

**SUPREME COURT OF AZAD JAMMU AND KASHMIR**

[Appellate Jurisdiction]

**PRESENT:**

Ch. Muhammad Ibrahim Zia, C.J.

Ghulam Mustafa Mughal, J.

1. Civil Appeal No. 410 of 2019.

PLA filed on 11.09.2019

1. The Chancellor, Mirpur University of Science & Technology/President Azad Govt. of the State of Jammu & Kashmir, through Secretary Presidential Affairs, President House, Muzaffarabad.
2. The Azad Govt. of the State of Jammu & Kashmir, through its Secretary Services and General Administration Department, AJK Govt. Muzaffarabad.
3. The Mirpur University of Science & Technology (MUST), Mirpur through its Registrar.
4. The Secretary Higher Education Department, AJK Govt., Civil Secretariat, Muzaffarabad.
5. The Senate of Mirpur University of Science & Technology through Registrar.
6. The Registrar, Mirpur University of Science & Technology (MUST), Mirpur.
7. The Search Committee of the Mirpur University of Science & Technology, through Registrar University.

.... APPELLANTS

**VERSUS**

1. Dr. Iqrar Ahmed Khan, Director/Chief of Party US Funded Project, University of Agriculture, Faisalabad.

.....RESPONDENT

2. Accountant General of Azad Jammu & Kashmir.
3. Dr. Habib ur Rehman, Vice Chancellor, Mirpur University of Science & Technology, Mirpur.

..... PROFORMA-RESPONDENTS

(On appeal from the judgment of the High Court dated 26.08.2018 in Writ Petition No. 140 of 2019)

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FOR THE APPELLANTS: Raja Muhammad  
Hanif Khan,  
Advocate.

FOR THE RESPONDENT: Mr. Aurangzeb  
Chaudhary and Ch.  
Shoukat Aziz,  
Advocates.

2. Civil Appeal No. 411 of 2019.  
PLA filed on 28.08.2019

Dr. Habib ur Rehman, Vice Chancellor, Mirpur University of Science & Technology, Mirpur.

.....APPELLANT

**VERSUS**

1. Dr. Iqrar Ahmed Khan, Director/Chief of Party US Funded Project, University of Agriculture, Faisalabad.

.....RESPONDENT

2. The Chancellor, Mirpur University of Science & Technology/President Azad Govt. of the State of Jammu & Kashmir, through Secretary Presidential Affairs, President House, Muzaffarabad.

3. The Azad Govt. of the State of Jammu & Kashmir, through its Secretary Services and General Administration Department, AJK Govt. Muzaffarabad.
4. The Mirpur University of Science & Technology (MUST), Mirpur through its Registrar.
5. The Secretary Higher Education Department, AJK Govt., Civil Secretariat, Muzaffarabad.
6. The Senate of Mirpur University of Science & Technology through Registrar.
7. The Registrar, Mirpur University of Science & Technology (MUST), Mirpur.
8. The Search Committee of the Mirpur University of Science & Technology, through Registrar University.
9. Accountant General of Azad Jammu & Kashmir.

..... PROFORMA-RESPONDENTS

(On appeal from the judgment of the High Court dated 26.08.2018 in Writ Petition No. 140 of 2019)

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FOR THE APPELLANT: Raja Amjid Ali  
Khan, Advocate.

FOR THE RESPONDENT: Mr. Aurangzeb  
Chaudhary and Raja  
Muhammad Hanif  
Khan, Advocates.

*Date of hearing:* 30.10.2019.

**JUDGMENT:**

**Ghulam Mustafa Mughal, J.**— The captioned appeals by leave of the Court have been directed against the judgment dated 26.08.2019 passed by the Azad Jammu & Kashmir High Court in writ petition No.140 of 2019. Since, both the appeals having involved common question of facts and law arise out of the same judgment, hence, were heard together and are being decided as such.

