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ICAP resisting judicial orders, hurting students

LAMABAD: Like several other organizations, the Institute of Chartered Accountants of Pakistan (ICAP) is blatantly resisting judicial order, deeply affecting non-ICAP accountancy students. Their refusal by the ICAP members to accept accountancy firms under its purview to offer them training opportunities.

On January 10 this year, the Competition Commission of Pakistan (CCP), through a comprehensive decision, imposed a \$25 million penalty on the ICAP for a daily fine of Rs1 million in case the ICAP continued breach of its order, for flouting the CCP law.

The CCP thus shot down ICAP's July 4, 2012 directive, which disallowed ICAP's members and their accountancy firms from giving training opportunities to non-ICAP accountancy students, ruling that the instruction is tantamount to anti-competition for professional training accountancy students.

Repeated efforts were made by The News to get the ICAP version but to no avail. A message was also dropped with the personal staff of ICAP President Ahmad Saeed. Several calls were made to its Secretary Shoaib Ahmed for reaction. Finally questions were sent to his official email address. These were: "I would appreciate if you kindly let me know: How far has the CCP ruling been implemented by the ICAP? Has the ICAP challenged the CCP decision in any court of law? If yes, on what grounds? If there is no implementation by the ICAP as yet, what are the reasons?"

However, a source told The News on condition of anonymity that CCP has apprised all the concerned stakeholders that since the ICAP directive has been declared without legal effect, no circular from ICAP rescinding or withdrawing the

same is required and accountancy firms are not bound by it anymore.

But despite this clear order, the accountancy firms are not accepting the non-ICAP students for training. They are awaiting a directive from the ICAP saying they will be in deep trouble from the ICAP if they implement the CCP verdict on their own.

"No doubt, we need non-ICAP students to share our workload but can't do so without ICAP instructions even after the CCP order," a senior official of a reputed accounting firm told this correspondent.

He admitted that the ICAP wants to keep its monopoly on the accounting market and therefore discouraged those who have done British ACCA (Association of Chartered Certified Accountants) for their mandatory three-year internship with an ICAP accountancy firm in Pakistan. It

also depresses offering training to those who want to do ICAEW (Institute of Chartered Accountants in England and Wales) so that its clique of CAs (chartered accountants) continues to dominate and control the accountancy market.

The CCP source said that several accountancy students have approached them to enquire about the situation in relation to ICAP's compliance of CCP order. On receipt of actionable evidence, if any, that suggests non-compliance, the CCP will proceed in accordance with law, he said.

He said that under Section 42 of the CCP law an undertaking that is aggrieved by an order of CCP can file an appeal with the Competition Appellate Tribunal (CAT) within 60 days of its communication. He added that the ICAP has neither so far paid the penalty nor has it filed an appeal

before the CAT or obtained a stay from any court.

The source said that the imposed penalty has to be deposited with the CCP forthwith upon communication of the order. However, the CCP does not pursue the recovery of penalty until expiry of limitation for filing appeal. But there is no bar on ICAP to pay the fine prior to the end of the time limit allowed for appeal.

He said that ICAP may face the recovery proceedings. The CCP may recover the amount through various modes provided under Section 40 of the law, which, inter alia, includes recovery of amount as arrears of land revenue, attachment of the property etc.

The source said CCP may, in addition or in lieu of the penalties prescribed under the law, initiate proceedings in a court of competent jurisdiction for failure

to comply with its order as it constitutes a criminal offence against those responsible for not enforcing its decision.

The CCP order said that the ICAP directive foreclosed, shut out and precluded not only a large but the most valuable segment – the public practice accountancy firms – of the market for the non-ICAP students.

It stated that training through a public practice accounting firms was a valuable form of instruction for accountancy students and while there were other avenues such as in-house training at commercial concerns in public or private sector, accountancy firms offered a greater exposure and experience to students on a broader range of subjects which was not substitutable to any training or experience offered by other approved employers.

The order said that the ICAP

directive acted as an entry barrier for the ancillary market of accountancy services that is crucial to the business environment and the economy as a whole. Such a prohibition, issued by ICAP to protect its own economic interests, will inhibit the growth in the accountancy services sector and reduce choices available in the market.

"The ICAP ought not to discourage, discriminate or otherwise unequally treat growing number of a human resource essential for a vibrant economy. As a natural corollary of competition in the market, the increase in the number of such professionals in the past has provided and should continue to provide the businesses and other consumers not only with a greater choice but also improved quality and reduced costs for accountancy services," it said.

The order said that while the

CCP appreciated that ICAP could regulate its own students and the quality of training imparted by its approved accountancy firms; it could not prohibit these firms, most of which are also approved employers of other accountancy bodies, from training non-ICAP students. All over the world, accountancy firms act as approved employers of multiple accountancy bodies and ICAP should act in conformity with the industry practice rather than creating hegemony for itself.

It said the CCP finds merit in ICAEW submissions that ICAP's directive appeared to place protectionism above both the professional and national interests and that these are better served by strengthening the profession in Pakistan through maintaining an open environment to encourage continual investment and improvement. The accountancy market in Pakistan would be strengthened not by protectionism but by allowing free competition.