

THE COMPETITION APPELLATE TRIBUNAL, ISLAMABAD.

Before: Mr. J. (R) Sajjad Ali Shah, Chairman
Dr. Faiz Illahi Memon, &
Mr. Asim Akram, Members Technical - I & II, respectively.

Date of Hearings 15-05-2025 & 26-06-2025
Date of Judgment 11-08-2025

Sr. No.	Appeal No.	Appellant
1	27 of 2012	GCC Approved Medical Centers Lahore
2	28 of 2012	Urgent Medical Diagnostic Center
3	29 of 2012	Peshawar Medical Check-up Center
4	30 of 2012	Iqra Medical Center
5	31 of 2012	Caring and Curing Center
6	32 of 2012	Taj Medical Travelers Clinic
7	33 of 2012	Al Barkat Diagnostic Center
8	34 of 2012	GCC Diagnostic Center, Islamabad
9	35 of 2012	GCC Diagnostic Center, Karachi
3	36 of 2012	GCC Diagnostic Center, Multan
11	37 of 2012	GCC Diagnostic Center, Peshawar
12	38 of 2012	Multan Diagnostic Medical Center
13	39 of 2012	Al-Khair Medical Center
14	40 of 2012	Medical Diagnostic Center
15	41 of 2012	Gulf Medical Center
16	42 of 2012	Al-Hillal Medical Center
17	43 of 2012	Taj Medical Center
18	44 of 2012	Shifa International
19	45 of 2012	Advance Medical Diagnostic Center
20	46 of 2012	GCC Approved Medical Center, Rawalpindi
21	47 of 2012	Khaleeg Medical Center
22	48 of 2012	Frontier Diagnostic Center
23	49 of 2012	Dr. Thagfan Diagnostic Center
24	50 of 2012	Medical Diagnostic Center
25	51 of 2012	Canal View Diagnostic Center

verses

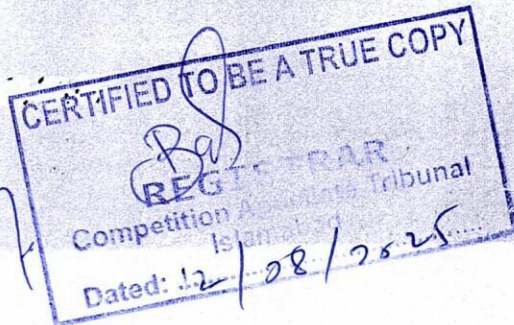
Respondents

1. Competition Commission of Pakistan through its Chairman;
2. Ikram ul Haq Qureshi, Registrar, Competition Commission; and
3. Pakistan Overseas Employment Promotion Association.

For the appellants:

Malik Ghulam Sabir and Muhammad Shakeel Mughal, advocates on behalf of Mr. Salman Akram Raja, advocate for the appellants.
Mr. Waqar Ahmed Mir, Advocate along with Hafiz Nacem, Mr. Haider Afzal Khan, Legal Advisors for Respondent No.1.

For the respondents:



Asim Akram, Member Technical - II; Through the titled /

appeals the appellants have assailed the order dated 29-06-2012 (*the impugned order*) passed by the Respondent No.1, the Competition Commission of Pakistan (*the Commission*). According to the impugned order the appellants have been found violative of Section 4 of the Competition Act, 2010 (*the Act*) resultantly different amounts of penalties have been imposed upon the appellants, separately.

2. There are two different sets of appellants; the first set of Appeals No.28 to 33, 38 to 45 and 47 to 51 of 2012 being filed by the service providers i.e. the medical centers/laboratories. The second set of Appeals No.27, 34 to 37 and 46 of 2012 being filed by the supervisors/regulators of the laboratories. There is a combined impugned order which has common questions of law and fact accordingly; we consider it appropriate to decide all the appeals through this consolidate judgment.