2. The facts forming the background of the captioned appeals shortly stated are that the position of Vice Chancellor Mirpur University of Science and Technology (MUST) fell vacant. The President of Azad Jammu & Kashmir who is the Chancellor of the said University, constituted a search Committee vide notification dated 28.05.2018, for selection of a suitable candidate. The Search Committee invited applications from desirous candidates vide advertisement dated 07.06.2018, published in Daily 'Jung' Rawalpindi. Among others, Prof. Dr. Iqrar

Ahmed Khan, respondent, herein, and Prof. Dr. Habib-ur-Rehman, appellant, in appeal No.411 of 2019, also applied for appointment and appeared before the Search Committee. The Search Committee after conducting necessary proceedings, recommended 5 names in all while placing Prof. Dr. Iqrar Ahmed Khan, respondent, herein, at serial No.1. The recommendations of the Search Committee were considered by the Senate of the University in a special meeting and after thorough deliberation the names of Prof. Dr. Habib-ur-Rehman, appellant, herein, Prof. Dr. Iqrar Ahmed, respondent, herein, and Prof. Dr. Younas Javed, respectively, were recommended by it for consideration of the Chancellor. The Chancellor of the University i.e. the worthy President after receipt of the recommendations made by the Senate of the University, appointed Prof. Dr. Iqrar Ahmed Khan, as vice Chancellor MUST, vide notification dated 15.02.2019, for a period of 3 years. It is stated that

before issuance of the notification dated 15.02.2019, Prof. Dr. Habib-ur-Rehman and one Arshad Farooq filed separate writ petitions before the learned High Court allegedly for creating hurdles in the appointment of Prof. Dr. Iqrar Ahmed as Vice Chancellor MUST. It is further stated that after issuance of the notification dated 15.02.2019, Prof. Dr. Habib-ur-Rehman, challenged the same through amendment in the writ petition and sought suspension of the order dated 15.02.2019 due to which Prof. Dr. Iqrar Ahmed Khan could not join. It is further stated that on 25.02.2019, a letter was issued by the Secretary Presidential Affairs to Prof. Dr. Iqrar Ahmed, stating therein, that after appointment despite lapse of 9 days you have not assumed the charge of the post and also did not intimate the competent authority i.e. the Chancellor in this regard. It is alleged that in reply to the letter dated 25.02.2019, the respondent, herein, applied for extension in the date of joining while submitting that

he is working as Director/COP of a HEC/USAID funded project and due to some issues, he could not join but his request was not considered rather subsequently stopgap arrangement was made by appointing Prof. Dr. Maqsood Ahmed, Dean Faculty of Arts MUST on 11.03.2019. Thereafter, in supersession of the notification dated 15.02.2019, Dr. Habib-ur-Rehman, appellant, herein, was appointed vide notification dated 18.03.2019 as Vice Chancellor MUST. The respondent, herein, challenged the notification dated 18.03.2019, before the Azad Jammu & Kashmir High Court through writ petition on 20.03.2019. The writ petition was contested by the other side by filing written statement, whereby, the claim of the appellant, herein, was refuted. It was submitted that the appointment of the appellant, herein, was made after adopting the due process of law and no illegality was committed in this regard. It was further submitted that after appointment, despite lapse of a

considerable time the respondent, herein, could not join. He filed an application for extension of time for joining without any genuine reason which was not acceded to by the Chancellor i.e. the President of AJ&K, hence, his appointment order has rightly been cancelled. The learned High Court after necessary proceedings, through the impugned judgment dated 26.08.2018 accepted the writ petition and set aside the notification of appointment of Prof. Dr. Habib-ur-Rehman/appellant, herein, dated 18.03.2019. Consequently, the order of appointment of the respondent, herein, dated 15.02.2019 was restored and the respondent, herein, was directed to join within a week failing which the Chancellor MUST would be at liberty to make appointment to the position of Vice Chancellor afresh in accordance with law. The Chancellor and Prof. Dr. Habib ur Rehman, appellants, herein, have now challenged the legality and correctness of the



impugned judgment dated 26.08.2019, through the captioned appeals by leave of the Court.

