

IN THE FEDERAL CONSTITUTIONAL COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:

Justice Aamer Farooq
Justice Muhammad Karim Khan Agha

C.P.L.A. No.534-K of 2024

*(Against the order dated 30.04.2024 of the High Court of Sindh,
Karachi in C.P No.D-1813 of 2024)*

Shaheed Mohtarma Benazir Bhutto Medical College Lyari Karachi
... *Petitioner*

Versus

Province of Sindh through Chief Secretary and others
... *Respondents*

For the Petitioner: Malik Naeem Iqbal, ASC

For the Respondents: Mr. Sibtain Mahmood, AAG Sindh
Dr. Shahzad Ali, in person
(father of respondent No.5)

For PM & DC: Mr. Jahangir Khan Jadoon, ASC
Mr. Jawaid Masood Tahir Bhatti, ASC

Date of Hearing: 30.04.2026

JUDGEMENT

Muhammad Karim Khan Agha, J.- Shaheed Mohtarma Benazir Bhutto Medical College, Lyari, Karachi (**“petitioner-college”**), a public sector medical college, has assailed, through this petition for leave to appeal, the order dated 30.04.2024 (**“impugned order”**) passed by the High Court of Sindh in a constitutional petition filed by Fatima Ali, respondent No. 5 (**“respondent”**). By the impugned order, the learned Division Bench of the High Court allowed the constitutional petition and directed the petitioner-college to grant admission to the respondent in MBBS (First Year).

2. The facts, in brief, are that the respondent, claiming to be a permanent resident of Lyari, Karachi, appeared in the Medical and Dental Colleges Admission Test (**“MDCAT”**) conducted under the auspices of the Government of Sindh through the Dow University of Health Sciences, secured 155 out of 200 marks therein, and, on the basis of the prescribed overall formula — assigning 50% weightage to MDCAT, 10% to matriculation and 40% to intermediate — obtained an aggregate of 84.695%, whereupon she was placed at serial No. 771 in the final merit list for admission to the MBBS programme for the academic session 2023–24. In the

centralized admission process conducted by the said University on a merit-cum-choice basis, the respondent, after submission of her original documents, opted for the petitioner-college, inter alia, on account of proximity to her residence. As the petitioner-college has fifteen seats reserved for residents of Lyari, the respondent claimed entitlement to admission against the Lyari quota on the strength of her domicile and Permanent Residence Certificate (**“PRC”**). However, her claim was declined on the ground that her address did not fall within the territorial limits of ‘Lyari Town (previous)’ as recognized for the purposes of the quota. Feeling aggrieved, and after unsuccessful recourse to the authorities concerned, the respondent invoked the constitutional jurisdiction of the High Court, seeking directions for grant of admission in the petitioner-college.

3. The High Court allowed the constitutional petition on the premise that there had been no change in the territorial limits of Lyari for the purposes of the reserved seats in the petitioner-college and, since the respondent’s domicile, PRC and eligibility stood duly verified, she was entitled to admission against the Lyari quota.

4. Learned counsel for the petitioner-college assailed the impugned order, contending that it is legally unsustainable and rests on a misapprehension of the governing framework. It was urged that the learned High Court failed to appreciate that the respondent did not fall within the territorial limits of ‘Lyari Town (previous)’ as stipulated in the prospectus, a position duly verified by the office of the Additional Deputy Commissioner-I (South). Counsel submitted that the reservation in question was originally conceived to benefit residents of historically underprivileged localities comprising Lyari as it stood at the time of allocation, and that any departure therefrom would defeat the very object underlying the quota. It was further argued that, notwithstanding subsequent administrative changes in territorial limits, admissions against the Lyari quota have consistently been regulated on the basis of the pre-existing jurisdiction pending formulation of a revised policy, and that the learned High Court, in overlooking not only this settled position but also the object and purpose of the quota, fell into error. Counsel also pointed out that respondent No. 6 i.e. the Pakistan Medical and Dental Council (**“PMDC”**), being the regulatory authority, has allocated a fixed intake of 100 seats for the

MBBS programme to the petitioner-college, which stand fully occupied; consequently, any direction to accommodate the respondent would result in admission in excess of the sanctioned capacity and that this court should not interfere in such policy decisions of the PMDC and petitioner college. On these premises, it was contended that the impugned order confers an unwarranted benefit upon an ineligible candidate, to the detriment of other eligible students and unsettles the admission process; hence, it calls for interference.

5. Learned counsel for the PMDC submitted that, as the statutory regulator, the PMDC has fixed the petitioner-college's sanctioned strength at 100 seats for the MBBS programme based on its assessed capacity, and any direction to admit beyond the sanctioned strength would be contrary to the regulatory framework and may lead to overcrowding and a decline in the quality of medical education and the court should not interfere in such policy decisions.

