



APPEAL NO. 086-07/19

Zafarullah Shaheen

(Appellant)

Vs

National University of Modern Languages

(Respondent)

Order

Date: July 10, 2020

Zahid Abdullah: Information Commissioner

A. The Appeal

1. The Appellant filed an appeal, dated 27/06/2019, to the Commission, stating that he Submitted an information request to the National University of Modern Languages dated 04/03/2019 and 10/03/2019 under the Right of Access to Information Act 2017.
2. The information sought by the Appellant is as follows:

“Please provide thee registration No’s and the date of award of PhD degrees of the below mentioned students,

- i. *Uzma Intiaz – PhD English Literature*
- ii. *Maria Mann – PhD English Literature*
- iii. *Arshiya Zeb – PhD English Literature*
- iv. *Shazia Rose – PhD English Literature*

Please provide me BASR meeting minutes held on Nov, 28th specific to my case mentioned in my decision letter.

That please provide me the said University Rules – subject to my case. Moreover, the department shall provide me the specific letter sent to me when it had informed me about new rules of the

university where it is stated that total duration of the PhD program will be 08 years from onward”.

B. Proceedings

3. Through a notice dated 05/07/2019 sent to Public Information Officer / Registrar of National University of Modern Languages, the Commission called upon the Respondent to submit reasons for not providing the requested information within 10 working days.
4. In response to the notice, the respondent shared information on 22/07/2019.
5. Information was shared with appellant on 26/07/2019.
6. The appellant on 30/07/2019 shared his response over the information shared with him and stated that

“I am again compelled to write (seventh application including all) to you that university administration has not provided nee relevant copies of the documents in their reply. I am writing again the list of documents that university administration has to provide to me for my satisfaction under RTI, 2017. I am writing more explicitly the list of documents are as under:

- i. *That provide we TDC (Thesis Defence Committee) meeting minutes referral in the letter no, ML, I-8/2019-PD-ES dated 27-02-2019 from the same department for major changes. What are the major changes suggested by examiners? In case of Dr. Sarwat Rasool (external examiner), Dr. Farzana Masroor (external examiner), and Dr. Zawar Hussain Hashmi (internal examiner) in my PhD defence/viva held on 23. January. 2019 (letter attached). Please provide the changes with respect to each examiner according to the said claim in the above-mentioned letter.*
- ii. *That provide minutes of 7. BASE held on November. 28, 2018 in case of Mr. Zafar Ullah Shaheen. including members of the board, their signature and the decision taken in favor or the same.*
- iii. *That provide me timeline of the university 08 years rules shared with we through letter or courier/email that was to follow by nee strictly in order to meet the deadline of 08 years.*
- iv. *That provide me the following students' enrollment date and their final PhD notification in hard copy. 1. Uzma Imtiaz, PhD English Literature, 2. Maria Mann, PhD English Literature, 3. Arshiya Zeb, PhD English Literature, 4. Shazia Rose, PhD English Literature*

Moreover the university in the reply 22-07-19 has provided me IHD & Review Committee decision. whereas I am asking for Thesis Defence Committee decision. My PhD defence was held on 23. January, 2019 (letter attached).

Second, I asked the minutes of rh BASR meeting referred in the letter no. ML. I-8/2019-PD-ES (copy attached) held an 28 November, 2018 but instead of providing minutes of meeting of 7. BASR I was given a sketch which shows BASR meeting held on 12. April, 2019, and scan copy of

signature of different office bearers. There are no minutes attached, no decision of BASR attached. Please review you documents provided.

No information regarding PhD awarders have been given in reply. Moreover, no information of the PhD awardees candidate is available on HEC country directory-a PhD candidate needs to fulfill certain requirements in order to be published on HOC country directory that takes minimum one to two year-time period at the most. I am just asking their enrollment date and date of notification which is available in university record and they should share it with the complainant instead of referring HEC country directory. Please provide intelligible copies of the desired documents do not send scanned images.”

