

SUPREME COURT OF AZAD JAMMU AND KASHMIR
(APPELLATE JURISDICTION)

PRESENT:

Kh. Muhammad Nasim, J.
Raza Ali Khan, J.
Muhammad Younas Tahir, J.

Civil PLA No.480 of 2022
Civil Misc. No.418 of 2022
(Filed on 16.11.2022)

1. Mir Altaf Hussain, Advocate High Court of AJ&K, Member Central Bar Association, Old Secretariat, Muzaffarabad.
2. Fayyaz Ahmed Janjua, Advocate Supreme Court of Azad Jammu & Kashmir, Muzaffarabad.

....PETITIONERS

VERSUS

1. Azad Govt. of the State of Jammu & Kashmir, through its Chief Secretary having office at New Secretariat, Muzaffarabad.
2. Chairman AJ&K Council through its Secretary, Azad Jammu & Kashmir Council, Council Secretariat, F-5/2, Islamabad, Pakistan.
3. Azad Jammu & Kashmir Council through its Secretary, Council Secretariat, F-5/2, Islamabad, Pakistan.
4. Secretary, Azad Jammu & Kashmir Council, Council Secretariat, F-5/2, Islamabad, Pakistan.
5. Joint Secretary, Azad Jammu & Kashmir Council, Council Secretariat, F-5/2, Islamabad, Pakistan.
6. Minister Kashmir Affairs & Gilgit Batistan, Red Zone, Islamabad.
7. President of AJ&K through Secretary to President, having office at President Secretariat, Muzaffarabad.
8. Department of Law, Justice, Parliamentary Affairs and Human Rights through its Secretary, having office at

Lower Chatter, Muzaffarabad.

9. Secretary, Law, Justice, Parliamentary Affairs and Human Rights Department, having office at New Secretariat Complex, Muzaffarabad.
10. Registrar High Court/Shariat Appellate Bench of the High Court, having office at High Court Building, Muzaffarabad.
11. Registrar Supreme Court/Shariat Appellate Bench of the Supreme Court, having office at Supreme Court Building, Muzaffarabad.
12. Mr. Muhammad Ejaz Khan, Judge High Court, appointed under Notification No.LD/AD/66-85/2022, dated 07.01.2022.
13. Syed Shahid Bahar, Judge High Court, appointed under Notification No.LD/AD/66-85/2022, dated 07.01.2022.
14. Ch. Khalid Rasheed, Judge High Court, appointed under Notification No.LD/AD/66-85/2022, dated 07.01.2022.
15. Mr. Muhammad Habib Zia, Judge High Court, appointed under Notification No.LD/AD/66-85/2022, dated 07.01.2022.
16. Sardar Liaqat Hussain, Judge High Court, appointed under Notification No.LD/AD/66-85/2022, dated 07.01.2022.
17. Mian Arif Hussain, Judge High Court, appointed under Notification No.LD/AD/66-85/2022, dated 07.01.2022.
18. Accountant General of AJ&K Sathra Hills, Muzaffarabad.

.....RESPONDENTS

1. AJ&K Bar Council, through its vice Chairman having office at Old Kachehri, Muzaffarabad.
2. Supreme Court Bar through its President, Supreme Court Bar, having office at Supreme Court Building, Muzaffarabad.

3. High Court Bar through its President, having office at High Court, Muzaffarabad.
4. Central Bar Association, Old Secretariat, Muzaffarabad.

...PROFORMA-RESPONDENTS

(On appeal from the judgment of the High Court dated 11.11.2022, in Writ Petitions No.1607 and 1952 of 2022)

Nemo for petitioner No.1.
 Petitioner No.2 in person.
 Nemo for the respondents.

Date of hearing: 12.01.2023

ORDER:

Kh. Muhammad Nasim, J.— The captioned petition for leave to appeal has been preferred against the judgment of the High Court dated 11.11.2022, passed in Writ Petitions No.1607 and 1952 of 2022.

2. The appointment of the judges of the High Court was called in question through two separate writ petitions before the High Court. The learned High Court dismissed the writ petitions through the impugned judgment in the following manner:-

“17. With heavy heart, it is mentioned that the conduct of the petitioner in both the writ petitions is highly objectionable based on *mala fide*, therefore, to discourage such type of legal proceedings, Writ Petition

No.1607/22 is dismissed with a cost of Rs.1,00,000/- payable by each i.e the petitioner and his counsel. They are directed to deposit the said amount in the account of AJ&K Bar Council Lawyers Foundation within a period of 07 days and to submit the receipt to the Registrar of this Court. In case of non- compliance, the practice of the defaulter shall remain suspended till implementation of this order.

18. The petitioner in other Writ Petition No1952/22, showed lack of interest and did not come forward to press his writ petition, hence, lenient view is adopted and he is warned to be careful in future.”

Feeling aggrieved from the aforesaid judgment passed by the High Court, the petitioners, herein, have challenged the same before this Court through the captioned petition for leave to appeal and came with independent stance. Mir Altaf Hussain, petitioner No.1, herein, challenged the judgment passed by the High Court with regard to the validity of the appointment of the judges of the High Court and Mr. Fayyaz Ahmed Janjua challenged the judgment to the extent of cost of Rs.100,000/-. Today, the case was fixed for arguments but Mir Altaf Hussain, petitioner No.1, herein, did not turned up which shows that he has nothing to argue before this Court. Even otherwise, we have perused the record made available along with the impugned judgment. The judgment passed by the learned High Court

is in accordance with law. The learned High Court has committed no illegality while passing the impugned judgment after due deliberation. No legal question of public importance is involved which is prerequisite for grant of leave. Thus, the petition is hereby dismissed to the extent of petitioner No.1.

3. So far as, the case to the extent of Mr. Fayyaz Ahmed Janjua, petitioner No.2, is concerned, he came on the rostrum and stated that he is only aggrieved to the extent of cost and he does not intend to press the other grounds raised in the petition, therefore, while taking lenient view, the judgment passed by the learned High Court to the extent of cost imposed on petitioner No.2, is modified in the manner that the same is reduced from Rs.100,000/- to Rs.50,000/-. His appearance in the Courts will be subject to the payment of the cost.

The petition stands disposed of the manner indicated above.

Muzaffarabad,
12.01.2023

JUDGE
J-I

JUDGE
J-II

JUDGE
J-III