6. Conversely, Dr. Shahzad Ali, father of the respondent, appearing on her behalf, supported the impugned order and submitted that the High Court rightly exercised its constitutional jurisdiction. It was argued that the respondent's residence in Lyari stands duly established through her domicile and PRC. He maintained that the respondent, having qualified the MDCAT and securing placement on the merit list, was entitled to be considered against the reserved quota for Lyari, yet was unjustifiably denied admission despite fulfilling all requisite conditions. It was thus contended that the impugned order merely sets right an evident wrong and warrants no interference.

7. We have heard the arguments and perused the record.

8. This is obviously a distressing case for the respondent whose dream was to become a medical doctor and now her immediate progress in that field appears to be in jeopardy. We as individuals have every sympathy for the respondent however as judges we are bound to decide the petition objectively and strictly in accordance with the law and put our emotions and personal feelings aside. We put the PMDC on notice in order to assist us in

this matter to see if some via media could be reached which could sit within the frame work of the law and be acceptable for all parties but unfortunately despite our best efforts we were not able to find a way forward. The controversy, when stripped to its essentials, turns not on the respondent's merit or her residence in present-day Lyari, but on whether she falls within the territorial class for whom the fifteen reserved seats were allocated and continued under the governing prospectus and whether this court can interfere in policy decisions of regulatory bodies and Universities.

9. Section 3 of the Sind Medical Colleges Act 1987 vests the Government of Sindh with rule-making authority to regulate admissions in public sector medical colleges established or maintained and run by it, which expressly includes the power to provide for allocation of seats. In exercise of this authority, upon establishment of the petitioner-college in 2010, fifteen seats were reserved for residents of Lyari Town as it then existed, as reflected in the prospectus issued under the said statutory framework. At the relevant time, Lyari Town was a defined administrative unit under the local government regime then in force, and the entitlement to the reserved quota was anchored to that territorial delineation.

10. Subsequent changes in the local government framework altered municipal boundaries and administrative structures. With the abolition of the town-based system of local government, the districts of Karachi were reorganized into District Municipal Corporations ("**DMCs**"). However, pending formulation of a revised policy, admissions against the Lyari quota continued to be regulated on the basis of the pre-existing territorial limits. **This position was expressly incorporated in the prospectus from the academic session 2014–15 onwards by describing the subject quota as pertaining to 'Lyari Town (previous)'**. The use of this expression is deliberate and determinative: it signifies a continuation of the original territorial criterion, notwithstanding subsequent administrative reconfigurations.

11. The reservation in question, as asserted by learned counsel for the petitioner-college, was designed to benefit residents of historically underprivileged localities comprising Lyari Town as it stood at the time of allocation. The territorial limits of 'Lyari Town

(previous)' thus form the defining criterion of eligibility. Any interpretation that expands the scope of the quota to areas included in Lyari by virtue of later administrative changes would not only run contrary to the plain language of the prospectus but would also defeat the stated object underlying the reservation.

12. Applying the above to the case at hand, the respondent's claim was declined on the ground that her place of residence does not fall within the territorial limits of 'Lyari Town (previous)', a position duly verified by the office of the Additional Deputy Commissioner-I (South). In this regard, the Additional Deputy Commissioner-I (South), by letter dated 21.03.2024 addressed to the Principal of the petitioner-college, relying upon the report of the Mukhtiarkar, Sub-Division Lyari dated 27.02.2024, conveyed that, as per the said report, **the respondent's residence did not form part of Lyari Town during the period 2001-2013.** The Mukhtiarkar's report further recorded that between 2013 and 2022 the town-based system stood abolished and DMCs remained in place, and that the respondent's residence came to fall within the limits of Lyari Town Municipal Corporation only after 2022. The High Court, in allowing the constitutional petition, proceeded on the premise that there had been no change in the territorial limits of Lyari for the purposes of the reserved seats. With respect, this approach overlooks the crucial distinction between the present-day administrative boundaries of Lyari and the specific territorial limits **expressly preserved in the prospectus** as 'Lyari Town (previous)'. The entitlement to the reserved seats must be determined with reference to the latter, and not the former.

13. Significantly, the respondent has not challenged the territorial demarcation adopted for the purposes of the Lyari quota. It is not her case that such demarcation is arbitrary, discriminatory or otherwise unlawful; rather, she simply asserts that she falls within those limits. In the absence of any challenge to the territorial limits defining eligibility for the Lyari quota, the matter must be adjudged strictly within the four corners of the governing prospectus, and it would neither be necessary nor appropriate for this Court to delve into the policy underlying such demarcation.

14. Even otherwise, the reservation of seats, the prescription of domicile-based eligibility, and the determination of the territorial limits for such quota — particularly for historically underprivileged localities — **are pre-eminently matters of policy, informed by considerations of equity, access to education and regional disadvantage. The scope of judicial review in such matters generally remains circumscribed. The Court does not sit in appeal over policy choices and may interfere only where the policy is shown to be patently arbitrary, discriminatory, mala fide or contrary to law** — none of which has been asserted or demonstrated in the present case. In this respect we cite with approval the cases of **Dossani Travels (Private) Limited v Messrs Travel Shop (Private) Limited** (PLD 2014 SC 1) and **Mian Muhammad Afzal v Province of Punjab** (2004 SCMR 1570).

