JUDGMENT SHEET.

IN THE ISLAMABAD HIGH COURT, ISLAMABAD.

WRIT PETITION NO. 1103 OF 2025

ABDUL WAHID SOOMRO

Vs

HIGHER EDUCATION COMMISSION, ETC

Petitioner by	**:**	**Mr. Muhammad Waseem Abro, Advocate.**
Respondents by	**:**	**Mr. Binyamin Abbasi, Advocate for Respondents No.1 to 3.** **Dr. Agha Ghulam Haider, Director Legal-Ministry of Federal Education & Professional Training, Islamabad.**
Date of hearing	**:**	**25.04.2025**

MUHAMMAD AZAM KHAN, J.

1. Through the instant Writ Petition under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973 **("Constitution")**, Abdul Wahid Soomro ("**Petitioner**") has prayed that HEC may be directed to adjust the scholarship funding commencing from March 2023 instead of November 2024. It is further prayed that the Petitioner be reimbursed tuition and expenses incurred due to the delay in funding. Further, the Respondents No.1 to 3 may kindly be directed to include the period of Fall Session from March 2023 to November 2024, according to the First Provisional Award, and release/pay the fee of the previous semester including fee and maintenance allowance of USD 900 monthly to safeguard the Petitioner's educational career/PhD Degree program as a Pakistani Student in an International Institute.

2. The brief facts leading to the filing of the present Writ Petition are that the Higher Education Commission (HEC) of Pakistan granted the Petitioner a three-year PhD scholarship in Malaysia. A provisional award letter was issued to the Petitioner in 2022. The Petitioner is a student and is pursuing a Doctor of Philosophy (PhD) degree in the Research Program at the University of Malaya in Malaysia on a scholarship basis, secured on merit under the Overseas Scholarship for PhD in Selected Fields Phase III/Advanced Skills Development through International Scholarships Batch-1 from the Higher Education Commission. The Petitioner received the Impugned Final Award Letter of scholarship dated 18-2-2025 issued by

Respondent No.1, for the period of three years with effect from 1st November 2024, in contradiction to the earlier Provisional Offer of Scholarship by excluding the period from March 2023 till November 2024. The Petitioner was issued a Provisional Offer of Scholarship under the "Advanced Skills Development Through International Scholarships Higher Education Commission" on 07.07.2022, for the Fall 2022-2023 session for his PhD studies at the University of Malaya, Malaysia. In terms of the first Provisional Offer of Scholarship, the Petitioner was directed to join the suggested university before 31.12.2022; otherwise, the scholarship offer would be cancelled without any further notice. In compliance with the directions and terms of the Provisional Offer of Scholarship, the Petitioner got an Offer of Admission from the respective university on 30.09.2022 for the academic session 2022/2023, which started from March 2023. The Project Manager, through an email dated 02.01.2023, allowed the Scholar to proceed to the university to pursue studies and manage funds independently until September 2023. The email also stated that HEC would process the scholarship for the Spring 2023 session. Due to HEC's delay in issuing the Final Award Letter (which is effective from 01.11.2024), the Petitioner has been self-financing his education since March 2023. This delay has placed an undue financial burden on the Petitioner, which was not expected at the time of accepting the scholarship. While pursuing his studies, the Petitioner has emailed several times to the Project Director and others for the issuance of the Final Award of Scholarship but received mostly no response for up to two years or at times**,** emails were replied in a manner that due to financial constraints, the HEC is unable to process the payments of selected ASDIS (Advanced Skills Development through International Scholarships) selected scholars to join the Spring session, or were sometimes went unanswered. HEC has sought an invoice of tuition fee from the University for a period starting from 01.11.2024, onwards, while excluding the period from March 2023 to November 2024. In an email dated 04.03.2025 sent by the University Administration Assistant to HEC, it was highlighted that previously, the sponsorship letter for the period from March 2023 to November 2024 was issued by the HEC, but now HEC has backtracked from the same letter as mentioned in the email. Furthermore, the university has informed the HEC through email dated 05.03.2025 that no payments have been made as promised by the HEC; therefore, in the circumstances, the Scholar will not be able to get registered with the forthcoming semester. The Petitioner has fulfilled all requirements including mortgaging the property in favor of HEC as a surety for the deed of agreement worth PKR six million, and other required

documentation and submitted it to HEC within the specified time frame in accordance with the directions of HEC management and has got enrolled as per terms and conditions of the First Provisional Award. The Petitioner also approached the Respondents a number of times through emails, but his grievances have not been redressed; therefore, the instant Writ Petition has been filed.

3. The learned counsel for the Petitioner argued that the impugned action of the Respondents No. 1 to 3 by not considering the Petitioner for the Fall session of March 2023 to November 2024 is arbitrary, discriminatory, *malafide*, unjustified, illegal, and without lawful authority; that the Respondents have not considered the proper period of session of previous semesters of the Petitioner from the date of his joining, as well as per the directions of HEC; that the actions of Respondents No. 1 to 3 in denying the Petitioner his legitimate right to education, a fundamental right guaranteed under the Constitution of Pakistan, constitute a violation of the principles of natural justice, fairness, due process, and procedural propriety, and are in breach of Article 25A of the Constitution; that the impugned actions of Respondents No. 1 to 3 have not only deprived the Petitioner of his fundamental right to education but have also unjustly tarnished his record of two years of impeccable academic performance at the university.

