SUPREME COURT OF AZAD JAMMU AND KASHMIR

[Appellate Jurisdiction]

PRESENT:

Mohammad Azam Khan, C.J.
Ch. Muhammad Ibrahim Zia, J.
Raja Saeed Akram Khan, J.

Civil PLA No. 131 of 2016
Civil Misc. No. 80 of 2016
(Filed on 11.04.2016)

1. Muhammad Akhtar S/o Iqbal Khan, I.D Card No. 82203-2809236-1, R/o Jand Graan P.O Garhi Dupatta District Muzaffarabad.

2. Raja Sarfraz Khan S/o Lal Khan, I.D Card No. 82203-1213913-5, R/o Mohalla Lower Plat Ward No. 10 Muzaffarabad.

3. Muhammad Asif S/o Gul Zaman, I.D Card No. 82203-9831900-9, R/o P.O Muzaffarabad, Chalpani, Tehsil Pattika District Muzaffarabad.

4. Safoor-ud-Din S/o Younis Shad, I.D Card No. 82203-6077700-5, R/o Village Hotrari P.O Muzaffarabad.

5. Syed Arshad Gillani S/o Ahmed Shah, I.D Card No. 82203-3398217-1, R/o Village Hotrari P.O Muzaffarabad.

6. Syed Mumtaz Ali Gillani S/o Shabbir Hussain Shah, ID Card No. 37101-0491006-3, R/o Village Hotrari P.O Muzaffarabad.

7. Muhammad AsifMughal S/o Abdul Hameed, ID Card No. 82203-9662827-5, R/o Ward No. 11, Mohalla Darl Makri. Muzaffarabad.

8. Muhammad Khalid S/o Abdul Hameed, 10 Card No. 82203-9569287-3, R/o Ward No.1 L Mohalla Darl Makri, Muzaffarabad.

9. Qazi Javed Ahmed S/o Qazi Abdul Rasheed, ID Card No. 82203-1630416-1, R/o Gulshan Colony Ward NJ. 13 Muzaffarabad.

10. Muhammad Naseer Awan S/o Amjad Latif ID Card No. 82203-9977559-3. R/o Ward No.8 Mahalla Khatak Tariq Abad Muzaffarabad.

11. Raja Rizwan Zafar Khan S/o Raja Zaffar Hussain Khan, ID Card No. 82203-1186521-3, R/o Kachili R/o Kachali Muzaffarabad.

12. Shahid Shahjehan Khan S/o Shahjehan Khan, ID Card No. 82203-1214245- 7, R/o Village Noor Pur Nakran District Muzaffarabad.

13. Raja Abid Hussain S/o Raja Zain Akbar Khan, ID Card No. 82203-3245806-7, R/o P.O Garhi Dupatta, Niazpura Muzaffarabad.

14. Raja Muhammad Ajayab Khan S/o Raja Muhammad Ameen Khan, ID Card No. 82203-7350536-1, R/o Salah Gali Poth District Garhi Dupatta Muzaffarabad.

15. Raja Pervez Majeed Khan S/o Raja Abdul Majeed Khan, ID Card No. 82203-3048877-3, R/o Chatter Kalas P.O Kulian District Muzaffarabad.

16. Ahmed Nawaz Tanoli S/o Shabbir Ahmed Khan, ID Card No. 82203-5393217-7, R/o Shala Bagh P.O Langar Pura District Muzaffarabad.

17. Muhammad Iqbal Abbasi S/o Abdul Latif, ID Card No. 82203-2364830-7, R/o Ward No.7 Mohalla Tariq Abad Muzaffarabad.

18. Muhammad Zaheer S/o Sheikh Muhammad Rafique, ID Card No. 82203-6144625-3. R/o Khun Bandi P.O Garhi Dupatta Muzaffarabad.

19. Murtaza Bashir Abbasi S/o Bashir Ullah Khan, ID Card No. 72000-7183409-3, R/o Hattian District Muzaffarabad.

20. Zahid Khan Mughal S/o Muhammad Khan Mughal, ID Card No. 82202-54963141-4, R/o Mera Bakot P.O Chakothi District Hattian Bala.

21. Raja Nisar Ali Khan S/o Raja Sher Ali Khan, ID Card No. 82202-5913583-3, R/o Gujar Bandi P.O Hattian Bala.

22. Mukhtar Ahmed Mughal S/o Mir Muhammad Khan, ID Card No. 82202- 9811512-1, R/o Mera Bakot P.O Chakothi District Hattian Bala.

23. Muhammad Altaf Sawati S/o Ali Zaman Sawati, ID Card No. 13583-0579455-7, R/o Gujar Bandi P.O Hattian Bala.

24. Muhammad Raffi Abbasi S/o Saif UlIah, ID Card No. 82202-1718831-9, R/o Mera Bakot P.O Chakothi District Hattian Bala.

25. Muhammad Nasir S/o Muhammad Saleem, ID Card No. 82701-0341574-3, R/o Mera Bakot P.O Chakothi District Hattian Bala.

26. Shahzad Safdar S/o Safdar Ali Mughal, ID Card No. 82203-6534354-9, R/o Mera Bakot P.O Chakothi District Hattian Bala.

27. Adil Aziz Mughal S/o Abdul Aziz Mughal, ID Card No. 82202-1630809-9, R/o Mera Bakot P.O Chakothi District Hattian Bala.

28. Raja Zumard Khan S/o Raja Habib Ullah Khan, ID Card No. 82202-1627779-7, R/o Gujjar Bandi P.O Chinari District Hattial Bala.

29. Rafaqat Hussain, S/o Hussain Ahmed, ID Card No. 82202-5003340-7, R/o Tilli Kot P.O Gujjar Bandi Tehsil and District Muzaffarabad.

30. Muhammad Bashir Chak S/o Fateh Muhammad, ID Card No. 82202- 6852554-9, R/o Gujjar Bandi Tehsil & District Hattian Bala.