15. There is yet another aspect of the matter. The intake capacity of the petitioner-college stands fixed at 100 seats by the PMDC, the statutory regulatory authority. It is not disputed that all sanctioned seats had already been filled. The determination of such intake is made by the PMDC on the basis of its specialized expertise and assessment of available academic and clinical resources, and it is, therefore, best equipped to take policy decisions in this regard. Any direction to accommodate the respondent would necessarily result in admission in excess of the approved strength, which would be contrary to the regulatory framework governing medical education and we are not inclined to interfere with such policy as it is the regulatory body (PMDC) and the petitioner college which are best equipped to deal with such decisions based on their knowledge experience and expertise.

16. In this regard we cite with approval the case of **Vice-Chancellor Agriculture University Peshawar v. Muhammad Shafiq** (2024 SCMR 527) which held as under in material part:

"7. At this juncture, it is underlined that the process of regularization is a policy matter and the prerogative of the Executive which cannot be ordinarily interfered with by the Courts especially in the absence of any such policy. It does not befit the courts to design or formulate policy for any institution, they can, however, judicially review a policy if it is in violation

of the fundamental rights guaranteed under the Constitution. **The wisdom behind non-interference of courts in policy matters is based on the concept of institutional autonomy which is defined as a degree of self-governance, necessary for effective decision making by institutions of higher education regarding their academic work, standards, management, and related activities. Institutional autonomy is usually determined by the level of capability and the right of an institution to decide its course of action about institutional policy, planning, financial and staff management, compensation, students, and academic freedom, without interference from outside authorities. The autonomy of public institutions is not just a matter of administrative convenience, but a fundamental requirement for the effective functioning of a democratic society, as public sector organizations are guardians of the public interest.** Democracy, human rights and rule of law cannot become and remain a reality unless higher education institutions and staff and students, enjoy academic freedom and institutional autonomy. More recently, the concept has in its longstanding and idealized form been well captured in the Magna Charta Universitatum 2020 that states "...intellectual and moral autonomy is the hallmark of any university and a precondition of its responsibilities to society."(bold added)

8. Courts must sparingly interfere in the internal governance and affairs of educational institutions i.e., contractual employments. This is because the courts are neither equipped with such expertise, nor do they possess the relevant experience that would allow for interference in such policy matters. Under this autonomous realm, educational institutions are entitled to deference when making any decisions related to their mission. **At the same time, any transgression by Courts would amount to the usurpation of the power of another, which would be against the spirit of Article 7 of the Constitution as it is not the role of the Courts to interfere in policy decisions.** The judicial pronouncement of the Courts in other jurisdictions i.e. United States of America, United Kingdom and India also provide that courts should not

interfere in the Internal affairs of educational institutions."(bold added)

17. Likewise we cite with approval the case of **Muhammad Mumtaz Khan v. Siraj Bibi** (2024 SCMR 956) which also concerned admission to a university it was held as under:-

"In the affairs of admission and examination in the educational Institutions, the concerned authorities are vested with the powers and jurisdiction to lay down the eligibility criteria in their own rules, regulations, or prospectus. They are independent to follow their own policy for admission, and in other affairs, therefore, the academic, administrative, and disciplinary autonomy of a university must be respected. The interference by the courts in the admission policy would give rise to glitches for the said institutions to administer the matters harmoniously and efficiently. The educational institutions are competent to manage their own affairs without any outside intervention from executive or judicial organs unless they contravene or disregard the compass of their authority or act in breach of applicable statutes or admission policies as laid down in the prospectus. There is no ambiguity in the eligibility criteria mentioned in the prospectus; hence, it was not open to any other interpretation. Nothing on record shows that while cancelling admission of the respondent No.1, the University committed any act in violation of their rules and regulations."

18. The respondent is, no doubt, a meritorious candidate who has successfully qualified the admission process and aspires to pursue medical education. However, entitlement to a reserved seat must flow from the applicable legal framework and the criteria prescribed therein. The jurisdiction of the Courts is to apply the law and rules as they stand on the statute book. In this respect we cite with approval the case of **Muhammad Aamir Khan v. Government of Khyber Pakhtunkhwa** (2019 SCMR 1021). Equitable considerations, however compelling, cannot override the prescribed eligibility criteria. In the circumstances, as the place of residence of

the respondent does **not** fall within the territorial limits of 'Lyari Town (previous)', she cannot claim admission against the Lyari quota.

19. For the foregoing reasons, leave is granted and the appeal is allowed. The impugned order dated 30.04.2024 passed by the High Court of Sindh is set aside, and the constitutional petition filed by the respondent stands dismissed.

Judge

Judge

Islamabad:
30.04.2026
(Muhammad Ahmad)
Approved for reporting