THE SUPREME COURT OF AZAD JAMMU AND KASHMIR

(Appellate Jurisdiction)

PRESENT:

MR. JUSTICE RAZA ALI KHAN

CIVIL PLAs NO. 689 & 699 OF 2024

(On appeal from the separate orders of the High Court dated 0.11.2024, passed in Miscellaneous Applications No. 462 & 324 of 2024).

Sajid Aslam, presently serving as Additional Commissioner (B-19), Mirpur and others.

(Petitioners in both the petitions)

…Petitioners

VERSUS

Azad Government of the State of Jammu and Kashmir through Secretary Services and General Administration Department, having his office at New Secretariat Muzaffarabad and others.

(in civil PLA No.689/2024)

Zaffar Mehmood Khan Secretary Services and General Administration Department, Azad Government of the State of Jammu and Kashmir, Muzaffarabad and others.

(in civil PLA No.699/2024)

…Respondents

Appearances:

For the Petitioners: Mr. M. Khalid Naqshbandi, Advocate.

For the respondents: *(in PLA No. 689/2024)*	Raja Mazhar Waheed, Addl. Advocate-General.
Date of hearing:	29.11.2024

JUDGMENT:

***Raza Ali Khan, J*:-** The term *sufficient cause* is a cornerstone of procedural law, offering litigants with an opportunity to seek relief from procedural defaults when genuine and justifiable reasons exist. While the term lacks a rigid statutory definition, its interpretation is guided by judicial precedents that emphasize the need to strike a balance between procedural compliance and the overarching goal of justice. *Sufficient cause* refers to a legally valid reason that prevents a party from fulfilling a procedural obligation, provided the reason is genuine, bona fide, and not reflective of negligence or indifference. Courts have consistently held that *sufficient cause* should be construed liberally to avoid defeating substantial justice due to technicalities. However, such liberal construction does not extend to condoning repeated negligence, willful default, or a lack of bona fide intent.

2. Judicial interpretation of *sufficient cause* identify certain key elements that must be present for a claim to succeed. First, the reason provided must be genuine, honest, and free from malafide intent. Second, there must be an absence of negligence or indifference on the part of the litigant or their counsel. Third, the litigant must demonstrate reasonable diligence in managing their case, including keeping themselves informed about case schedules and making timely efforts to address procedural lapses. Finally, unforeseen or unavoidable circumstances, such as medical emergencies, natural calamities, or accidents, may constitute sufficient cause

provided they are supported by credible evidence. Courts have often accepted such causes in cases where the absence of the litigant or their counsel is beyond their control, but they have also rejected claims stemming from vague or unsupported allegations, habitual indifference, or intentional delays.

3. Restoration of dismissed cases is a discretionary power vested in the courts and must be exercised judicially, in alignment with the principles of fairness and justice. Courts generally lean towards restoring cases where the applicant demonstrates a genuine inability to appear, acts promptly after learning of the dismissal, and ensures that restoration will not unduly prejudice the opposing party. However, this discretion is not absolute and may be limited where the applicant's conduct reflects habitual default or a lack of genuine interest in pursuing the matter. Frequent absences, coupled with inadequate or repetitive explanations, can undermine the credibility of the claim and justify the refusal to restore the case. Restoration applications filed without sufficient cause strain the judicial system, delay the administration of justice, and unfairly prejudice the opposing party's right to a timely resolution.

4. The present petitions for leave to appeal challenge the judgment/orders of the High Court dated 01.11.2024, passed in Civil Miscellaneous Applications Nos. 324 and 462 of 2024, whereby the writ petition and contempt petition filed by the petitioners were dismissed for want of prosecution. The petitioners, permanent employees of the Azad Jammu and Kashmir Revenue Department serving in various capacities, filed a writ petition before the High Court on 22.01.2024. In their writ petition, they challenged administrative actions and

sought relief regarding specific grievances. Initially, the High Court issued a status quo order, directing the respondents to file objections. Upon receipt of the objections, the writ petition was admitted for regular hearing. Subsequently, during the pendency of the writ petition, the petitioners alleged that a notification dated 09.04.2024, was issued in violation of the Court's earlier orders. This prompted the filing of a contempt application, and the High Court clubbed the writ petition and contempt application for hearing. The case was listed for arguments on 29.10.2024. However, neither the petitioners nor their counsel appeared before the Court on the scheduled date, leading to the dismissal of both petitions for want of prosecution through orders passed on 01.11.2024. The petitioners, aggrieved by the dismissal, filed restoration applications, which were also dismissed by the High Court. Consequently, the present petitions for leave to appeal have been filed before this Court, seeking to overturn the High Court's orders.