3. Raja Muhammad Hanif Khan, the learned Advocate appearing for The Chancellor, argued with vehemence that the respondent, herein, was appointed as Vice Chancellor MUST by the President of AJ&K/Chancellor MUST, vide notification dated 15.02.2019 but he did not assume the charge of the position till 01.03.2019. He added that during the intervening period the respondent, herein, was asked to do the needful through telephone and other means of communication but he failed to do so. The learned Advocate further argued that after the aforesaid conduct of the respondent, herein, no option was left with the Chancellor except to appoint the other suitable candidate from the penal recommended by the Senate. The learned Advocate further argued that subsequently, Prof. Dr. Habib-ur-Rehman, appellant, herein, was appointed as Vice Chancellor MUST vide notification dated

18.03.2019 who joined his duty on the same day. The learned Advocate submitted that as Prof. Dr. Iqrar Ahmed Khan was serving as Director/CoP, HEC/USAID funded project and his contract was valid till December, 2019 but he did not bring this fact into the notice of the Search Committee and the Chancellor. He further submitted that had he disclosed this fact and difficulties mentioned by him in letter dated 26.02.2019, the Search Committee and the Chancellor would not have considered him for appointment as his conduct shows that he was not serious for the position of Vice Chancellor MUST. He further submitted that his appointment as Vice Chancellor MUST would have been completed only after submitting his joining report, therefore, he had got no legally enforceable right to invoke the writ jurisdiction of the learned High Court. The learned Advocate contended that the respondent, herein, has invoked the writ jurisdiction of the High Court with unclean hands, therefore, it was the duty

of the learned High Court to dismiss the writ petition on this sole ground. He further contended that the reasons listed by him for non-joining, were not tenable because in the cases pending against him in the High Court, neither any stay order was issued nor the authority was restrained to accept his joining report. He further contended that the fact of the matter is that the respondent, herein, was already holding an attractive position and was also considered for the position of Vice Chancellor Agriculture University Faisalabad, hence, he was not interested in assuming the charge of the position of Vice Chancellor MUST. The learned Advocate added that as the respondent, herein, was not an interested candidate, therefore, the discretion exercised by the Chancellor in revoking his appointment notification was justified and proper in the circumstances of the case. The learned Advocate further added that the learned High Court has wrongly observed that the President/Chancellor

cannot withdraw the notification without referring the same to the Senate. The learned Advocate submitted that under law the authority competent to pass an order has also got power to rescind or amend the same. He further submitted that the learned High Court has not properly considered the written statement filed on behalf of the respondents, therein, and reached at an erroneous conclusion which is against the record. In support of his submissions, the learned Advocate has placed reliance on the cases reported as *Mohtarma Benazir Bhutto & another vs. President of Pakistan* [PLD 1998 SC 388], *Abdul Hafeez vs. Board of Intermediate and Secondary Education and another* [1983 SCMR 566], *Azad Govt. and 3 others vs. Genuine Rights Commission AJK and 7 others* [1999 SCR 1], *Rana Aamer Raza Ashfaq and another vs. Dr. Minhaj Ahmed Khan and another* [2012 SCMR 6].

4. Raja Amjid Ali Khan and Mr. Farooq Hussain Kashmiri, the learned Advocates appearing

for Prof. Dr. Habib-ur-Rehman, while adopting the arguments of Raja Muhammad Hanif Khan, Advocate, contended that under the Mirpur University of Science and Technology (MUST) Act, 2014, only a State Subject can be employed in the University service. They added that as Prof. Dr. Iqrar Ahmed Khan is not a State Subject, therefore, he was even otherwise not entitled to be considered and appointed to the position of Vice Chancellor MUST. The learned Advocates further argued that as the selection of the respondent was *ab initio* void, hence, it does not confer any right in him to invoke the extraordinary jurisdiction of the learned High Court.