31. Junaida Javed Dlo Muhammad Javed, ID Card No. 82701-0573170-4, R/o Mera Bakot P.O Chakothi District Hattian Bala.

32. Shazia Bostan Wlo Safeer Ahmed, ID Card No. 82202-7220027-0, P.O Chakothi, Mera Bakot, District Hattian Bala.

33. Zia Mumtaz D/o Mumtaz Ahmed Mughal, ID Card No. 82701-2598743-4, R/o Bakot P.O Chakothi District Hattian Bala.

34. Kokab Saleem Dlo Muhammad Ali, ID Card No. 82701-0578556-4, R/o Bakot P.O Chakothi District Hattian Bala.

35. Kaneeza Begum Wlo Muhammad Irshad Hasrat, ID Card No. 82202-0386595-4, R/o Bakot P.O Chakothi District Hattian Bala.

36. Sughra Bibi W/o Muhammad Khan Mughal, ID Card No. 82202-9117609-4, R/o Bakot P.O Chakothi District Hattian Bala.

37. Shazia Shafiq Wlo Muhammad Shafiq Mughal, ID Card No. 82202-9117704-4, R/o Bakot P.O Chakothi District I-lattian Bala,

38. Naila Bibi Dlo Muhammad Khan Mughal, ID Card No. 82202-1915892-8, R/o Bakot P.O Chakothi District Hattian BaJa.

39. Safia Bibi Dlo Muhammad Ilyas Mughal, ID Card No. 82701-0573981-6, R/o Bakot P.O Chakothi District Hattian Bala.

40. Khatoon Bibi D/o Mumtaz Ahmed Mughal, ID Card No. 82701-05785 I4-6, R/o Mera Bakot P.O Chakothi District Hattian Bala.

41. Hamza Manzoor S/o Manzoor Ahmed, ID Card No. 82701-0353558-5, R/o Mera Bakot P.O Chakothi District Hattian Baja.

42. Younas Bostan S/o Bostan Khan, ID Card No. 82701-0342373-1, R/o Mera Bakot P.O Chakothi District Hattian Baja.

43. Muhammad Pervez S/o Muhammad Khan. ID Card No. 82202-7179811-5, R/o Mera Bakot P.O Chakothi District Hattian Bala.

44. Mumtaz Begum Wlo Ameer Muhammad Khan Mughal, ID Card No. 82701-0575508-2, R/o Mera Bakot P.O Chakothi District Hattian BaIa.

45. Perveen Akhter Dlo Safdar Ali, ID Card No. 82701-0578548-0, R/o Mera Bakot P.O Chakothi District Hattian Bala.

46. Mumtaz Ahmed Mughal, S/o Ameer Muhammad Khan Mughal, ID Card No. 82202-9811512-1, R/o Mera Bakot P.O Chakothi District Hattian Bala.

47. Munawar Shah S/o Sarwar Shah, I.D Card No. 82201-3311302-3, R/o Sandooq Kundal Shahi, Authmoqam District Neelum.

48. Abdul Manan S/o Marawat Ullah, ID Card No. 82203-1172972-3, R/o Phu1awai, Tehsi1 Sharda District Neelum.

49. Muhammad Rafiah Abbasi S/o Saif Ullah, ID Card No. 82202-1718831-9, R/o Mera Bakot P.O Chakothi District Hattian Bala.

50. Zareena Begum W/o Muhammad Siddique Khan, ID Card No. 82202-2483422-6, Village Chinari District Hattian Ba1a.

51. Afifa Kousar Wlo Muhammad Hanif Khan, ID Card No. 82202-5392756-4, Village Chinari District Hattian Bala.

52. Muhammad Hanif Khan S/o Abdul Hameed Khan, ID Card No. 82202-0526713-7, Village Chinari District Hattian Bala.

53. Muhammad Aziz Khan S/o Imam-ud-Din Khan, ID Card No., 82202-9676207-9, Village Chinari District Hattian Bala.

54. Raja Muhammad Siddique S/o Raja Muzaffar-ud-Din, ID Card No. 82203- 9777172-7, Village Chinari District Hattian Bala.

55. Raja Safeer Akbar, S/o Muhammad Akbar Khan, ID Card No. 82202- 7801508-5, Village Chinari District Hattian Bala.

56. Raja Muhammad Fayyaz Khan. S/o Raja Mir Afzal Khan, ID Card No. 82202-0201421-5, Village Chinari District Hattian Bala.

57. Muhammad Bashir Awan S/o Muhammad Zaman Awan, ID Card No. 82202-0959575-3, P.O Hattian District Hattian Bala.

58. Maqbool Hussain S/o Noor Hussain, ID Card No. 82202-0400111-1, R/o Village Dobian, P.O Hattian District Hattian Bala.

59. Muhammad Sakhi Awan S/o Sam Din Awan, ID Card No.82202-12222416- 7, R/o Village Dobian, P.O Hattian District Hattian Bala.

60. Salma Batool W/o Maqbool Hussain, ID Card No.82202-69S3955-4, R/o Mohalla Ziarat Wali Daman, District Hattian Bala.

61. Sarwar Jan Awan W/o Muhammad Shafi Awan, ID Card No.82202-4129225-8, R/o Mohalla Ziarat Wali Daman, District Hattian Bala.

62. Ayesha Bibi W/o Manzoor Hussian, ID Card No.82701-0565456-8, R/o Village Dobian, P.O Hattian District Hattian BaIa.

63. Zulfan Bibi W/o Muhammad Shabbir, ID Card No. 82701-0581455-0, R/o Village Dobian, P.O Hattian District Hattian Bala.

64. Muhammad Safeer Awan S/o Salam Din Awan, ID Card No. 82202-5888359-7, R/o Village Dobian, P.O Hattian District Hattian Bala.

65. Khadim Hussain S/o Alam Din, ID Card No. 82202-3067154-9, R/o Village Dobian, P.O Hattian District Hattian Bala.

66. Adnana Imtiaz Kiani S/o Imtiaz Ali Kiani. ID Card No. 82202-6435835-7, R/o Village Dobian. P.O Hattian District Hattian Bala.

67. Muhammad Shafi Mughal, S/o Ghulam Rasool Mughal, ID Card No. 82202-3385903-3, R/o Mughal Colony Tili Kat Gujjar Bandi District Hattian,

68. Khursheed Hussain Mughal, S/o Muhammad Hussain Mughal, ID Card No. 82202-8152882-1, R/o Mughal Colony, Tili Kot Gujjar Bandi District Hattian.