5. The learned counsel for the petitioners, Mr. Muhammad Khalid Naqshbandi, has argued that the High Court's impugned orders are contrary to law and the facts of the case. He contended that the petitioners had provided sufficient cause for their non-appearance, which the High Court failed to appreciate. According to the learned counsel, the petitioners' absence was due to two primary reasons: first, the counsel representing the petitioners could not appear before the Court because his mother had passed away; and second, the petitioners were under the impression that their case would not be taken up for arguments as it was not mentioned in the cause list uploaded on the High Court's

website. It was submitted that these reasons qualify as *sufficient cause*, warranting the restoration of the dismissed petitions. The learned counsel further emphasized that the petitioners acted in good faith and did not intentionally avoid the proceedings. He urged that the High Court, in the interest of justice, should have accepted the restoration applications, particularly considering the significant issues of law and public importance involved in the writ petition, warranting the restoration of dismissed petitions.

6. Conversely, the learned Additional Advocate-General, Raja Mazhar Waheed, representing the Azad Government, has argued in support of the High Court's orders. He submitted that the petitioners failed to fulfill their duty to appear before the Court on the scheduled date and prosecute their case diligently. While acknowledging the unfortunate demise of the counsel’s mother, the learned Additional Advocate-General contended that this circumstance, though compelling, does not absolve the petitioners of their responsibility to ensure the case's progression. He further argued that the claim regarding the absence of the case in the uploaded cause list is unsubstantiated and lacks evidentiary support. Given that the petitioners, being aware of the fixed hearing date, were under an obligation to appear or make alternate arrangements to represent their case. Accordingly, he prayed for the dismissal of these petitions for leave to appeal.

7. In the present case, the petitioner’s writ petition was dismissed for want of prosecution. To justify restoration, the petitioner has advanced two primary reasons: first, that the case was not mentioned in the cause list and second that the

petitioner's counsel was unable to appear due to the demise of his mother. While errors in cause lists may occasionally occur, it is the fundamental duty of every litigant to maintain active communication with their counsel and verify the status of their case. Merely relying on the absence of the case in the cause list uploaded on website without making any independent efforts to ascertain its status demonstrates a lack of diligence. Furthermore, no evidence, such as a certified copy of the cause list uploaded on website, has been provided to substantiate this claim. As for the second reason, while the counsel's bereavement is undoubtedly a compelling circumstance, it does not absolve the petitioners of their responsibility to follow up on their case. The petitioners could have made alternate arrangements or informed the Court of their counsel's inability to attend, neither of which was done. In such circumstances, the explanations provided by the petitioners do not constitute *sufficient cause*. The reasons advanced lack substantiation and fail to demonstrate any genuine effort or unavoidable circumstance that prevented timely attendance. Courts cannot condone defaults under the guise of a liberal interpretation of *sufficient cause*, as doing so would encourage negligence and abuse of the judicial process. Furthermore, the rights of the opposing party must also be safeguarded, as they are entitled to a fair and expeditious resolution of the case without undue delays caused by frivolous restoration applications. The learned High Court, in dismissing the restoration application, acted in accordance with the principles of justice and procedural propriety. The petitioners have failed to establish any legally justifiable reason for restoration, and their applications lacks merit. The doctrine of *sufficient cause* is a tool to ensure that justice is not defeated by technical procedural lapses. However,

it is not an excuse for negligence, indifference, or malafide intent. In the present case, the petitioner's conduct and repeated reliance on unsupported and repetitive explanations reflect a lack of bona fide intent to prosecute the matter. The explanations offered neither satisfy the test of *sufficient cause* nor inspire confidence in the petitioner's commitment to their case.

For the reasons, the petitions for restoration are devoid of merit. Accordingly, these petitions for leave to appeal stand dismissed with no order as to cost.

JUDGE

Muzaffarabad,
29.11.2024