5. Conversely, Ch. Shoukat Aziz and Mr. Aurangzeb Chaudhary, the learned Advocates appearing for Prof. Dr. Iqrar Ahmed Khan, while referring to an application available at page 93 of the paper book (annexure PB/1), argued that the position already occupied by Prof. Dr. Iqrar Ahmed

Khan, was clearly mentioned in Curriculum Vitae data and nothing was suppressed by him, therefore, the argument advanced by Raja Muhammad Hanif Khan and Raj Amjid Ali Khan, Advocates, that the material facts have been suppressed by the respondent, herein, has no substance in it. The learned Advocates further argued that in response to the letter dated 25.02.2019, Prof. Dr. Iqrar Ahmed Khan, wrote a letter on the very next date i.e. 26.02.2019 and requested for extension in the joining time till next Monday but the same was refused by the Chancellor vide letter dated 01.03.2019 arbitrarily. They further argued that no reasonable opportunity was given to the respondent, herein, for joining/assuming the charge of Vice Chancellor MUST. They further submitted that the Chancellor without the advice of the Chief Executive and processing the file in accordance with the Rules of Business 1985, has accorded the approval for appointment of Prof. Dr. Habib-ur-

Rehman which is nullity in the eye of law. The learned Advocates submitted that when the respondent, herein, was selected and appointed as Vice Chancellor MUST after adopting due course of law then he had earned a vested right to join and serve as such until and unless removed in accordance with the provisions of the Mirpur University of Science and Technology (MUST) Act, 2014. They further submitted that the cancellation of the notification dated 15.02.2019 was an arbitrary exercise of powers and *mala fide*, hence, the learned High Court has rightly struck down the same and restored the respondent, herein, to the position.

6. We have heard the learned Advocates representing the parties and gone through the record of the case. A perusal of the record as well as the impugned judgment of the High Court reveals that after following the due process of law, the President of AJ&K/Chancellor MUST while exercising powers conferred on him under section 11 of the

Mirpur University of Science and Technology (MUST) Act, 2014, appointed Dr. Iqrar Ahmed Khan, respondent, herein, as Vice Chancellor, MUST, vide notification dated 15.02.2019. The record further reveals that till 25.02.2019, Prof. Dr. Iqrar Ahmed Khan, did not assume the charge of the position of Vice Chancellor MUST. On 25.02.2019, Dr. Muhammad Idrees Abbasi, Secretary to the President of AJ&K, wrote a letter to Prof. Dr. Iqrar Ahmed Khan, stating therein, that he was appointed as Vice Chancellor MUST vide notification dated 15.02.2019 but uptill now, he has not assumed the charge of the position and also did not intimate the worthy Chancellor regarding your joining or otherwise. In reply to the letter dated 25.02.2019, Prof. Dr. Iqrar Ahmed Khan, vide his letter dated 26.02.2019, requested for extension of one week's time for joining. For ready reference both the letters are reproduced hereunder:-

“Dr. Iqrar Ahmed Khan,  
Director/Chief of Party (CoP),



Centre of Advance Study in Agriculture and Food  
Security (CAF),  
University of Agriculture,  
Faisalabad

Subject: **Joining Report**

As you are aware, you were appointed as Vice Chancellor, Mirpur University of Science & Technology (MUST), Mirpur, vide notification No.S&GAD/E-1(199)/ P-III/2019 (Gazetted) dated 15<sup>th</sup> February 2019. But even after a lapse of nine (9) days you have not assumed the charge as Vice Chancellor, Mirpur University of Science & Technology (MUST), Mirpur, nor have you given any indications as when you will be able to do so. Besides, we have come to know through reliable sources that you are being considered for the position of Vice Chancellor, University of Agriculture, Faisalabad, which may influence your decision in joining as Vice Chancellor.