7. Hearing of the appeal was fixed for 26/12/2019 and both parties were informed through notices dated 01/12/2019.

8. The appellant through his letter dated 05/12/2019 stated that,

“Reference to the telephonic talk on 29-11-2019, please find below my reply to the complaint Appeal 086-07/19 against NUML sent to you on 30-07-2019, Islamabad to provide to my PhD studies related documents. I am again compelled to write) to you that university administration has not provided me relevant copies of the documents in their reply. I am writing again the list of documents that university administration has to provide to me for my satisfaction under RTI, 2017. I am writing more explicitly the list of documents are as under:

That provide me TDC (Thesis Defence Committee) meeting decision referred in the letter no. ML, 1-812019-PD-ES dated 27-02-2019 from the same department for major changes. What are the major changes suggested by examiners? In case of Dr. Sarwat Rasool (external examiner), Dr. Farzana Masroor (external examiner), and Dr. Zawar Hussain Hashmi (internal examiner) in my PhD defence/viva held on 23rd January, 2019 (letter attached). Please provide the changes with respect to each examiner according to the said claim in the above mentioned letter.

ii) That provide minutes of 7th BASR held on November, 28, 2018 in case of Mr. Zafar Ullah Shaheen, including members of the board, their signature and the decision taken in favor or the same.

iii) That provide me timeline of the university 08 years rules shared with me through letter or courier/email that was to follow by me strictly in order to meet the deadline of 08 years.

iv) That provide me the following students' enrollment date and their final PhD notification in hard copy. 1. Uzma Imtiaz, PhD English Literature, 2. Maria Mann, PhD English Literature, 3. Arshiya Zeb, PhD English Literature, 4. Shazia Rose, PhD English Literature

Moreover the university in the reply 22-07-19 has provided me II-ID & Review Committee decision, whereas I am asking for Thesis Defence Committee decision. My PhD defence was held on 23. January, 2019 (letter attached).

Second. I asked the minutes of 7. BASR meeting referred in the letter no. ML 1-8/2019-PD-ES (copy attached) held on 28 November, 2018 but instead of providing minutes of meeting of 715 BASR I was given a sketch which shows 8. BASR meeting held on 12n' April, 2019, and scan copy of signature of different office bearers. There are no minutes attached, no decision of BASR attached. Please review you documents provided.

No information regarding, PhD awardees have been given in reply. Moreover, no information of PhD awardees candidate is available on HEC country directory—a PhD candidate needs to certain requirements in order to be published on HEC country directory that takes minimum to two years-time period at the most. I am just asking their enrollment date and date of notification which is available in university record and they should share it with the complainant of referring HEC country directory. Please provide intelligible copies of the desired documents do not send scanned images.”

9. Hearing of the appeal was held on 26/12/2019, the appellant did not attend the hearing while the representative of the Respondent informed the commission that the matter is subjudice, as the appellant has also filed a writ petition **W.P. 3670/2019 Title Zafarullah Shaheen Vs NUML** in honorable Islamabad High Court. The respondent also submitted the copies of the court notices before the commission and stated that the requested information was not only provided to the appellant but also to Islamabad High Court”.

C. Discussion and Commission’s View on Relevant Issues

10. The question for the consideration of the commission is as under:

- a. Can the commission fructify a matter if it is sub-judis in superior judiciary?

11. The doctrine of the exhaustion of administrative appeals dictates that a person challenging decision of a public body must first pursue available administrative remedies. During the course of proceedings on the appeal, the commission came to know that the issues at hand in the instant appeal are sub-judis in Islamabad High Court, (IHC).

12. Given the fact that the appellant has invoked writ jurisdiction and filed petition in Honourable Islamabad High Court, Section 10 of Code of Civil Procedure 1908 also become relevant in the instant appeal which is as under:

10. Stay of suit. No Court shall proceed with the trial of any suit in which the matter in issue is also directly and substantially in issue in a previously instituted suit between the same parties, or between parties under whom they or any of them claim litigating under the same

title where such suit is pending in the same or any other Court in 2[Pakistan] having jurisdiction to grant the relief claimed, or in any Court beyond the limits of 1[Pakistan] established or continued by 2[the 3[Federal Government] 4* * *] and having like jurisdiction, or before 5[the Supreme Court].

Explanation. __ The pendency of a suit in a foreign Court does not preclude the Courts in 1[Pakistan] from trying a suit founded on the same cause of action.

13. This commission is of the view that in a scenario where an appellant has filed appeal with the commission and has also filed petition in any of the high courts, he can seek remedy from this commission only on following two grounds:

- a. The relevant court remands the case to the commission; or
- b. The appellant submits the proof of the withdrawal of the petition filed in the court.

Order

14. The appeal is dismissed on the grounds of lis alibi pendens.

15. Copies of this order be sent to the Respondent and the Appellant for information and necessary action.

Mohammad Azam
Chief Information Commissioner

Fawad Malik
Information Commissioner

Zahid Abdullah
Information Commissioner

Announced on:

July 13, 2020

This order consists of 6 (six) pages, each page has been read and signed