4. On behalf of Respondents No.1 to 3, it is argued that the instant petition is not maintainable and liable to be dismissed as it is contrary to the law and facts; that the Petitioner has not approached this Hon'ble Court with clean hands and has concealed material facts, and his rights have not been infringed; that the Petitioner entered into a contract with the Respondents/HEC, thereby conferring exclusive jurisdiction upon the civil Courts; consequently, this Hon’ble Court lacks jurisdiction in the present matter; that the Scholarship Program is funded by the Government, and the Higher Education Commission (HEC) acts in accordance with the directions issued by the relevant ministries; that the Provisional Scholarship Award did not confer any final rights; final scholarship terms only became effective after issuance of the Final Award on 18.02.2025, with funding effective from 01.11.2024; that the Petitioner proceeded abroad without obtaining prior approval and subsequently gave his consent to the final terms of the scholarship; therefore, he is now estopped from challenging those terms; that the Petitioner’s claim for funding prior to 01.11.2024 is without merit, as the position was duly communicated to both him and his host university; that any financial liability incurred before 01.11.2024 remains the sole responsibility of the Petitioner;

that all actions undertaken by the Respondents were in accordance with the applicable rules, regulations, and policy framework governing the scholarship program, hence, the Writ Petition is liable to be dismissed with costs.

5. The Director Legal, Ministry of Federal Education and Professional Training, Islamabad, appearing on behalf of Respondent No.4, has resisted the instant Petition and prayed for its dismissal.

6. On behalf of Respondent No.5, it is argued that the Finance Division allocates a single-line budget (grant-in-aid) to the Higher Education Commission. Further, the Finance Division does not play any role in the award of scholarships or in determining their effective dates; that the Petitioner has sought no relief from the Secretary, Finance Division (Respondent No. 5), and as such, it has been impleaded as a proforma Respondent. Lastly, it is prayed that Respondent No.5 may kindly be excluded from the array of Respondents in the instant Writ Petition.

7. I have heard learned counsel for the parties and perused the available record with their able assistance.

8. Admittedly, the Petitioner was issued a Provisional Offer of Scholarship under the "Overseas Scholarship for PhD in selected fields, Phase-III/Advanced Skills Development through International Scholarships" on 07.07.2022, for the Fall 2022-2023 in order to attend a PhD degree program at the University of Malaya, Malaysia, by the Higher Education Commission of Pakistan (HEC). The said Scholarship Award dated 07.07.2022 consists of some terms and conditions including:-

(i) Period of scholarships and field of study;
(ii) Responsibility for recognition of the degree;
(iii) Requirement of execution of a mandatory legal bond;
(iv) Financial support details;
(v) Submission of requisite documents; and
(vi) Conditions for the Final Scholarship Award.

9. The Petitioner requested the issuance of a revised provisional award letter and permission to join studies from Spring 2023 (March 2023 intake) vide email dated 31.01.2023, and the same was responded to by HEC, and the Petitioner was informed about the non-availability of funds due to financial constraints. The Petitioner was informed that in order to cope with the situation, he can manage funds on his own till September 2023, along with the recommendation to defer admission for the Fall

2023 Academic Session. Due to the non-availability of Foreign Exchange cover/Dollar escalation and massive funds requirement for already Overseas Scholarship Awardees/Scholars under study, the Government of Pakistan, Finance Division, advised HEC not to create any fresh Foreign Exchange liabilities/commitments in the financial year 2023-2024 without prior concurrence of the Finance Division. In compliance with that, HEC halted further activities and issuance of the Final Scholarship Award, in respect of the under-process provisional scholarship Awardee, including the case of the Petitioner.

10. The Petitioner informed the Respondents vide telephonic conversation and email dated 17.07.2023 regarding joining the respective university in Malaysia in March 2023 with the request for the issuance of the Final Scholarship Award. The Petitioner proceeded to Malaysia in March 2023 in the absence of the following requirements: -

(i) Prior intimation to HEC to proceed abroad;
(ii) Prior approval and permission from HEC to proceed abroad;
(iii) Final Scholarship Award;
(iv) Completion and submission of all requisite documents; and
(v) Execution and submission of legal bond.

11. The HEC restarted to process the halted activities under the said Scholarship Program and conveyed all provisionally selected scholars including the Petitioner, vide email dated 23.12.2024, to provide their consents to avail the scholarship on the provided terms and conditions and in that email it has been categorically highlighted that the funding for already approved scholars will be effective from 01.11.2024. In response to this email, the Petitioner consented vide email dated 29.12.2024, and the case of the Petitioner was processed to Final Scholarship Award, and a Final Scholarship Award has been issued to the Petitioner vide letter dated 18.02.2025. The payment for the Advance Stipend and Air Fare Reimbursement was processed, and the cheque is ready for collection by the Petitioner in terms of the Final Scholarship Award.

12. The Petitioner instituted the present Petition with a prayer to adjust the Scholarship Funding w.e.f. March, 2023, instead of November, 2024, and to include the Fall Sessions from March, 2023, to November, 2024, and to release the funds accordingly. To the contrary, the Petitioner consented and accepted the Final Scholarship Award dated 18.02.2025 vide his email dated 29.12.2024, hence, he

cannot challenge the terms and conditions of the Final Scholarship Award through this Writ Petition. The Petitioner proceeded abroad without issuance of the Final Scholarship Award by the HEC and without the prior permission of the University. The Provisional Scholarship Award was not final, and the same was issued with some terms and conditions, which he failed to comply with before leaving abroad, and as the Provisional Scholarship Award does not create any right. The Scholarship Award is to be effective after the issuance of the Final Scholarship Award by the HEC. Therefore, in the circumstances, in the absence of the fulfilment of the required terms and conditions of the Provisional Scholarship Award, the Petitioner is not entitled to the reimbursement of the funds which he spent there from his own kitty.

13. For what has been discussed above, the instant Writ Petition being devoid of any merit is hereby ***dismissed***.

(MUHAMMAD AZAM KHAN)
JUDGE

Announced in the open Court on this _____ day of May 2025.

JUDGE

Sajid/--