For the past nine days, we have been trying to elicit your response regarding this matter by telephone and other means of communication. Kindly inform, in writing, this office by Tuesday, February 26, 2019, 12 noon positively whether you are willing to assume charge as Vice Chancellor, Mirpur University of Science & Technology (MUST), Mirpur and by when, or you would not be able to do so. On 23 February 2019, you have communicated to join on Monday 25 February 2019 before noon but neither you submitted your joining report nor responding to our telephone calls.

In case, no response from you is received, it would be considered that you would not be able to join the position of Vice Chancellor; hence a non-response would be treated as

regret from your side. This is critical for us to initiate further process.

Note: This letter is being sent to you by E-mail and WhatsApp as well.

**(DR. Muhammad Idrees Abbasi)**

(Reply):-

“Dr. Muhammad Idrees Abbasi  
Secretary Presidential Affairs  
Government of Azad Jammu & Kashmir  
Muzaffarabad, AJK

Subject: **Joining report**

Dear Dr. Abbasi,

Thank you for your letter No.PS/450, dated 25<sup>th</sup> February, 2019. I am extremely grateful to the Honorable President AJK who has very kindly appointed me as Vice Chancellor, MUST-Mirpur. And, I feel morally obligated to respond sincerely. I acknowledge all the circumstances narrated in your letter. At times, I have failed to respond to your telephonic calls for which I apologize. The delays on my part are entirely unintentional and due to circumstances beyond my control.

Briefly, I have been working as Director/COP of a HEC/USAID funded project since December 2016 under a contract valid upto December 2019. During the past several months, we have secured grants amounting Rs.380 million. However, due to withdrawal of the USAID funding, we are currently going through transaction crises. Salary of 38 employees has been unpaid since October 2017, which is a case *sub-judice*. The matter has been complicated due to indifferent and hostile interim administration at the university. I have tried my interventions during the past

ten days to get an honorable exit, which has not succeeded as yet. I have taken a legal recourse and hope to get an alternate exit option this week.

The issue of my nomination in the panel for appointment as Vice Chancellor at UAF has been *sub judice* since January 2017. Hence, that is not a serious consideration for me to step back from the job option at MUST.

Under the circumstances, I request only one and last extension of one week in joining period. Should I fail to join by next Monday, the appointment order issued in my favour may be cancelled.

Regards

Your Faithfully,  
Iqrar Ahmed Khan.”

A perusal of the above reproduced letters reveals that vide letter dated 26.02.2019, Prof. Dr. Iqrar Ahmed Khan, sought one week's time for joining and also stated the reasons for his non-joining, however, vide letter dated 01.03.2019, the respondent, herein, was intimated that his request for extension in time for joining has not been acceded to by the Chancellor. Till 01.03.2019, and even after the decision of the learned High Court, the respondent herein, did not submit his joining

report. From the letter written by the respondent, herein, dated 26.02.2019, it can easily be ascertained that joining was not his priority as he was already in service up-till December, 2019, therefore, he has not taken the joining as a serious matter. Had he been interested in assuming the charge of the position of Vice Chancellor MUST, he should have immediately join without having regard to the reason listed in the letter dated 26.02.2019 because he could get time after joining from the Worthy Chancellor for completion of assignments relating to his former position. In such circumstances, the Chancellor was under no obligation to allow him further time for joining because the respondent, herein, has not accepted the post of Vice Chancellor MUST by his conduct rather he has shown concern for his previous job. In our view, the Chancellor has rightly not acceded to his request for extension in time for joining. In the case reported as *Haryana Vidyut Prasaran Nigam and another vs. Mukesh*

*Kumar* [(2004) 13 Supreme Court cases 596], in the identical circumstances, it was observed as under:-

“8. ....This only shows that the respondent was not really serious in accepting the offer of the appellant and joining the duty with the appellant. Herein, we may notice it is on record that the respondent was serving in an Engineering College as a Lecturer, therefore, obviously he was in no hurry to join the selected post with the appellant. This is further fortified by the fact that the appellant chose to file the writ petition only on 24.08.2000, that is, another six months after he made his claim for the post with the appellant. On the facts and circumstances of the case, we think the appellant was justified in rejecting the request of the respondent to grant him further time to join and deny him the benefit of this selection. By the conduct of the respondent, the appellant had to keep a post vacant for him for a long time, therefore, there is no justification in acceding to the request made by the respondent in the writ petition and the High Court was in error in granting the said relief.”