3. The facts giving rise to these appeals are that six of the Middle Eastern countries namely, Saudi Arabia, Bahrain, Oman, Qatar, Kuwait and Yaman through Gulf Cooperation Council (GCC) have given license to different medical centers/labs to minister the physical eligibility of the individuals applying for work visas in the said states. Twenty (20) medical centers operate in Pakistan having the authorization by the GCC states and are called GCC Approved Medical Centers (GAMCs). These medical centers are established in Karachi, Lahore, Islamabad/Rawalpindi, Multan and Peshawar. In the cities which have more than two medical centers an administrative office in the name of GCC Approved Medical Center Administrative Offices (GAMCAs) has been established. At present five administrative offices (GAMCAs) are functioning in the country. The GAMCAs supervise the operations of GAMCs to ensure the compliance of directions given by the Executive Board of the GCC Health Ministers Council (*the Executive Board*). The visa applications are numbered by the GAMCAs which equally distribute the applications to the medical centers in the city. Also, the test fee has been fixed. The Commission received an application from the Respondent No.3 against the appellants with the contention that the visa applicants are forced to get the medical tests from specific regions and the medical centers. An inquiry was conducted by the

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Competition Appellate Tribunal

Islamabad

Dated: 12/08/2025

Commission accordingly. As per the Inquiry report dated 31-01-2012 the appellants were found guilty of violation of Section 4 read with Section 3 of the Act. A show cause notice dated 09-02-2012 was issued against the appellants. After receiving the reply of the appellant and giving the opportunity of personal hearing the appellants were found guilty of violating the Act. Accordingly, a penalty of PKR 10 million was imposed upon GCC approved Medical Centers who are appellants in Appeal 27, 34 to 37 & 46/2012 whereas a penalty in the sum of PKR 20 millions was imposed on rest of the appellants who are medical Centers/Laboratories vide order dated 29-06-2012 (*the impugned order*). The appellants were further directed to file a compliance report with the Registrar of the Commission by 15-08-2012 for undoing the wrongful moves or to approach the Commission for exemption under Section 5 of the Act; in failure of which an additional penalty in the sum of rupees five hundred thousand per day was ordered. Feeling aggrieved the titled appeals were filed.

4. The counsel for the appellants, Mr. Salman Akram Raja, made his submissions on 15-05-2025 and contended that the appellants are an agent of GCC and complies the directions given by the Executive Board. The appellant plays a supervisory role for observing the compliance of the directions by the GAMCs. The medical centers only conduct tests of the visa applicants to the GCC countries and do not conduct medical test of other private individuals. The GAMCAs receive visa applications from licensed visa agents and after numbering them mark the applications^{to} the GAMCs in the city equally, as per the rules of Executive Board. The GAMCs do not conduct any business rather perform the test of the visa applicants according to the terms and conditions of GCC countries for which applicants have applied for visa. A detailed written argument has also been submitted by the appellant. The dismissal of the impugned order is prayed for.

5. The Respondent No.1, the Commission, vehemently opposed the titled appeals. The council for the respondent contends that all legal formalities have been complied with in passing of the impugned order whereby the appellants have been found guilty of fixing the price and



equal distribution of customers among the appellants which is violation of the Section 4 of the Act. He further says that there is no sovereign agreement between the GCC and the Government of Pakistan neither any application for exemption has been filed by the appellants under Section 5 of the Act. No foreign body can give directions which are violative of the Pakistani laws and such directions cannot be implemented. Dismissal of the titled appeals is prayed for.