69. Ali Asghar Mughal S/o Ali Akbar Khan Mughal, ID Card No. 82202-9364856-3, R/o Mughal Colony, Tili Kot Gujjar Bandi District Hattian.

70. Faizan Ahmed Kiani, S/o Muhammad Younas Kiani, ID Card No. 82202- 4750535-1. R/o MughaJ Colony, Tili Kot Gujjar Bandi District Hattian.

71. Seena Begum Kiani Wlo Muhammad Farid Kiani, ID Card No. 82202-3086050-6. R/o Mughal Colony, Tili Kot Gujjar Bandi District Hattian.

72. Saim Imtiaz Kiani Wlo Fayyaz Ali Kiani, ID Card No. 82202-2354099-4, R/o Mughal Colony. Tili Kot Gujjar Bandi District Hattian.

73. Shaziz Majeed Mughal, Dlo Abdul Majeed Mughal, ID Card No. 82202-0385035-6, R/o Mughal Colony, Tili Kot Gujjar Bandi District Hattian.

74. Umer Jan Wlo Matwali Khan Kiani, ID Card No. 82202-1806504-8, R/o Mughal Colony, Tili Kot Gujjar Bandi District Hattian.

75. Asima Khursheed Dlo Khursheed Hussain Mughal, ID Card No. 82202-2684027-6. R/o Mughal Colony, Tili Kot Gujjar Bandi District Hattian.

76. Zareena Begum W/o Muhammad Siddique Khan, ID Card No. 82202-2483422-6. Village Chinari District Hattian Bala.

77. Muhammad Hanif Khan S/o Abdul Hameed Khan, ID Card No. 82202-0526713-7, Village Chinari District Hattian Bala.

78. Muhammad Aziz Khan S/o Imam-ud-Din Khan, ID Card No., 82202-9676207-9. Village Chinari District Hattian Bala.

79. Afifa Kousar Wlo Muhammad Hanif Khan. ID Card No. 82202-5392756-4, Village Chinari District Hattian Bala.

80. Raja Safeer Akbar, S/o Muhammad Akbar Khan, ID Card No. 82202-7801508-5, Village Chinari District Hattian Bala.

81. Raja Muhammad Fayyaz Khan, S/o Raja Mir Afzal Khan, ID Card No.82202-0201421-5, Village Chinari District Hattian Bala.

82. Muhammad Rasheed Khan, S/o Ghulam Rabbani, ID Card No. 82203-1212479-7. R/o Village Chinari District Hattian Bala.

83. Muhammad Rafique Sheikh S/o Faqeer Ullah, ID Card No. 82202-5782802-7, R/o Village Neena. P.O Hattian District Hattian Bala.

84. Muhammad Javed Khan, S/o Abdul Rasheed, ID Card No. 82202-3424793-1, R/o Village Neena, P.O Hattian District Hattian Bala.

85. Muhammad Zakria Khan S/o Muhammad Altaf, ID Card No. 82202-3647354-9, R/o Village Neena, P.O Hattian District Hattian Bala.

86. Muhammad Iqbal Slo Muhammad Khan, ID Card No. 82202-7776226-9, R/o Village Neena, P.O Hattian District Hattian Bala.

87. Muhammad Aslam Khan S/o Bahawal, Khan, ID Card No. 82202-5543174-5, R/o Village Neena, P.O Hattian District Hattian Bala.

88. Zameerat Wlo Muhammad Manzoor Khan, ID Card No. 82202-6419799-0, R/o Village Hattian Bala District Hattian Bala.

89. Safia Gulshan Wlo Muhammad Mushtaq, ID Card No. 82202-7239976-8, R/o Village Hattian Bala District Hattian Bala.

90. Naseera Begum, Wlo Muhammad Ahmed Khan, ID Card No.82202-6396490-2, R/o Village Hattian Bala, District Hattian Bala.

91. Kaneez Fatima W/o Imtiaz A1i, ID Card No.82202-3636290-8, R/o Village Hattian Bala District Hattian Bala.

92. Rozeena Bibi W/o Muhammad Munsif Khan, ID Card No.82202-0598975-4, R/o Village Hattian Bala District Hattian Bala.

93. Muhammad Taj S/o Muhammad Ismail, ID Card No.81102-0989315-1, R/o Garha Bandora Randiam P.O Bhimber District Bhimber.

94. Muhammad Latif S/o Noor Alam, ID Card No.8l1 02-9505848-7, R/o Garha Bandora Randiam P.O Bhimber District Bhimber.

95. Ghulam Nabi S/o Muhammad Hussain, ID Card No.81 102-8888437-1, R/o Garha Bandora Randiam P.O Bhimber District Bhimber.

96. Nazeer Ahmed S/o Raheen A1i, ID Card No.81102-7744742-1, R/o Kas Chinar, P.O Bhimber District Bhimber.

97. Ch. Muhammad Anwar S/o Chaudhary Muhammad Adalat Khan, ID Card No. 81102-9851062-1, R/o Kas Chinar, P.O Bhimber District Bhimber.

98. Jameel Sultan Ahmed S/o Sultan Ahmed, ID Card No. 81102-1387519-8, R/o Mohra P.O Bhimber District Bhimber.

99. Muhammad Nazeera S/o Sher Alam, ID Card No.81302-9301901-7, R/o New Town House NO.1 03, Sector-A, Islam Garh Mirpur.

100. Syed Tahir Hussain Kazmi S/o Muzaffar Hussain Kazmi, 1D Card No.82202-1587330-3, R/o Kucha Syedan District Muzaffarabad.

101. Syed Ansaar Hussain Naqvi S/o Amjad Shah, ID Card No.82202-7090855-1, R/o Kuch Lari P.O Chinari Tehsil and District Hattian Bala.

102. Hafeez Ahmed S/o Muhammad Qalandar Khan, ID Card No.82701-0354992- L R/o Kuch Lari P.O Chinari Tehsil and District Hattian Bala.

