

Securities and Exchange Commission of Pakistan

BEFORE APPELLATE BENCH NO. IV

In the matter of

Appeal No. 55 of 2016

Zahid Nawab, CEO Research Hub for Pak's Physiotherapy ...Appellant

Versus

Securities and Exchange Commission of Pakistan ...Respondent

Date of Hearing: 29/12/16

Present:

For the Appellant:

- 1) Mr. Zahid Nawab, CEO Research Hub for Pak's Physiotherapy

For the Respondent:

- 1) Mr. Mubasher Saeed Director (CCD)
- 2) Ms. Beenish Waqas, Assistant Director (CCD)

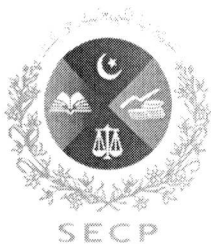
ORDER

1. This Order is passed in the matter of Appeal No. 55 of 2016 filed under section 33 of the Securities and Exchange Commission of Pakistan Act, 1997 against the order dated 20/06/16 (the Impugned Order) passed by the Respondent.
2. Brief facts of the case are that an application was made for grant of licence under section 42 of the Companies Ordinance, 1984 (Ordinance) by M/s. Research Hub for Pak's Physiotherapy (Proposed). The application was examined by the Respondent and it was noted that the main objects of the proposed company were related to research activities and the proposed projects consisted of construction

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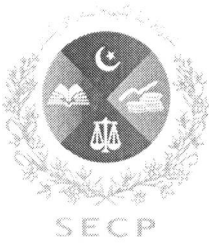
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of library, where the scholars/researchers would visit for research work and delivering of lectures from different parts of the world with main area of focus being Physiotherapy's quality research and services. The Respondent noted that the 'Estimated future annual income and expenditure statement' of the proposed company as provided reveals that the estimated income from 'Donations and Grants-Local' is Rs.200,000,000/- The Appellant had stated that meetings have been held with different government organizations, however, the Respondent noted no written commitment had been produced in support of the estimations and the said amount comprised of almost entire funds to be received by the proposed company. Furthermore, the Respondent noted that there was also no detailed plan of monetary implications and how the activities of the proposed association/company will be carried out and the Appellant had also not provided details of administrative and operational expenditure in achieving the objects of the proposed association/company.

3. The Respondent after considering the application and arguments of the Appellant declined the application for grant of licence to "RESEARCH HUB FOR PAK'S PHYSIOTHERAPY (Proposed)".
4. The Appellant argued that the Respondent has shown neglect in reaching a decision in terms of section 42 of the Ordinance as he had provided Statement of Estimated Future Annual Income and Expenditure for the proposed company including source of income as requested by the Respondent. Furthermore, the Appellant argued that several government organizations had committed funds including the Higher Education Commission of Pakistan (HEC) which committed an amount of Rs 200 million, however, written commitments can only be provided once the Company is registered as a legal entity and a licence is issued.
5. The Respondent has rebutted the arguments of the Appellant by stating that the application was examined on the basis of filed documents. The Estimated future



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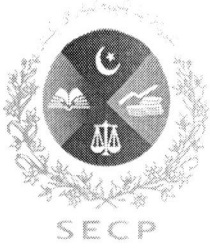
annual income and expenditure statement of the proposed company as provided at different time reveals that the estimated income from “donations and grants local” was Rs.200,000,000, however, no written commitments were produced in support of the estimates. The Appellant also confirmed in writing at the hearing on 31/05/16 that he will provide detailed plan, sources of funds, letter of intent/commitment and MoU, detailed activities, research areas, the target people/community and elaborative notes to the income and expenditures statement, however, he failed to do so. Reliance is placed on the judgment of the Lahore High Court in the matter of *Human Rights for All vs. Securities and Exchange Commission of Pakistan in Writ Petition No. 10651 of 2013*, wherein, the facts of the case were similar and it was held that the Petitioner was required to provide the Respondent descriptive explanations of the income and expenditure and the requirements of the Respondent was in accordance with section 42 of the Ordinance.

6. We have heard the parties i.e. the Appellant and Respondent. We are of the view that the Appellant’s argument that written commitments can only be provided after issuance of licence, has no merit. The Appellant must fulfill the requirements of the law in order for the proposed company to be registered in terms of section 42 of the Ordinance. Rule 6(f) of the Companies (General Provisions & Forms) Rules 1985 provides that the promoters or members of an association desirous of obtaining a licence under section 42 shall make an application to the Commission which shall be accompanied by the estimate of future annual income and expenditure of the proposed company, specifying the sources of income and nature of expenditure must be provided. We also relied on the judgment of the Lahore High Court in the matter of Human Rights for All vs. Securities and Exchange Commission of Pakistan in Writ Petition No. 10651 of 2013, wherein, it was held that, “*the applicant has to provide details of the expected sources of income and the expected heads of expenditure. Merely providing figures in the statement of estimated future annual income*

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and expenditure is not sufficient. The applicant has to give a descriptive explanation of the expected donations and grants with year wise break up. The requirement/objections of the Respondents is in accordance with law...section 42 provides that the Commission must satisfy itself that an association can be granted a license under section 42 and may be registered thereunder. Therefore the Petitioner is required to provide the information as requested by the Respondents.”

7. In view of the foregoing, the appeal is dismissed with no order as to costs.

(Fida Hussain Samoo)

Commissioner (Insurance)

(Zafar Abdullah)

Commissioner (SCD)

Announced on: 20 MAR 2017