6. Arguments heard, record perused.

7. In furtherance of the inquiry report a show cause notice dated 09-02-2012 was served upon the appellants whereby the appellants were charged of the offences that (i) GAMCAs take anti-competitive decisions in violation of the Act, (ii) uniform fee, fixed by GAMCAs, is charged across Pakistan by the GAMCs, (iii) the customers/intending immigrants/expatriates are forced to get the medical clearance certificate from the GAMCs from their place of residence, (iv) the GAMCAs have object or effect of preventing, restricting or reducing competition within the relevant market, and (v) the GAMCs forecloses the choice and restrict the competition in the market. It would be appropriate firstly to consider whether, as per directions of Gulf Cooperation Council (GCC), obtaining of medical fitness certificate is a service business within the meaning of 'undertaking' within the meaning of Section 2 (1)(o) & (q) of the Act. As per sub-clause (o) of Section 2(1) the service means a service of any description whether industrial, trade, professional or otherwise; it is a broad description and does not give any exceptions. The stance of the appellants that the GAMCs conduct the medical tests to give fitness certificate to the visa applicants of GCC countries as their agent does not carry weight as they charge fee for the prescribed medical tests. By rendering the medical test services, the GAMCs and their supervisory bodies i.e. the GAMCAs fall within the ambit of 'undertaking' as per sub-clause (q) of Section 2(1) of the Act. By being the service provider undertaking the Commission has the jurisdiction to check their compliance of the Act. The Act was promulgated to ensure free competition in all spheres of commercial and



economic activity to enhance efficiency and to protect consumers from anti-competitive behavior.¹

8. The appellants have placed on record a circular dated 27-11-1999 issued by the Executive Board of the Health Ministers' Council for GCC States (Annexure - G at page 192 of the main appeal) through which the GAMCAs were created. The concept for creation of GAMCAs has been described therein; relevant paragraph is replicated as under;

"This office has been receiving complaints from various GCC Approved Medical Centers that the involvement of recruitment agents/ travels agent in the medical examination of candidates has caused uncertainty in distribution of medical slips. Some centers to get more businesses have lost their professional sincerity and the medical examination has become a business between recruiting agents and so-called health centers. The approved centers have no control on such practice. Therefore, in the interest of utmost care for the safeguard of our approved health centers We suggest that all the GCC Approved Medical Centers form an Association namely GCC Approved Medical Center Association (GAMCA).

Emphasis added.

The GAMCAs and GAMCs are governed by the rules and regulations promulgated by the Executive Board. As per Article 5 of the Regulation for coordination of work between the Executive Board the GAMCAs are responsible for equal distribution the cases of expatriates among the GAMCs. From the circular as well as the regulation it is clear that the cases of medical examination of the repatriates were equally distributed to discourage coordination between the medical centers and the visa agents. The equal distribution of medical test cases could only be possible if the fee for the said test is equally charged by the GAMCs. Also, the directions to get the medical test from the residential area of the expatriate carries the weight as it is directed for the convenience of the expatriates. As per the council of the appellant the medical charges (fee) were fixed by the Executive Board and the direction for obtaining the medical certificate from the medical center closest to the residence of the expatriate was also given by the Executive Board. No symptom regarding creation of any cartel is visible from the material placed on record. But we

¹Preamble, Competition Act, 2010



cannot ignore the fact that the appellant has to approach the Commission for an exemption under Section 5 of the Act. Any direction by a foreign state or body cannot be implemented in Pakistan if the same violates any law or rule. In the case at hand fixation of a fee and equal distribution is against the Section 4 of the Act. We appreciate that the equal distribution was made applicable for free and fair medical reports of the expatriates applying for visa in the states of GCC but the ignorance of not praying for an exemption by the appellant is a violation of the Act the same stance has been taken by the Commission in the impugned order by directing the appellant to apply for exemption under Section 5.

9. For the foregoing reasons the titled appeals are partially accepted; accordingly, the impugned order dated 29-06-2012 is modified by reducing the amount of penalty to Rs.01 M. (Rupees one million only) in cases of GCC Approved Medical Centers appellants in appeal No.27, 34 to 37 & 45 of 2012 whereas in case of Medical Centers/Laboratories i.e. rest of the appellants it is reduced to PKR 02 (M) (Rupees two million only). The remaining directions as well as observations shall remain as it is but would apply from the date of this Judgment.



Announced in open court on: 11th August 2025.

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