103. Syed Israr Hussain Naqvi, S/o Syed Ali Umer Shah, 1D Card No.82203-5606133-5, R/o Kuch Lari P.O Chinari Tehsil and District Hattian Bala.

104. Syed Imdad Hussain S/o Syed Ghulam Hussain, ID Card No.82202-7450241-3, R/o Kuch Lari P.O Chinari Tehsil and District Hattian Bala.

105. Syeda Shaheen Bibi W/o Tasawar Hussain Shah, ID Card No.82202-8660564-2, R/o Kucha Syedan.District Muzaffarabad.

106. Farhat Bibi W/o Syed Tasadaq Hussain Shah, ID Card No.82202-940344-4, R/o Kucha Syedan District Muzaffarabad.

107. Saira Bibi W/o Aamir Hussain Shah, ID Card No.82701-059083l-2, R/o Kuch Rolari P.O Hattian Bala District Hattian Bala.

108. Ansar Begum W/o Rafique Mir, ID Card No.82202-2806221-8, R/o KuchRolari P.O Hattian Bala District Hattian Bala.

109. Arzoo Bibi D/o Muhammad Sayyad Khan, ID Card No.82202-8076098-4, R/o Kuch Rolari P.O Hattian B~,la District Hattian Bala.

110. Nuzmat Aziz W/o Raja Amjad Aziz, ID Card No.82202-6123300-8, R/oVillage Bandi Mohri. P.O Hattian Bala District Hattian Bala.

111. Beenish Azeez W/o Raja Muhammad Azeez Khan, ID Card No.82701-0594804-5, R/o Village Bandi Mohri, PO Hattian Bala District Hattian Bala.

112. Raja Muhammad Azeez Khan, IS/O Raja Muhammad Yaqoob Khan, ID Card No.82202-7995813-2, R/o Village Bandi Mohri, P.O Hattian Bala District Hattian Bala.

113. Naseer Ahmed S/o Ghulam Din, ID Card No.82202-0388518-5, R/o Village Bandi Mohri, P.O Hattian Baja District Hattian Baja.

114. Muhammad Fareed Khan, S/o Ali Asghar Khan, ID Card No.82202-8372249-5, R/o Village Bandi Mohri, P.O Hattian Bala District Hattian Bala.

115. Shakeela Begum W/o Muhammad Anwar, ID Card No.81101-6938319-6, R/o Village Bandi Mohri, P.O Hattian Bala District Hattian Bala.

116. Hassan Bano Wlo Muhammad Farid Khan, ID Card No.82202-3340559-8, R/o Village Bandi Mohri, P.O Hattian Baja District Hattian Bala.

117. Fouzia Riaz Wlo Muhammad Riaz, ID Card No.82701-0581143-2, R/o Village Bandi Mohri. P.O Hattian Baja District Hattian Bala.

118. Pervez Akhter Wlo Muhammad Akra, ID Card No. 82202-2412461-4, R/o Bandi Mohri District Hattian Bala.

119. Shamerz Khan S/o Aurengzeb Khan, ID Card No. 82202-4342155-5, R/o Bandi Mohri District Hattian Bala.

120. Shoukat Hussain S/o Abdul Latif, ID Card No., 82202-9513934-5, R/o Bandi Mohri District Hattian Bala.

121. Muhammad Khursheed S/o Said Ullah, ID Card No., 82202-5798403-9, R/o Bandi Mohri District Hattian Bala.

122. Abdul Razzaq S/o Said Akbar Khan, ID Card No.82202-3789411-5, R/o Bandi Mohri District Hattian Baja.

123. Muhammad Sajjad S/o Muhammad Sharif, ID Card No.82701-0350399-7, R/o Bandi Mohri District Hattian Baja.

124. Muhammad Asif S/o Ali Muhammad, ID Card No.82301-1361418-3, R/o Tarooti P.O Abbas Pur Tehsil Abbas Pur District Poonch.

125. Ch. Muhammad Akram, S/o Ch. Kalu Khan, ID Card No.82301-5854846-1, R/o Tarooti P.O Abbas Pur Tehsil Abbas Pur District Poonch.

126. Muhammad Riaz Khan S/o Sain Kalu Khan, ID Card No.82401-8585624-1, R/o Village Bhatta District Sudhnuti.

127. Sardar Amjad Aslam S/o Sardar Muhammad Aslam Khan, ID Card No.82401-3478724-9, R/o Panthal Tehsil Pallandri District Sudhnuti.

128. Muhammad Mushtaq S/o Din Muhammad, ID Card No.82401-5871597-5, R/o Hillan P.O Talian Tehsil Pallandri District Sudhnuti.

129. Wazeer Muhammad Khan S/o Sardar Khan, ID Card No.82401-4190750-9, R/o Mohalla Sahar Danna Tehsil Pallandri District Sudhnuti.

130. Ehsan-ul-Haq S/o Ghulam Hussain Fiaz, ID Card No.82401-7914136-9, R/o Nalian, Tehsil Pallandri District Sudhnuti.

131. Muhammad Anwar S/o Baqa Muhammad, ID Card No.82401-424494-l, R/o Thandi Kasi Hamrota, Tehsil Pallandri District Sudhnuti.

132. Shahnaz Begum Wlo Sardar Muhammad Aurengzeb, ID Card No.82401-2430705-4, R/o Jain Thandi Kasi, TehsiI Pallandri District Sudhnuti.

133. Rashid Majeed S/o Abdul Majeed, ID Card No.8240 1-4863820-9, R/o Raheem Abad. TehsiI Baloch District Sudhnuti.

134. Khadim Hussain S/o Abdul Hussain, ID Card No.8240 1-5321982-3, Mohallah Awan Abad Chitra P.O Rahim Abad, Tehsil Baloch District Sudhnuti.

135. Muhammad Ajaib Khan, S/o Abdul Hussain. ID Card No.82401-2467339-7, R/o Village

Chitra Mera Baithak Awan Abad, Tehsil Baloch District Sudhnuti.

136. Muhammad Azam Khan, S/o Muhammad Alam Khan, ID Card No.82401-4157719-7. R/o Village Phuljari P.O Trar Khal District Sudhnuti.

