

IN THE SUPREME COURT OF PAKISTAN
(APPELLATE JURISDICTION)

PRESENT:

MR. JUSTICE TASSADUQ HUSSAIN JILLANI
MR. JUSTICE ANWAR ZAHEER JAMALI
MR. JUSTICE MIAN SAQIB NISAR

CIVIL APPEAL NO.1040 OF 2011

Pakistan Medical & Dental Council ...Appellant

VERSUS

Federation of Pakistan through Secretary, Ministry of Inter
Provincial Coordination and others
...Respondents

For the appellant: Malik Qamar Afzal, ASC
Dr. Ahmed Nadeem Akbar, Registrar PMDC
Ms. Sara Nasir, Legal Officer, PMDC

For respondent No.3: Syed Iftikhar Hussain Gillani, Sr. ASC
Mr. M. S. Khattak, AOR
Nasir Khan Khattak, *representative*

Date of hearing: 18.1.2012

ORDER

TASSADUQ HUSSAIN JILLANI, J.- In terms of this Court's order dated 12.1.2012, Dr. Ahmad Nadeem Akbar, Registrar of the P.M.D.C. has submitted a detailed concise statement wherein he has placed on record a copy of PMDC Regulations approved on 3rd December, 2009 which were enforced with immediate effect. Those Regulations, inter alia, contained the requirement that a medical college seeking recognition has to own a 150 beds hospital. The respondent Al-Razi Medical College which was initially granted recognition in terms of the notification dated 25th June, 2011, was found by the PMDC not to meet the afore-referred criterion and on a reference made by it, the Federal Government held the afore-referred

ATTESTED

Superintendent
Supreme Court of Pakistan
ISLAMABAD

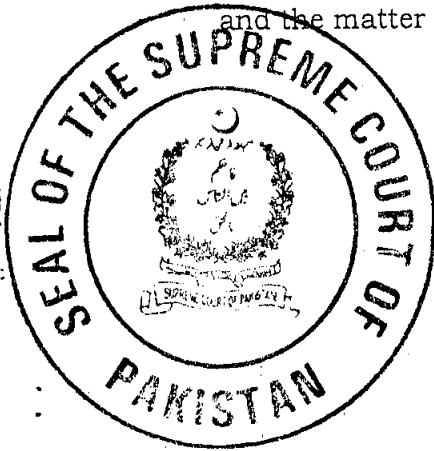
notification of recognition in abeyance vide order dated 30th June, 2011. This was challenged before the Islamabad High Court by the respondent-college by way of a constitution petition which has been allowed in terms of the impugned judgment. During the course of hearing of this appeal, learned counsel for the respondent-college submitted that the college though does not own a 150 beds hospital but the Regulations whereby this requirement/criterion was added at the relevant time did not have prior approval of the Federal Government as required in terms of Section 33 of the PMDC Ordinance. Nevertheless he added that college has partnership with Private Public Cantonment Board Hospital Peshawar; that the respondent-college has upgraded the said hospital from 80 beds to 250 beds by incurring huge expense and has undertaken to further upgrade it to 500 beds hospital. Further adds that since the afore-referred Regulations have now been accorded approval by the Federal Government, the respondent-college is prepared to fulfill the said criterion positively by December, 2012 and is prepared to furnish appropriate undertaking/guarantee to the appellant PMDC. Dr, Ahmed Nadeem Akbar, Registrar of PMDC in all fairness submitted that the afore-referred offer made by the respondent-college can be considered by PMDC in its next meeting. He referred to para 13 of the concise statement filed by him on behalf of PMDC wherein with the prior approval of the President of PMDC, he has proposed that PMDC is prepared "to redress the grievances of Al-Razi Medical College, so that an acceptable solution is reached expeditiously and without further loss of time and so that the Council can make its recommendations to the Federal Government which are

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mandatory before recognition can be granted in accordance with section 11 of the PM&DC Ordinance 1962 as the notification by the Federal Government of 25th June 2011 is void ab-initio and violative of section 11 of the Ordinance as issued without the recommendations of the Council. Only action strictly in accordance with section 11 is acceptable in law. (PLD 2007 SCMR 1086)".

2. In view of the fair stand taken by the appellant who has been represented besides the counsel by the Registrar, we are inclined to adjourn this case to 20.2.2012 with a direction that in the meanwhile the PMDC shall convene a meeting in terms of the afore-referred proposal wherein respondent-college shall be heard and the matter be decided within a period of three weeks positively.



Sd/- Tassaduq Hussain Jilani, J
Sd/- Anwar Zaheer Jamali, J
Sd/- Mian Saqib Misar, J

Certified to be True Copy
25/1/12
Superintendent
Supreme Court of Pakistan
ISLAMABAD

Islamabad, the
18th January, 2012
Waqas Naseer/*

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