

**SUPREME COURT OF AZAD JAMMU AND KASHMIR**  
[Appellate Jurisdiction]

**PRESENT:**

Raja Saeed Akram Khan, J.  
Ghulam Mustafa Mughal, J.

Civil Appeal No.37 of 2019  
(PLA Filed on 12.12.2018)

1. Waqar Haneef, SDO Electricity, Sub-Division Mirpur.
  2. Raja Yasir Rubani, SDO, Electricity Islamgarh, Tehsil and District Mirpur.
  3. Raja Waqas Ayub, SDO, Electricity II Mirpur, Tehsil and District Mirpur.
  4. Abdul Rehman, SDO, Electricity M&T Division Mirpur.
  5. Arslan Anjum, SDO, Electricity Store Mirpur, Tehsil and District Mirpur.
- .... APPELLANTS

**VERSUS**

1. Azad Govt. through Chief Secretary AJK, Govt. Muzaffarabad.
  2. Legislative Assembly, Azad Jammu & Kashmir Muzaffarabad through its Speaker AJK Muzaffarabad.
  3. Secretary, Azad Jammu & Kashmir Legislative Assembly AJK Muzaffarabad.
  4. Public Accounts Committee AJK Legislative Assembly AJK Muzaffarabad.
  5. Secretary Finance AJK Legislative Assembly through its Chairman AJK Muzaffarabad.
  6. Accountant General, Azad Jammu & Kashmir Muzaffarabad.
  7. District Accounts Officer Mirpur and Kotli.
- ..... RESPONDENTS

(On appeal from the judgment of the High Court dated  
12.10.2018 in Writ Petition No. 158 of 2017)

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FOR THE APPELLANTS: Ch. Muhammad Ashraf  
Ayaz, Advocate.

FOR THE RESPONDENTS: Mr. Muhammad Zubair  
Raja, Addioinital Advocate-  
General.

*Date of hearing:* 21.1.2020.

**JUDGMENT:**

***Ghulam Mustafa Mughal, J—*** The captioned appeal by leave of the Court arises out of the judgment dated 12.10.2018 passed by the Azad Jammu & Kashmir High Court in writ petition No. 158 of 2017.

2. The brief facts forming the background of the captioned appeal are that the appellants, herein, challenged the legality and correctness of different recovery orders passed by the Executive Engineers Electricity of Kotli, Mirpur and Chaksawari, whereby some amount was ordered to be recovered from the appellants. The learned High Court sought comments from the other side and through the impugned judgment dated

12.10.2018 has dismissed the writ petition in limine.

3. Ch. Muhammad Ashraf Ayaz, the learned Advocate appearing for the appellants argued that some orders issued in pursuance of the directions of the Secretary Legislative Assembly as well as Secretary Public Accounts Committee were challenged by filing a writ petition before the Azad Jammu & Kashmir High Court on 29.11.2017 by the appellants, herein. The learned advocate argued that the learned High Court issued pre-admission notices to the respondents for filing comments on 30.11.2017. The comments, according to the learned Advocate, was filed only by respondent No. 5, wherein an objection was raised that necessary party has not been impleaded in line of respondents. The learned High Court heard the parties and dismissed the writ petition through the impugned judgment dated 12.10.2018. The learned Advocate further argued that on the same date before dictating the order, an

application for impleading the S.E. Electricity Construction Division Kotli, Mirpur and S.E. operation Division Chakswari was made but the learned Judge in the High Court through hand written order has rejected the application. The learned Advocate next argued that the course adopted by the learned Judge in the High Court was not proper and it was enjoined upon the learned High Court to receive objections and defer the pronouncement of the order and thereafter decide the case.

4. On the other hand, Mr. Muhammad Zubair Raja, the learned Additional Advocate General has defended the impugned judgment and submitted that the letters of the Executive Engineer and S.E. etc. were challenged through a writ petition without impleading them as party in line of respondents in the case. He submitted that public functionaries, whose orders are questioned, are necessary party and in their absence, no effective writ can be issued, therefore, the learned High Court has not

committed any illegality while handing down the impugned judgment.

5. We have heard the learned Advocates representing the parties and have gone through the record of the case. The impugned judgment has been passed on 12.10.2018. On the same date, an application was filed by the learned Advocate representing the petitioners for impleading the officials whose orders are under challenge in line of respondents. The learned High Court through a separate hand written order has rejected the application on the same date and announced the impugned judgment. We are of the view that it was in the interest of justice to decide the application after receiving the objections from the other side and postpone the announcement of the judgment. The Court, even otherwise, has inherent powers to impleade the necessary party. In the present case, as the application was filed on the same date soon after the preliminary arguments and it does not appear that the impugned judgment has been

dictated in the open Court, therefore, we are constrained to accept the appeal while setting aside the impugned judgment of the High Court. The writ petition filed by the appellants, herein, before the learned High Court would be deemed pending. The learned High Court shall receive the objections on the application for impleading party and thereafter decide the case afresh in accordance with law.

JUDGE

JUDGE

Mirpur  
22.1.2020.

