

**SUPREME COURT OF AZAD JAMMU AND KASHMIR**

[Appellate Jurisdiction]

**PRESENT:**

Raja Saeed Akram Khan, C.J.  
Kh. Muhammad Naseem, J.

1. Civil Appeal No.212 of 2019  
(PLA filed on 04.04.2019)

Sardar Manzoor Chughtai, President All United  
Public Transport Union (Regd.), District Bagh.

.... APPELLANT

VERSUS

1. Azad Government of the State of Jammu and Kashmir through its Chief Secretary, having its office at New Secretariat, Muzaffarabad.
2. Inspector General of Police, having his office at New Secretariat, Muzaffarabad.
3. Senior Superintendent Police, having his office at New Secretariat, Muzaffarabad.
4. Sub Divisional Magistrate, Muzaffarabad.
5. Additional Session Judge, Muzaffarabad.
6. SHO, Police Saddar, Muzaffarabad.

.... RESPONDENTS

7. Syed Iftikhar Hussain Gillani s/o Latif Shah Gillani r/o Dani Syedan, Muzaffarabad.

.... PROFORMA RESPONDENT

[On appeal from the judgment of the High Court dated 27.03.2019 in writ petition No.1956/2018]

-----

FOR THE APPELLANT: Ch. Amjad Ali,  
Advocate.

FOR THE RESPONDENTS: Kh. M. Maqbool War,  
Advocate General.

2. Civil Appeal No.370 of 2019  
(PLA filed on 25.05.2019)

1. Syed Iftikhar Hussain Gillani S/o Latif Shah Gillani R/o Dhani Syedan Tehsil and District Muzaffarabad, Azad Kashmir.
2. Muhammad Irfan S/o Mohib Ullah R/o Gojra Tehsil and District Muzaffarabad, Azad Kashmir.
3. Muhammad Altaf Kiani S/o Khani Zaman Kiani R/o Chellah Bandi Tehsil and District Muzaffarabad, Azad Kashmir.
4. Haji Muhammad Bashir Mughal S/o Noor ul Haq Mughal R/o Gojra Tehsil and District Muzaffarabad, Azad Kashmir.
5. Rashid Abbasi S/o Sheikh ur Rehman R/o Dhani Mahi Sahiba Tehsil and District Muzaffarabad, Azad Kashmir.
6. Amar S/o Afzal Khan R/o Khila Tehsil and District Muzaffarabad, Azad Kashmir.
7. Anwar Hussain S/o Muhammad Yaqoob R/o Kailgran Tehsil and District Muzaffarabad, Azad Kashmir.
8. Hanif S/o Muhammad Sharif R/o Gojra Tehsil and District Muzaffarabad, Azad Kashmir.
9. Syed Ulfat Shah S/o Syed Noor Hussain Shah r/o Garmar Presently Bela Noor shah Tehsil and District Muzaffarabad, Azad Kashmir.

10. Shoukat Gujjar S/o Sain R/o Gojra Tehsil and District Muzaffarabad, Azad Kashmir.
11. Haji Abdul Qayyum S/o Wazir Khan Tehsil and District Muzaffarabad, Azad Kashmir.
12. Sabiha Bibi W/o Muhammad Ashraf R/o Gojra Tehsil and District Muzaffarabad, Azad Kashmir.
13. Muhammad Asad S/o Muhammad Ayub R/o Gojra Tehsil and District Muzaffarabad, Azad Kashmir.
14. Shahzad Chaudhary S/o Abdul Rasheed R/o Gojra Tehsil and District Muzaffarabad, Azad Kashmir.
15. Munawar Shah S/o Zaheer Shah R/o Gojra Tehsil and District Muzaffarabad, Azad Kashmir.

...APPELLANTS

VERSUS

1. Azad Govt, of the State of Jammu and Kashmir through Chief Secretary, having his office at New Secretariat Muzaffarabad.
2. Inspector General of Police Azad Jammu and Kashmir, Muzaffarabad.
3. Senior Superintendent Police Azad Jammu and Kashmir, Muzaffarabad.
4. Sub Divisional Magistrate Muzaffarabad, Azad Jammu and Kashmir.
5. Additional District Judge, Muzaffarabad, Azad Jammu and Kashmir.
6. Station House Officer (SHO), Police Station Sadar Muzaffarabad, Azad Jammu and Kashmir.

