated and shall be in attendance on the next date of hearing.
- (2) Kalam Bibi International Women Institute, Bannu: As per the report, the Institute is without a Vice-Chancellor and all other tenured positions remain vacant. The Secretary of the Ministry and the Chairman of the Higher Education Commission ('HEC') shall submit explanation in writing within fourteen days of receipt of this order why the applicable law continues to be violated and they shall be in attendance on the next date of hearing.
- (3) Pir Roshan Institute of Progressive Sciences and Technologies, Miran Shah: As per the report, the Institute is without a Vice-Chancellor and all other tenured positions remain vacant. The Secretary of the Ministry and the Chairman of HEC to explain the reasons for the continued violations of the law in not appointing them.
- (4) National Fertilizers Corporation Institute Engineering and Technology, Multan: The report states that:

'Engr. Prof. Dr. Akhtar Ali Malik has managed to illegally occupy the post of Vice-Chancellor, NFC Institute of Engineering and Technology, Multan for more than one decade as he has never undergone the proper competitive recruitment process as per laid down rules, using political affiliation and misinterpreting the Institute's rules/statutes to extend his stay illegally.'

And, the following tenured positions have been filled-in on acting

charge basis: Registrar (since 13 June 2019), Treasurer (since 1 January 2022) and Controller Examination (since 1 September 2020). The Vice-Chancellor of the University shall submit explanation in writing within fourteen days of receipt of this order why the applicable law continues to be violated and shall be in attendance on the next date of hearing.

- (5) Federal Urdu University of Arts, Sciences and Technology, Karachi: As per the report, temporary appointments have been made on the tenured positions of the Registrar, the Treasurer and the Controller Examination since

November 2022. The Vice-Chancellor of the University shall submit explanation in writing within fourteen days of receipt of this order why the applicable law continues to be violated and shall be in attendance on the next date of hearing.

- (6) National College of Arts, Lahore: As per the report, temporary appointments have been made on the tenured positions of the Registrar, the Treasurer and the Controller Examination since 4 December 2021. The Vice-Chancellor of the University shall submit explanation in writing within fourteen days of receipt of this order why the applicable law continues to be violated and shall be in attendance on the next date of hearing.
- (7) National Skills University, Islamabad: As per the report, the tenure of the Vice-Chancellor expired on 22 October 2023, but he has been allowed to continue as Acting Vice-Chancellor since 9 January 2024. As per the report, the positions of the Registrar, the Treasurer and the Controller of Examination remain vacant. The Acting Vice-Chancellor, the Secretary of the Ministry and the Chairman of HEC to submit explanation in writing within fourteen days of receipt of this order why the applicable law continues to be violated. The Acting Vice-Chancellor shall be in attendance on the next date of hearing.
- (8) Allama Iqbal Open University, Islamabad: As per the report, this University has permanently appointed employees on all tenured positions, except one, i.e., Dean, Faculty of Arabic and Islamic Studies which has recently become vacant on 20 May 2024.
- (9) Quaid-i-Azam University, Islamabad: As per the report, all 29 tenured positions of Deans and Chairpersons in this University have been filled-in and the appointments to these positions were made on regular and permanent basis. However, the report does not disclose about the positions of the Registrar, the Treasurer and the Controller of Examination. The Vice-Chancellor shall submit the requisite information and explain in writing within fourteen days of receipt of this order why the same was not provided earlier and shall be in attendance on the next date of hearing.
- (10) National Textile University, Faisalabad. All tenured positions in this University have been filled-in and the appointments to these positions were made on regular and permanent basis.
- (11) Pakistan Institute of Fashion and Design, Lahore. All tenured positions in this University have been filled-in and the appointments to these positions were made on regular and permanent basis.
- (12) International Islamic University, Islamabad: As per the report, this University has 55 tenured positions of Directors-General, Deans and Chairpersons, however, the report does not disclose how many of these positions are filled-in on temporary basis. The Secretary of the Ministry, the Chairman of HEC and the Rector of the University are directed to submit

the requisite information and explain why the same was not provided earlier. The Petitioner's counsel alleged that the President of the University assigned 'the duties of Vice-President (Administration and Finance) to a Dean with immediate effect and until further orders' in contravention of section 14(2) of the International Islamic University Islamabad Ordinance 1985 ('the Ordinance'), reproduced hereunder:

'The Vice-President shall be appointed by the Board of Governors on the recommendation of the President on such terms and conditions as may be determined by the Board of Governors and exercise such powers as may be delegated to him by the President in consultation with the Rector.'

The report states that the University's Board of Trustees neither met in the year 2021 nor in the year 2022, and as such section 18(1) of the Ordinance, which prescribes that the Board of Trustees 'shall meet at least once during a year for regular or scheduled meetings', was apparently contravened. We were informed that the Board of Trustees had met on 11 December 2023 but the minutes of the meeting have not been issued even after 7 months. The report further states that the University's Board of Governors has not met since September 2023 in apparent violation of section 20(1) of the Ordinance, which mandates that it 'shall ordinarily meet once in three months'. The Rector is directed to explain the above noted transgressions of the applicable law and the above-mentioned order of this Court. The Rector shall be in attendance on the next date of hearing.

3. The report submitted on behalf of the Government of Balochistan (CMA 4144/2024) states that Vice-Chancellors of the following 3 universities are working on acting charge basis:

- (1) University of Balochishtan,
- (2) University of Turbat, and
- (3) Mir Chakar Khan Rind University, Sibi.