137. Ikhlaq Hussain Shah Slo Zubair Shah, JD Card No.82401-0491401-5, R/o Treeda Mohra P.O Trar Khal District Sudhnuti.

138. Muhammad Ashraf Tahir, S/o Muhammad Zaman Khan, ID Card No.82302-1891201-7, R/o Village Manjo Garan Serari, P.O Hajira Tehsil Hajeera District Poonch.

139. Manzoor Ahmed, S/o Muhammad Azam Khan, ID Card No.82302-3086558-9, R/o Village Natha Gala, P.O Trar Khal, Tehsil Hajeera District Poonch.

140. Sajid Mahmood Khan, S/o Muhammad Azam Khan, ID Card No.82303-5159316-9, R/o Kharick Tehsil Rawalakot District Poonch.

141. Imran Ashraf S/o Muhammad Ashraf, ID Card No.82303-098169-5, R/o Mowajgan Dhamni, Tehsil Rawalakot District Poonch.

142. Sardar Danial Shaheen S/o Muhammad Razzaq Khan, ID Card No. 82303-4821416-3, R/o Kiat Kalan Pak Gali, Tehsil Rawalakot District Poonch.

143. Khurram Sarwar Slo Muhammad Sarwar, ID Card No.82303-6301008-3, R/o Pothi Bala Tehsil Rawalakot District Poonch

144. Fahad Naseem S/o Naseem Ibrahim, ID Card No.82303-2159399-7, R/o Kharick, Tehsil Rawalakot District Poonch

145. Arshad Niazi S/o Muhammad Afraz Khan. ID Card No.82303-5606625-7, R/o Kharick Dera, Tehsil Rawalakot District Poonch

146. Aamir Ghulam S/o Ghulam Hussain, ID Card No.81202-8661774-7, R/o Kotla P.O Panjera, Tehsil and District Kotli.

147. Maqsood Ahmed S/o Munshi Khan, ID Card No.81202-3612315-7, R/o Shah Pur Tehsil and District Kotli.

148. Tahir Aziz S/o Aziz Raja. ID Card No. 82202-2274533-1, R/o P.O Sensha District Kotli.

149. Salman Bashir S/o Muhammad Bashir, ID Card No. 81202-25411346-7, R/o P.O Panjera District Kotli.

150. Ch. Shakeel Shareef S/o Ch. Muhammad Shareef Chohan, Village Chaudhrian Kahuta Haveli.

151. Muhammad Pervez S/o Ch. Muhammad Hussain, R/o Kohata Tehsil Haveli.

152. Ch. Attique Ahmed S/o Ch. Khadim Hussain, R/o Kahuta Tehsil and District Haveli.

153. Khan Bahadur Khan S/o Sardar Zabardast Khan, R/o Dharay P.O Bagh District Bagh.

154. Muhammad Ayub Slo Muhammad Aziz, R/o Rami Kat P.O Rehra Tehsil and District Bagh.

155. Muhammad Khursheed S/o Muhammad Ayub, P.O Rehra, Tehsil and District Bagh.

156. Muhammad Hayat Khaksar S/o Fateh Alam, R/o Rai Kot Nar Sher AIi Khan, P.O Dhuli Bagh.

157. Muhammad Irfan S/o Muhammad Khursheed Tanoli, R/o Bagh, P.O Bagh Tehsil and District Bagh.

158. Fazal Hussain S/o Faqeer Muhammad, R/o Bagar Ghani Mani Tehsil and District Kotli.

159. Kala Khan S/o Lal Din. P.O Kotli Tehsil and District Kotli.

160. Muhammad Naseer S/o Noor Ahmed, P.O Kotli, Tehsil and District Kotli.

161. Farah Naz W/o Muhammad Saqib Azad, R/o Anwali Saroota Sarsawa District Kotli.

162. Muhammad Basit S/o Anab Khan, R/o Anwali Saroota Sarsawa District Kotli.

163. Syed Ishfaq Husain Kazmi Advocate, Central Bar Association Muzaffarabad.

164. Raja Zaffar Umer Khan Advocate, Central Bar Association Muzaffarabad.

165. Raja Aamir Hamdan Advocate, Central Bar Association Muzaffarabad.

166. Fayyaz Khan, Advocate, Central Bar Association Muzaffarabad.

167. Arshad Khan Advocate Central Bar Association Muzaffarabad.

168. Raja Khayam Waheed Advocate, Central Bar Association Muzaffarabad.

169. Raja Nasir Latif Advocate. Central Bar Association Muzaffarabad.

170. Syed Wasif Gardezi Advocate, Central Bar Association Muzaffarabad.

171. Raja Zulfiqar Advocate, Central Bar Association Muzaffarabad.

172. Shahbaz Khan, Advocate, Central Bar Association Muzaffarabad.

173. Sheikh Mushtaq Advocate, Central Bar Association Muzaffarabad.

174. Raja Tariq Bashir Advocate, Central Bar Association Muzaffarabad.

175. Khalid Bashir Mughal Advocate, Central Bar Association Muzaffarabad.

176. Shoukat Ali Mughal Advocate, Central Bar Association Muzaffarabad.

177. Abid Qayyum Mughal Advocate, Central Bar Association Muzaffarabad.

178. Naveed Ahmed Tanoli Advocate, Central Bar Association Muzaffarabad.

179. Asad Khan Advocate. Central Bar Association Muzaffarabad.

180. Jehangir Akram Advocate, Central Bar Association Muzaffarabad.

181. Raja Zulqarnain Advocate, Central Bar Association Muzaffarabad.

182. Sohail Awan Advocate, Central Bar Association Muzaffarabad.

183. Ch. Riaz Advocate, Central Bar Association Muzaffarabad.

184. Sahibzada Kokab Saleem Chishti Advocate, Central Bar Association Muzaffarabad.

…. PETITIONERS

VERSUS

1. Azad Jammu and Kashmir Government through its Chief Secretary New Civil Secretariat Muzaffarabad.

2. Cabinet of Azad Jammu and Kashmir through Chief Secretary/Secretary Cabinet, Azad Jammu and Kashmir Government Muzaffarabad.