Even after 01.03.2019, the respondent, herein, kept awaiting and did not join or made any representation to the Chancellor and filed a writ petition on 02.03.2019 which fact was liable to be considered by the learned High Court while handing down the impugned judgment. The contention of Raja Muhammad Hanif Khan, Advocate, that the

respondent, herein, has suppressed the material facts as he has not disclosed his previous service, is not supported from the record and is devoid of any force. In the application submitted by the respondent, herein, for appointment to the position of Vice Chancellor MUST, dated 04.07.2018, he has clearly stated regarding his previous position. As stated above, the respondent, herein, has not treated his selection as serious, failed to join immediately after his selection and he has not approached the Chancellor before 26.02.2019, therefore, keeping in view this conduct of the respondent, herein, he was not entitled to any discretionary relief. The argument that the respondent, herein, has been dragged into unnecessary litigation, is devoid of any force. The litigation was not a hurdle in his joining because a perusal of the orders recorded in writ petitions filed against him reveals that neither any stay order granted against him nor the authority was restrained to accept his joining. It may be stated that the

selection of the respondent, herein, was not completed due to his non-joining and the same has been rescinded by the Chancellor, therefore, no any vested right was accrued in his favour. Reliance can be placed to a case reported as *Abdul Baseer Tajwar vs. AJ&K Public Service Commission & 2 others* [2016 SCR 1599], wherein, at page 1611 of the report, it was observed as under:-

“ 11. ....No doubt, a valid final selection of the candidates is of legal importance but the legal right vests when on the basis of such recommendations the matter is finalized and candidates selected are appointed. Before occurrence of final step of appointment, neither vested right is legally created nor cause of action arises.....”

while perusing the record we have noticed that the Chief Executive had advised for appointment of Prof. Dr. Iqrar Ahmed Khan, as Vice Chancellor MUST and his appointment was approved by the worthy President but while appointing Prof. Dr. Habib ur Rehman, the concerned department has neither placed any summary before the Chief Executive nor the advice has been tendered by the

Chief Executive for his appointment. The approval of the President, thus, was without the advice of the Chief Executive and illegal. Such type of orders can only be taken as recommendatory in nature and after receipt of the same the department should have processed the file in accordance with the Rules of Business afresh. In our view, that approval of the Chief Executive without proper summary was violative of the Rules of Business. We are fortified in our view by the case reported as *Syed Mumtaz Hussain Naqvi and 9 others vs. Raja Muhammad Farooq Haider Khan & 4 others* [2014 SCR 43]. The referred case is a full Court judgment in which the appointment of the Members of the Public Service Commission as well as the Chairman was challenged on different grounds including that the process was not initiated by the concerned Department. This Court set aside the appointments and directed to process the case afresh in accordance with the Rules of Business. The relevant observation



of the Court is recorded in para No.16 of the report which is reproduced as under:-

“18. We have perused the file pertaining to the appointment of Chairman and members of the Commission summoned from Services and General Administration Department. There is no record of appointments. No summary was prepared by the Department. There is nothing on the record for ascertaining as to whether the appellants are qualified to be appointed as Chairman and members, as the case may be. There are only photocopies/facsimiles whereby the President has accorded approval and notification has been issued on the strength of these photocopies. No proper process was adopted. Without adopting the due process, the orders were issued by the President, these are against law and not maintainable.”