.... RESPONDENTS

[On appeal from the judgment of the High Court dated 27.03.2019 in writ petition No.1956/2018]

-----

FOR THE APPELLANTS: Sardar Pervaiz Akhtar,  
Advocate.

FOR THE RESPONDENTS: Kh. M. Maqbool War,  
Advocate General.

3. Civil Appeal No.08 of 2020  
(PLA filed on 04.01.2020)

Saud Iftikhar son of Muhammad Iftikhar Khan Caste  
Sudhan R/o Metera Tehsil Rawalakot, District  
Poonch, Azad Jammu and Kashmir.

...APPELLANT

VERSUS

1. Azad Govt, of the State of Jammu and Kashmir through Chief Secretary, having his office at New Secretariat Muzaffarabad.
2. State through Additional Advocate General of Azad Jammu and Kashmir, having his office at Rawalakot.
3. Senior Civil Judge/Magistrate First Class Rawalakot.
4. Additional Session Judge Rawalakot District Poonch, Azad Jammu and Kashmir.
5. Station House Officer (SHO), Police Station City Rawalakot, District Poonch, Azad Jammu and Kashmir.

...RESPONDENTS

[On appeal from the judgment of the High Court dated 07.11.2019 in Application No.31/2019]

-----

FOR THE APPELLANT: Sardar Pervaiz Akhtar,  
Advocate.

FOR THE RESPONDENTS: Kh. M. Maqbool War,  
Advocate General.

Date of hearing: 09.05.2022

### **JUDGMENT**

**Raja Saeed Akram Khan, C.J.—** In all the captioned appeals, by leave of the Court, common legal and factual propositions are involved, hence, the same are being decided through the proposed consolidated judgment.

2. The facts leading to filing of the titled appeals are that the vehicle of Syed Iftikhar Hussain Gillani, appellant, was seized under section 550, Cr.P.C. He filed an application before the Sub Divisional Magistrate, Muzaffarabad for release of the vehicle on *Superdari*. The application was rejected vide order dated 23.10.2018. The revision petition filed against the said order before the Sessions Judge, Muzaffarabad (made over to the Additional Sessions Judge, Muzaffarabad) was dismissed vide order dated 31.10.2018. Feeling aggrieved, the appellant (Syed Iftikhar Hussain

Gillani) filed a writ petition before the High Court claiming therein that the Police has got no authority to seize the vehicle under section 550/523, Cr.P.C. on the ground that the same is non-custom paid, hence, acts of seizure of the vehicle by the police, rejection of the application by Sub Divisional Magistrate and dismissal of the revision petition by the Additional Sessions Judge are illegal and without lawful authority. After necessary proceedings, the learned High Court dismissed the writ petition through the impugned judgment dated 27.03.2019, which has been called in question by the appellants by filing appeals No.212 and 370 of 2019. In the similar circumstances, the application filed by the appellant (Saud Iftikhar) was rejected by the Magistrate First, Class. The proceedings conducted by the Police were called in question before the High Court by filing application under section 561-A, Cr.P.C, which was dismissed through order dated 07.11.2019, subject-matter of appeal No.08/2020.

3. At the very outset, Kh. Muhammad Maqbool War, the learned Advocate General, stated that the matter of confiscation of non-custom paid vehicles also arose in Gilgit Baltistan and Pakistan, wherein, the policies were framed. Likewise, the Government of Azad Jammu and Kashmir is also intended to formulate a comprehensive policy in this regard.

4. On this, the learned counsel for the appellants submitted that they would be satisfied, if these appeals are disposed of with the direction to the Government to formulate a comprehensive policy regarding non-custom paid vehicles, however, the vehicles of the appellants are under confiscation since 2018 and there is an apprehension of misuse as well as deterioration of vehicles, hence, a time span be fixed in this regard.

5. We have heard the learned counsel for the parties and gone through the record. As the learned Advocate-General has apprised the Court that the Government is intended to formulate a comprehensive policy in this regard, thus, in the

public interest, we are intended to dispose of these appeals in the light of statement of learned Advocate General and direct the Government to formulate a comprehensive policy regarding non-custom paid vehicles. We are also aware of the fact that the appellants' vehicles are under confiscation since 2018, hence, the apprehension shown by the appellants regarding misuse and deterioration of vehicles is genuine, therefore, we direct the concerned to formulate the policy preferably within a period of six months.

All the titled appeals are disposed of in the above terms. No order as to costs.

CHIEF JUSTICE

JUDGE

Muzaffarabad,  
09.05.2022