3. Additional Chief Secretary Development), Azad Jammu and Kashmir Government Muzaffarabad.

4. Secretary Education Elementary and Secondary Education, Azad Jammu and Kashmir Government, Muzaffarabad.

5. Secretary Planning and Development Department, Azad Jammu and Kashmir Government, Muzaffarabad.

6. Secretary Planning and Development Department, Azad Jammu and Kashmir Government, Muzaffarabad.

7. Secretary Services and General Administration Department, Azad Jammu and Kashmir Government, Muzaffarabad.

8. Secretary Finance, Azad Jammu and Kashmir Government, Muzaffarabad.

… RESPONDENTS

(On appeal from the Judgment of the High Court dated 31.03.2016 in Writ Petition No. 303/2016]

(Application for Interim Relief)

FOR THE PETITIONERS: Raja Muhammad Hanif Khan and Raza Ali Khan, Advocates.

FOR THE RESPONDENTS: Ch. Shoukat Aziz, Additional Advocate-General.

Date of hearing: 10.05.2016.

ORDER:

Ch. Muhammad Ibrahim Zia, J.— The captioned petition for leave to appeal has been filed against the judgment of the High Court dated 31.03.2016 through which the writ petition filed by the petitioners, herein, has been dismissed in limine.

2. The summarized facts of the case are that the petitioners herein filed a writ petition before the High Court while claiming therein that a joint declaration was made on 16.09.2011 by the elected leaders of the Government of Pakistan, Punjab, Sindh, Balochistan, Khyber Pakhtoon-Khawa, Azad Jammu and Kashmir and Gilgit & Baltistan, whereby Federal and Provincial Governments decided to

reaffirm their commitment to the education as priority. The Chief Executive of the Azad Jammu and Kashmir is also signatory of the Joint Declaration. It was further claimed that the National Education Policy, 2009 enforced in Pakistan was considered by the Cabinet in its meetings held on 10.12.2010 and 03.01.2011. The same was adapted in Azad Jammu and Kashmir vide notification dated 05.12.2012. To achieve the desired target of the Education Policy, the bulk of share in the funds was to be provided by the Federal Government but due to financial constraints, it was refused. The Government of Azad Jammu and Kashmir imposed and enhanced the rates of some taxes vide AJ&K Finance Act, 2015 to achieve the said target from its own resources. Thereafter, on 02.08.2015, a proposal was sent by Secretary Elementary and Secondary Education (Schools) to the Finance Department for upgradation of different institutions and creation of posts. Through the said proposal 2266 posts conveying different categories were requisitioned.

The Finance Department agreed for creation of 1037 posts vide letter dated 02.10.2015. It was further claimed by the petitioners that the Secretary Higher Education also sent a proposal on 06.08.2015 for creation of the posts and upgradation of different institutions at college side. Only 437 posts were concurred with by the Finance Department at college side. On 16.11.2015 the Finance Department issued a letter to the Secretary Higher Education stating therein that the Finance Division of Pakistan has not sanctioned for creation of the posts because the estimated target through imposed taxes could not be achieved. The Cabinet in its meeting held on 25.11.2015 considered the aforesaid letter of the Secretary Finance in item No.3 of the agenda under the heading of "Implementation of National Education Policy in Azad Jammu and Kashmir". It was further claimed that the Cabinet overruled the view of the Finance Department in view of the provisions of Rule 15(3) of the Rules of Business, 1985 and directed to Secretary Elementary and Secondary Education as

well as Secretary Higher Education to proceed further for implementation of the National Education Policy. The decision of the Cabinet was notified on 30.11.2015. While implementing the decision, the Cabinet upgraded the institutions mentioned in the notification and also created different posts. Similarly on 26.11.2015, the Secretaries Elementary and Secondary Education and Higher Education also issued the notifications in the light of their proposals.

3. The petitioners prayed for declaring the decision of the Cabinet dated 25.11.2015 (circulated vide memorandum dated 30.11.2015) and the notifications Nos. Secretariat/E&SE/24500-24510/15 and SHE/1st/791-30/2015 dated 26.11.2015 as without lawful authority and for restraining the respondents from creating an exploitation throughout the Azad Jammu and Kashmir. They also sought a direction to the Azad Jammu and Kashmir Government to implement the objects of notification dated 04.06.2015 and National Education Policy in letter and spirit. The

writ petition was contested by the other side. The learned High Court after necessary proceedings dismissed the writ petition in limine through the impugned judgment dated 31.03.2016 on the sole ground of lack of locus standi, hence this petition for leave to appeal.

4. Raja Muhammad Hanif Khan, Advocate, the learned counsel for the petitioners argued the case at some length. He forcefully submitted that the National Education Policy has been adapted vide notification dated 31.12.2015 in Azad Jammu and Kashmir. The petitioners' main focus in the writ petition is issuance of direction to the respondents for implementation of the adapted Education Policy in letter and spirit and in this regard ground "D" of the writ petition is very much clear. All the petitioners are first class state subjects, some of them are political workers and also lawyers having interest in implementation of law in the State. He referred to different portions of the National Education Policy and submitted that it is a comprehensive document prescribing the manner of

its implementation. The respondents while ignoring this aspect, are going to exploite the whole situation for the political purposes just to accommodate their favorites by creating posts for political gains. He submitted that according to the principle of law laid down by the superior Courts, it is not necessary that the petitioner should have a juristic right in a strict sense for filing a writ petition rather it is sufficient that the petitioner is a state subject, his rights are apprehended to be violated and he has interest in implementation of law. It is further argued that the respondents have also violated the Azad Jammu and Kashmir Rules of Business, 1985. They are not acting according to the statutory provisions as they have ignored the Finance Department's refusal for concurring with the financial demands of the so called education package. He also seriously objected to the issuance of notifications dated 26.11.2015 (Annexure "PB" and "PC") with reference to the section 38 of the Azad Jammu and Kashmir Interim Constitution Act, 1974 (hereinafter to be referred as Act, 1974) and

submitted that such acts are not permissible under this constitutional provision which in fact relates to the supplementary budget Thus, the High Court fell in error of law while ignoring all these aspects and dismissing the writ petition in limine on the sole ground of locus standi.