7. Raja Muhammad Hanif Khan and Raja Amjid Ali Khan, Advocates, have submitted that the subsequent approval of the Chief Executive has validated the action of appointment of Prof. Dr. Habib ur Rehman and under the Mirpur University of Science and Technology (MUST) Act, 2014, the President has sole discretion for appointment of the Vice Chancellor, if the advice is not tendered by the Chief Executive. We are afraid to accept this contention of the learned Advocates in presence of

Article 7 of The Azad Jammu & Kashmir Interim Constitution, 1974. The approval of the President regarding appointment of Prof. Dr. Habib ur Rehman can be treated as only recommendation and further process was to be initiated by the Department. Raja Muhammad Hanif Khan, Advocate has also contended that there is no provision in the Mirpur University of Science & Technology (MUST) Act, 2014, that the appointment of Vice Chancellor of the University shall be made on the advice of the Chief Executive. In our view, this contention is not tenable because it is clearly stated in Article 7 of The Azad Jammu & Kashmir Interim Constitution, 1974, that the President has to act on the advice of the Chief Executive in performance of his functions. No exception has been made by the Constitution, so far as, the appointment of the Vice Chancellors is concerned. The matter has already remained subject of debate in different cases. Suffice it to refer here

the case reported as *Sardar Muhammad Ayub Khan vs. Secretary S&GAD & 4 others* [1999 SCR 235].

In that case, the President without advice of the Chief Executive, made the appointment of one of the Members of the Public Service Commission. A writ petition was filed for implementation of the order of the President which was refused by the learned High Court and appeal filed before this Court was also dismissed. The relevant observation is reproduced as under:-

“Having reached the conclusion that to qualify as a valid order of the President the case must be submitted to the President under summary containing specific recommendations of the Prime Minister and also that an order needing advice of the Prime Minister cannot originate from the President. The arguments raised by Mr. M. Tabassum Aftab Alvi that the Prime Minister at one stage agreed to issue the appellant’s order passed by the President, even if true, does not have any force.”

The identical view was formed in *Muhammad Ayub Khan’s* case, referred to hereinabove, by the Supreme Court of Pakistan.

8. The contention of learned counsel for the respondent that once the Vice Chancellor has been appointed, he could only be removed while following the procedure envisaged under Section 11(5) of the Mirpur University of Science and Technology (MUST) Act, 2014, is also devoid of any force because in the present case, the Chancellor has not removed the Vice Chancellor on any ground listed in the aforesaid provision of law. It has already been observed that the process for appointment was not completed as the position was not accepted by the respondent, herein, by not joining his duty, therefore, the Chancellor has rightly exercised the inherent powers to revoke his appointment. The view taken by the learned High Court, in this regard, in our estimation, is not correct. The learned High Court has referred to and relied upon sub-sections 2 and 3 of section 42 of the Mirpur University of Science and Technology (MUST) Act, 2014, and observed that after seeking

the views of the Senate, the Chancellor was not supposed to cancel the appointment of the respondent, herein. This observation of the learned High Court is also not correct. The contention of Raja Amjid Ali Khan, the learned Advocate appearing for Prof. Dr. Habib ur Rehman, that only a State Subject can be appointed in MUST as Vice Chancellor is left open in view of the aforesaid conclusion and shall be decided in any other proper case.

8. Thus, it is concluded that the President was not under obligation to accede to the request of the respondent, herein, in view of his conduct. The respondent, herein, was not entitled to the discretionary relief under the extra ordinary jurisdiction of the High Court and his writ petition was liable to be dismissed. We order accordingly. Prof. Dr. Habib ur Rehman, appellant, herein, is also not entitled to any relief because his appointment order has been issued without following the due process of law as envisaged in the Rules of Business 1985,

and Article 7 of The Azad Jammu & Kashmir Interim Constitution, 1974. The Chancellor/competent authority shall initiate fresh process of appointment of the Vice Chancellor MUST in accordance with law.

The appeal filed by the Chancellor is accepted, whereas, the appeal filed by Prof. Dr. Habib ur Rehman stands dismissed for the reason stated hereinabove.

**JUDGE**

**CHIEF JUSTICE**

Muzaffarabad  
05.11.2019