Moreover, the Vice-Chancellors of the following two universities are stated to be working on that position because of stay orders issued by the High Court of Balochistan:

- (1) Lasbela University of Agriculture, Water and Marine Sciences, and
- (2) Sardar Bahadur Khan Women's University, Quetta.

The Secretary, Colleges, Higher and Technical Education Department, Government of Balochistan, shall submit explanation in writing within fourteen days of receipt of this order why the applicable law continues to be violated and shall be in attendance on the next date of hearing and whether the High Court has decided the cases, and its last orders. Details of each university with regard to the abovementioned matters should also be provided.

4. The report submitted on behalf of the Government of Khyber Pakhtunkhwa (CMA 4136/2024) states that out of 34 universities, 19 universities are working

without a regular Vice-Chancellor. The learned Advocate-General Khyber Pakhtunkhwa submits that the process for appointment of the Vice-Chancellors was almost complete and that a summary mentioning three names against each vacant post has been sent for the approval of the provincial cabinet, but copy thereof has not been submitted to this Court nor the criteria for selection. The information about other tenured posts and whether or not meetings are regularly held has also not been provided. The Secretary, Higher Education, Archives and Libraries Department, Government of Khyber Pakhtunkhwa, shall submit the requisite information and explain in writing within fourteen days of receipt of this order why the applicable law continues to be violated and shall be in attendance on the next date of hearing. Details of each university with regard to the abovementioned matters should also be provided.

5. The report submitted on behalf of the Government of Punjab (C.M.A. 4138/2024) states that out of 34 universities, 25 are working without a regular Vice-Chancellor. The learned Additional Advocate-General Punjab submits that the Lahore High Court had prohibited the caretaker government from appointments to these positions, however, subsequently a search committee was formed and the process of making appointments is expected to be completed within 2 months. The Secretary, Higher Education Department, Government of Punjab, shall submit compliance report if compliance is made, failing which explain in writing within fourteen days of receipt of this order why the applicable law continues to be violated and shall be in attendance on the next date of hearing. Details of each university with regard to the abovementioned matters should also be provided.

6. The report submitted on behalf of the Government of Sindh (C.M.A. 4084/2024) states that 7 universities are working without a regular Vice-Chancellor. The report also states that several universities do not hold the prescribed meetings of the statutory bodies:

- (1) University of Karachi held only 1 meeting of the Senate, while the law mandates that at least 2 meetings be held annually. It held only 5 meetings of the Syndicate while the law mandates 10 annual meetings. And, it held only 2 meetings of the Academic Council, while the law mandates 12 meetings annually.
- (2) Shaheed Mohtarma Benazir Bhutto Medical University, Larkana held only 2 meetings of the Syndicate while the law mandates that at least 4 meetings annually be held. And, only 1 meeting of the Senate was held while the law mandates at least 2 annual meetings.
- (3) Shaheed Zulfiqar Ali Bhutto University of Law did not hold any meeting of the Senate while the law mandates that at least 2 annual meetings be held.
- (4) Liaquat University of Medical and Health Sciences, Jamshoro held only 1 meeting of the Senate while the law mandates a minimum of 2 meetings annually.

- (5) People's University of Medical and Health Sciences for Women, Shaheed Benazir Abad held only 1 meeting of the Senate while the law mandates at least 2 meetings annually.
- (7) University of Sufism and Modern Science, Bhitshah held only 1 meeting of the Senate while the law mandates at least 2 meetings annually.
- (8) Shah Abdul Latif University, Khairpur held only 3 meetings of the Syndicate, while the law mandates 10 meetings annually. And, it held only 1 meeting of the Senate while the law mandates at least 2 annual meetings.

The report states that many tenured positions in these universities have been filled-in on temporary basis which does not appear to conform to the law. The Vice-Chancellors of these universities and the Secretary, Higher Education Commission, Government of Sindh, are directed to submit explanation in writing within fourteen days of receipt of this order why the applicable law continues to be violated and shall be in attendance on the next date of hearing. Details of each university with regard to the abovementioned matters should also be provided.

7. We are informed that the HEC has prescribed an ideal ratio of academic to non-academic staff to be 1: 1.5, which nearly all universities are failing to abide by in that the non-academic staff far exceeds the said ratio. This appears to be one of the reasons for the financial problems being faced by the universities. The Federation, Provinces and the Islamabad Capital Territory to submit whether directions have been issued to ensure that the universities shall restrict/stop further employment of non-academic staff.

8. The public sector universities must comply with their respective laws, and if those in charge of them are disregarding the same for no justifiable reason, then they must demonstrate that they are still competent to hold their respective positions. The laws governing these universities require that the meetings of syndicates, senates, boards of governors and boards of trustees, as applicable, must be periodically held. Universities must not leave vacant important positions of vice-chancellors, presidents, vice-presidents, registrars, heads of faculties and departments, controller of examination and director finance as in doing so they contravene the applicable laws. This state of affairs whereby the law is disregarded cannot be allowed to continue.

9. Considerable amount from the public exchequer is spent on public sector universities. These universities must abide by their respective laws. Unfortunately, we note that many are being run in contravention of their laws on the personal whim of those placed in charge thereof. These transgressions adversely affect academics, the reputation and standing of Pakistani universities and also undermine the degrees awarded by them.

10. Copies of this order be sent to the respective Vice-Chancellors/Rectors and all to those not compliant (as noted above) who are directed to submit within two weeks of the receipt of the notice their response under their own signatures explaining why they are not complying with the law governing their university and

why appropriate actions may not be recommended to be initiated, or be initiated, as the case may be, against them. They shall also be in attendance on the next date of hearing.

11. Relist after the expiry of the said notice period.

MWA/A-33/SC Order accordingly.

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