5. Ch. Shaukat Aziz, Additional Advocate-General, the learned counsel for the respondents forcefully defended the impugned judgment and submitted that according to the enforced law, the petitioners have got no locus standi to approach the Court regarding the issue which is between the Cabinet and the Finance department. So far as the submission of the learned counsel for the petitioners that the petitioners have prayed for implementation of the National Education Policy is concerned, the respondents have no cavil with that rather they have practically taken steps for implementation of the Education Policy. The petitioners' claim is self- contradictory. On one hand they claimed that they approached the Court for issuance of direction to implement the Education

Policy and on the other hand they are opposing the practical steps taken for its implementation. So far as the argument regarding the political advantage or disadvantage is concerned, it is settled that the political issues have to be attended and settled at the political forums and the Courts should not be dragged into such issues. This argument of the petitioners cuts on both sides. If they blame the respondents for misusing the education budget or political mileage, then at the same time it can be argued that the petitioners have attempted to misuse the process of law and the Courts for political purposes to deprive the people of the better facilities of Education and the democratically elected Government from functioning according to law. He referred to the cases reported as *Raja Iqbal Rasheed Minhas vs. AJ&K Council & others* [2001 SCR 530], *Ch. Muhammad Yasin vs. Sardar Muhammad Naeem Khan & others* [2010 SCR 17], *Raja Tahir Majeed Khan and others vs. Azad Govt. & others* [2014 SCR 272] and *Watan Party and another vs. Federation of Pakistan and others* [PLD

2013 SC 167] in support of his contentions and submitted that the judgment of the High Court is in accordance with the spirit of law requiring no interference. No question of law is involved, hence, this petition alongwith the application for interim relief is not justified and liable to be dismissed with costs.

6. We have paid our utmost attention to the arguments advanced at bar on behalf of the parties and also gone through the record made available. Through the impugned judgment a larger bench of the High Court consisting of four Judges, has dismissed the writ petition in limine on the sole ground of locus standi of the petitioners. According to the celebrated principle of law, for determination of the locus standi, the prayed relief in the light of the contents of the writ petition has to be mainly considered. In the writ petition, the petitioners made the following prayers:-

> "It is therefore, most respectfully submitted that:-

(a) the item No. 3 of the Decision of the Cabinet meeting held on 25th November 2015, circulated vide memorandum No. Admin/CS-2(6)/2015 dated 30th November 2015 (Annexure "PA", consisting 17 pages) and Notification No. Secretariat/E&SE /24500-24510/15 dated 26th November 2015 (Annexure "PB", consisting 18 pages) and Notification No. SHE/1st/7911-30/2015 dated 26th November 2015 (Annexure "PC", consisting 6 pages) commonly known as "Education Package" may kindly be declared without lawful authority.

(b) the Respondents may kindly be restrained from creating an exploitation throughout the Azad Jammu and Kashmir with a view to achieve their political objectives.

(c) The Finance Department of Azad Jammu and Kashmir Government may kindly be directed to implement the objects of Notification of the Finance Division Govt. of Pakistan dated 4th June 2015 as well as the Rule governing financial discipline in Azad Jammu and Kashmir in letter and spirit.

(d) The Respondents may also be directed to implement the National Education Policy 2009 as adapted in Azad Jammu and Kashmir with the name and style of "Kashmir Education Policy" in letter and spirit.

(e) Any other relief admissible under law may also be granted."

Whereas, the main legal ground advanced by the petitioners for exercise of extraordinary writ jurisdiction is that, in pursuance of the Cabinet decision, a formal order can only be issued while fulfilling the mandatory conditions prescribed under the provisions of sub-Rule (3) of Rule 15 of the Rules of Business, 1985. In these provisions the main laid down condition is "formal orders shall, nevertheless issue only after the Finance Department has exercised scrutiny over the details of the proposal".

7. The petitioners have themselves brought on record the notifications (Annexure "PB" and "PC") which according to their nature and subject are identical, only difference is, one is issued by the

Secretariat Elementary and Secondary Education and the other is issued by the Secretariat Higher Education. Therefore, the relevant portion which is common in both the notifications is reproduced as under:-

> **"..... جناب صدر آزاد جموں و کشمیر نے آزاد جموں و کشمیر عبوری آئین ایکٹ 1974ء کی دفعہ 38 (5) کے تحت حاصل اختیارات کو بروئے کار لاتے ہوئے قومی تعلیمی پالیسی 2009 (جو بروئے نوٹیفیکیشن مجریہ زیر نمبر 4116-30 مورخہ 31-2012 آزاد کشمیر میں نافذ کی گئی ہے) پر ما حقہ عملدرآمد اور اس کے موثرنفاذ کی خاطر آزاد کشمیر بھر کے ایلیمنٹری و سکینڈری تعلیمی ادارہ جات کی ناگزیر اپ گریڈیشن اور سٹاف کی کمی کو پورا کرنے کے سلسلہ میں (آزاد جموں و کشمیر کابینہ کے اجلاس مورخہ 09-06-2015 میں منظور کی گئی) تجاویز کی روشنی میں مجوزہ آسامیوں کی تخلیق کی نسبت بعد از تفصیلی چھان بین *(Detailed Scrutiny)* جاری شدہ مالیاتی رضامندی بروئے مراسلہ نمبری *FDR*/8748-50 مورخہ 08 مئی 2015ء و مالیاتی رضامندی زیر مراسلہ نمبری مالیات / اخراجات /80-18477 مورخہ 2 اکتوبر 2015ء کے تسلسل میں آزاد جموں و کشمیر کابینہ کے اجلاس منعقدہ مورخہ 25 نومبر 2015 ء میں صادر شدہ فیصلہ جات کے مطابق بذیل امور کی منظور صادر ی فرمائی ہے"**
>
> (*underlining is ours*)

The underlined phrases of the above reproduced notification clearly speaks that the requirement of detailed scrutiny of the proposals has been fulfilled. The factual averments made by the petitioners in ground "D" of memo of writ petition are as follows:-

> "…. The Secretariat Elementary and Secondary Education initiated a summary

> for the upgradation of various educational institution as well as creation of posts vide No. 751 dated 02.08.2015 (Annexure "PG) and after obtaining approval from the competent authority the aforesaid summary was transmitted to the Finance Department. The Finance Department vide its memorandum No. Finance/Expenditure /18477-801/2015 dated 02.10.2015 (Annexure "PG/1") accorded its concurrence for creation of posts Phase wise, subject to the conditions imposed in the aforesaid memorandum."

