

SUPREME COURT OF AZAD JAMMU AND KASHMIR
[Appellate Jurisdiction]

PRESENT:

Raja Saeed Akram Khan, ACJ.

Civil PLA No.142 of 2020
(Filed on 18.06.2020)

Mavish Shafi

.... PETITIONER

VERSUS

PSC & others

..... RESPONDENTS

(On appeal from the order of the High Court dated
24.04.2020 in Writ Petition No.42 of 2018)

FOR THE PETITIONER: Sh. Masood Iqbal,
Advocate.

FOR THE RESPONDENTS: Nemo.

Date of hearing: 25.11.2020.

ORDER:

RAJA SAEED AKRAM KHAN, ACJ—

The titled Petition for Leave to Appeal has been directed against the judgment of the High Court dated 24.04.2020, passed in writ petition No.42 of 2018, whereby the writ petition filed by the petitioner, herein, has been dismissed.

2. The facts necessary for disposal of the petition for leave to appeal are that initially, the learned High Court vide order dated 24.09.2018, dismissed the writ petition filed by the petitioner, herein, for want of prosecution. The petitioner, herein, challenged the said order before this Court through petition for leave to appeal. This Court vide order dated 21.11.2019 remanded the case to the High Court to decide the application for restoration of the writ petition afresh after perusing the record of the original file of the writ petition and providing fair opportunity of hearing to the parties. The learned High Court after necessary proceeding dismissed the application for restoration of writ petition, hence, this petition for leave to appeal.

3. Sh. Masood Iqbal, Advocate, the learned counsel for the petitioner submitted that the impugned order of the High Court is against law and the facts of the case, which is not sustainable in the eye of law. He contended that the writ petition was transferred from the principal seat of the High Court, i.e. Muzaffarabad to Mirpur and no notice was ever served upon the

appellant with regard to the transfer of the case. The learned High Court dismissed the application for restoration of the case on the ground that on the date when the case was transferred the power-of-attorney was filed on behalf of the petitioner by Mr. Muhammad Sajjad, Advocate, therefore, the claim of the petitioner that she was not aware of the transfer of the case is baseless. He contended that the findings recorded by the High Court are against the record as the petitioner never engaged Mr. Muhammad Sajjad, Advocate, as her counsel, moreover, the petitioner also moved an application for grant of certified copy of the alleged power-of-attorney, but the same was not provided to her. Petitioner has also attached an affidavit in this regard that she has not engaged any counsel before the learned High Court, which was ignored by the learned High Court while passing impugned order. The learned counsel further submitted this Court in previous round of litigation remand the case to decide the application for restoration of writ petition after perusing the original record, however, the learned High Court committed the same illegality while passing the

impugned order. He requested for grant of leave to appeal.

4. I have heard the learned counsel for the petitioner and gone through the record made available.

5. The learned counsel for the petitioner has raised important legal question of public importance, which can only be resolved in a regular appeal. Leave to appeal is, therefore, granted to consider the same. The learned counsel for the petitioner is directed to deposit the amount of security Rs.1000/- within one month, failing which leave granted order shall automatically stands rescinded. The office is directed to proceed further according to law and place the file before me for constitution of bench after its completion.

ACTING CHIEF JUSTICE

Mirpur.
25.11.2020.