



Securities and Exchange Commission of Pakistan

BEFORE THE APPELLATE BENCH

In the matter of

Appeal No. 17 (13)/Misc/ABR/2022 (Objection Case)

Yusra Medical & Dental College (Private) Limited

...Appellant

versus

Officers Authorized, SECP and others

...Respondents

Date of hearing:

January 31, 2024

For the Appellant:

Mr. Zafar Mahmood, Executive Manager

ORDER

1. This Order is in Appeal No. 17 (13)/Misc/ABR/2022 (Objection Case) filed by M/s. Yusra Medical & Dental College (Private) Limited (the "Appellant") under section 33 of the Securities and Exchange Commission of Pakistan Act, 1997 (the "SECP Act").
2. Brief facts of the case are that the Appellant is aggrieved of the order dated June 14, 2022 (the "Impugned Order") passed by Respondent No. 1 in pursuance of the order of the Hon'ble Islamabad High Court dated December 17, 2021 (the "Representation Order") in Writ Petition No. 2622 of 2019 wherein the matter was sent to the Securities and Exchange Commission of Pakistan (the "Commission") as a representation. Subsequently, the Appellant filed an appeal before the Appellate Bench (the "Bench"), however, the Appellant Bench Registry, vide letter dated November 02, 2022, declined to register the appeal in view of the bar contained in section 33 of the SECP Act. In response



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thereof, the Appellant vide letter dated November 14, 2022 has requested to place the matter before the Bench to decide the question of maintainability.

3. The authorized representative of the Appellant stated that the instant Appeal is maintainable under section 33 of the SECP Act as the same is against the Impugned Order passed by two officers of the Commission. He argued that in view of section 13 of the General Clauses Act, 1897, connotation of the words 'an officer' used in sub-section (1) of section 33 of the SECP Act include plural as well and the same cannot be interpreted in a manner just to give it a meaning in singular. With respect to his prayer in the instant Appeal, the authorized representative of the Appellant submitted that the same is aggrieved of the Impugned Order on the basis that it goes beyond the scope of the Representation Order and vide instant Appeal has *inter alia* prayed for setting aside of the Investigation Report dated October 06, 2017 (the "Investigation Report").
4. The Bench has heard the argument and perused the record. It transpires from the record that various corporate issues leading to the dispute regarding shareholding/directorship of the Appellant Company exist amongst the two rival groups in the Appellant Company and there is a multiplicity of litigation pending before the various *fora*. It also appears from the record that Writ Petition 409/2019 was filed by the Appellant before the Hon'ble Islamabad High Court wherein the Appellant challenged the Investigation Report and the said writ petition was dismissed by the Hon'ble Islamabad High Court vide its order dated December 17, 2021.
5. The Bench questioned the authorized representative of the Appellant as to how the instant Appeal, wherein setting aside of the Investigation Report has been prayed, is maintainable while the order dated December 17, 2021 passed by the Hon'ble Islamabad High Court in Writ Petition 409/2019 holds field. In response, the authorized representative of the Appellant submitted that the said writ petition was dismissed by the Hon'ble Islamabad High Court on the issue of maintainability. In this scenario, it would be worthwhile to have a glance at the order dated December 17, 2021 passed by the Hon'ble Islamabad High Court in Writ Petition 409/2019, and the operative part of the same is reproduced as hereunder:



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“4. In view of the above, it appears that the investigation report, issued by the investigators/inspectors appointed by SECP under Section 265 of the Ordinance for purposes of SECP, is yet to be acted upon. In the event that the petitioners are aggrieved by any such actions, they have appropriate remedies under law and the investigation report in itself does not provide an independent cause of action to the petitioners.”


5. The learned counsel for the petitioners has failed to make out the case that the investigation ordered under Section 265 of the Ordinance was not duly authorized and has also failed to point out any provisions of the Ordinance, which have been breached in furnishing the said investigation report.

*6. In view of the above, the petition is not maintainable and is **dismissed.**”
(emphasis provided)*

6. It is evident from the aforementioned self-explanatory order of the Hon’ble Islamabad High Court that legality of the Investigation Report has already been determined and the same cannot be questioned again before the Bench. Perusal of the prayer of the Appellant, in the instant Appeal clearly shows that the instant Appeal is merely an attempt to directly/indirectly call in question the Investigation Report, the fate of which has already been determined by the Hon’ble Islamabad High Court vide its order dated December 17, 2021. Thus, the Bench is not convinced with the submissions rendered by the authorized representative of the Appellant as the same has failed to make out a case for admissibility of the instant Appeal.

7. In view of the foregoing, the instant Appeal is hereby **dismissed** for being non-maintainable.


(Akif Saeed)
Chairman/Commissioner


(Mujtaba Ahmad Lodhi)
Commissioner

Announced on: 06 FEB 2024