Thus, from the petitioners' own produced record it appears that the requirement of statutory provisions of Rules of Business, 1985 (referred hereinabove) have been complied with as according to the petitioners' the summary was transmitted to the Finance Department which accorded its concurrence for creation of posts Phase wise, subject to the conditions imposed in the memorandum.

8. The memorandum, whereby the Finance Division Government of Pakistan imposed ban in

creating posts in AJ&K has also been reproduced in ground (B) of writ petition which reads as follows:-

> "It is added, that while conveying the revised estimates 2014-15 and budget estimates 2015-16, it was clearly mentioned that no concurrence for creation / up-gradation of posts shall be made unless and until the targets set for AJ&K's own receipts/income tax receipts are achieved and a certificate to this effect is issued by the Secretary, Finance Department, AJ&K."

In this context so far the objection of Finance Division of Pakistan according to the referred memorandum is concerned, as per the provisions of Act, 1974, neither the Finance Department of Pakistan has been assigned any responsibility or duty relating to the affairs of Azad Jammu and Kashmir, nor the petitioners have any locus standi to represent it. These are just administrative matters between the Government of Azad Jammu and Kashmir and Finance Division of Pakistan.

9. The other main legal ground advanced in the writ petition is violation of provisions of sub-section (5) of section 38 of the Act, 1974. The version of the petitioners that without sanction of supplementary budget, the Government cannot authorize the expenditure from the Azad Jammu and Kashmir Consolidated Fund, appears to be misconceived. The relevant provisions of sub-section (5) of section 38 of Act, 1974 read as follows:-

> "(5) If in respect of any financial year it is found:
>
> (a) that the amount authorized to be expended for a particular service for the current financial year is insufficient, or that need has arisen for expenditure upon some new service not included in the Annual Budget for that year; or
>
> (b) that any money has been spent on any service during a financial year in excess of the amount granted for that service for that year; <u>the Government shall have power to authorize expenditure from the Azad</u>

> Jammu and Kashmir Consolidated Fund and shall cause to be laid before the Assembly a Budget or, as the case may be, and excess Budget, setting the amount of that expenditure, and the provisions of this section shall apply to those budgets as they apply to the Annual Budget."
>
> (underlining is ours)

The bare reading of this statutory provision clearly speaks that the Government shall have power to authorize expenditure from the Azad Jammu and Kashmir Consolidated Fund and shall cause to be laid before the Assembly a Budget or, as the case may be, and excess Budget, setting the amount of that expenditure. Thus, it is clear that the matters of expending amount from Consolidated Fund to meet the insufficiency of the allocated funds or providing some new service not included in the Annual Budget, subject to the condition that the expenditure shall be laid before the Assembly as a Budget; fall within the domain of the Government. Even otherwise, according to the

constitutional spirit, specially, sub-section (3) of section 12 of Act, 1974, the Government consists of Prime Minister and the Ministers who are collectively responsible to the Assembly. The Constitution clearly provides more effective representative exalted forum to attend all the issues and take necessary steps to make the decisions.

10. Under the tracheotomy of powers and Constitutional scheme, the Courts are not supposed to interfere in the domain of other institutions or authorities unless they travel beyond their constitutional or legal domain. As in the instant case, the issues raised in the writ petition clearly within fall the domain of the Government and Legislative Assembly, thus the Courts cannot pre-empt or interfere in their domain.

11. According to the prayer clauses of the writ petition (reproduced hereinabove), on one hand, the petitioners have prayed for issuance of direction for implementation of the National Education Policy, 2009 as adapted in Azad Jammu and Kashmir with

the name and style of "Kashmir Education Policy" and on the other hand they have requested the Court to declare the circular dated 30.11.2015 (Annexure "PA") relating to the decision of the Cabinet meeting held on 25.11.2015 without lawful authority. In the minutes of the meeting of the Cabinet, numerous agenda items have been discussed including item No. 3 and the decisions have been taken. However, the decision relating to the issue involved in this case on item No. 3 relating to Education Policy reads as follows:-

> "Decision:
> After detailed deliberation, the Cabinet by overruling the view point/sanctions of Finance Department in term of Rule 15(3) of the Rules of Business, directed Secretary Higher Education and Secretary Elementary and Secondary Education to notify the creation of posts for implementation on National Education Policy 2009, in letter and spirit."

(*underlining is ours*)

This decision speaks that it has been taken for implementation of the Education Policy, 2009.

12. The record furnished by the petitioners itself speaks that the Cabinet has taken the decision while exercising authority conferred upon it under the provisions of section 12 of the Act, 1974 read with Rule 15(3) of the Rules of Business, 1985. The petitioners have failed to point out that how the decision taken by the Cabinet is against law and they have any locus standi to challenge the same. Same like, as observed hereinabove, the prayers made by the petitioners are self destructive. In one breath, they approached the Court for directing the respondents to implement the National Education Policy and declaring the steps taken for implementation of the Education policy as null and void. Thus, in view of the averments of their writ petition in juxtaposition with the relief sought in the payer clauses (a), (c) and (d), they have got no locus standi according to the statutory provisions of section 44 of Act, 1974. So far as the relief claimed in prayer clause (b) is concerned, it has already been held that for resolution of such like issues

which are purely of political nature, political forums are proper and not the Courts.

13. For the above stated reasons, according to the petitioners' own averments made in the memo of writ petition, neither they have got any locus standi nor such self-contradictory and self-destructive writ petition is maintainable. The High Court has rightly refused to entertain such petition. The impugned judgment does not suffer from any legal infirmity. No question of law is involved, therefore, grant of leave is not justified.

Therefore, finding no force this petition alongwith application for interim relief stands dismissed.

JUDGE CHIEF JUSTICE JUDGE

Muzaffarabad,
. .2016.