IN THE SUPREME COURT OF AZAD JAMMU AND KASHMIR

(Appellate Jurisdiction)

PRESENT:

MR. JUSTICE RAJA SAEED AKRAM KHAN, C.J.
MR. JUSTICE RAZA ALI KHAN

CIVIL APPEAL No. 13 of 2025

Civil Misc. No. 165 of 2024

(Against the judgment dated 13.12.2024, passed by the High Court in writ petition No. 427 of 2024).

Sarmad Ilyas s/o Muhammad Ilyas Khawaja r/o Sector Khambal, Tehsil and District Mirpur.

… Appellant

VERSUS

Azad Government of the State of Jammu and Kashmir through Chief Secretary, AJK and others.

…Respondents

Appearances:

For the Appellant: Mr. Kamran Riaz Butt, Advocate.

For the respondents: Mr. Ahmed Saad Khan, Asstt. Advocate-General and Mr. Mehmood Hussain Chaudhary, Advocate.

Date of hearing: 20.05.2025.

JUDGMENT:

***Raza Ali Khan, J*:-** This appeal, instituted pursuant to the grant of leave by this Court, stems from the judgment dated December 13, 2024, whereby the writ petition preferred by the appellant was dismissed *in limine* by the High Court.

2. The brief and material facts giving rise to the present appeal are that the appellant invoked the constitutional jurisdiction of the High Court by filing a writ petition, impugning the legality of orders dated September 27, 2024, and October 1, 2024, issued by respondent No. 3, seeking the following prayer:

> "A. To quash the Order of Respondent no.03 bearing no. PMS/794/2024 dated 27-09-2024 and addendum bearing no. PAMS/797/2024 dated 01-10-2024 being issued against the law and the judgements of Hon'ble Apex Court,
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> B. To ask the official respondents that under what authority or law they issued the Order of Respondent no.03 hearing no. PMS/794/2024 dated 27-09-2024 and addendum bearing no.PMS/797/2024 dated 01-10-2024 regarding constitute committee for regularization and confirmation of Ad-hoc/ contract and temporary, employees without advertising the posts without conducting test and interview against the judgements of Hon'ble High Court and Hon'ble Apex Court.
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> C. To initiate contempt proceedings against official respondents for issuing the impugned Order of Respondent no.03 dated 27-09-2024 and addendum dated 01-10-2024 against the

judgements of Hon'ble High Court and Hon'ble Apex Court.

D. To direct the respondents to do what the law permitted to do not to do what the law not permitted to do".

Upon hearing the preliminary arguments, the High Court, by its impugned judgment dated December 13, 2024, dismissed the writ petition *in limine* on the ground that it was predicated solely on assumptions and conjectures. The Court held that, a writ can only be issued where there is a demonstrable violation of law, statutory rule, public policy, or fundamental right of the State subject, which was not established in the present case.

3. Mr. Kamran Riaz Butt, learned counsel for the appellant, contended that the impugned judgment suffers from a manifest misapplication of legal principles and mis-reading of the facts. He submitted that the official respondents, acting in bad faith initiated a process to regularize ad-hoc, contractual, and temporary appointees without adhering to the constitutionally established norms of transparency and meritocracy. In particular, he referred to Order No. PMS/794/2024, along with its subsequent addendum dated September 27, 2024, and October 1, 2024, which constituted a committee for such regularizations, without issuance of public advertisement or conducting competitive examination or interview. This conduct is flagrant violation of established jurisprudence affirming the need for compliance with Article 4, 18 and 25 of the Constitution. The counsel further argued that the High Court erroneously declined to entertain the writ petition on merits holding that committee’s constitution

did not confer any enforceable right nor infringed the appellant's fundamental rights. He maintained that rationale is flawed in light of authoritative precedents holding that any departure from the settled mode of recruitment renders the process void ab initio.

4. Conversely, Mr. Ahmed Saad Khan, Assistant Advocate General, along with Mr. Mehmood Hussain Chaudhary, counsel for the respondents, supported the impugned judgment as being legally sound and factually accurate. They contended that issuance of a writ requires a clear and present violation of statutory law, rules, government policy, or fundamental rights, which was absent in this case. In the instant matter, the petition was based entirely on speculative assumptions, and the High Court rightly dismissed the petition *in limine*, committing no illegality or procedural impropriety. Accordingly, they prayed for dismissal of the present petition.

5. We have heard the counsel for the parties and perused the record. The appellant challenges the constitution of a committee formed by the respondents in response to representations from certain ad-hoc, temporary, and contract employees seeking regularization. The grievance is premised on the apprehension that the committee might ultimately recommend regularization in derogation of Constitutional due process. However, it is a settled legal principle that executive authorities possess the administrative discretion to constitute committees to evaluate the matters within their domain. Unless such a committee issues recommendations or take action that contravene

statutory provisions, constitutional guarantees, or binding judicial precedents, no actionable cause arises warranting the exercise of constitutional jurisdiction. The mere formation of such a committee, without any consequential or final determination does not, by itself, constitute an actionable wrong or infringement of legal rights. The High Court correctly observed that no final decision had emanated from the committee at the time of filing petition thereby rendering the petition speculative and non-justiciable. The writ jurisdiction is intended to address immediate and concrete transgression of law, not theoretical or contingent harms.

6. Judicial review of administrative discretion is permissible only when such discretion matures into decision that cause legal injury. Premature judicial intervention amounts to unwarranted interference in the executive's internal affairs and undermines the doctrine of separation of powers. This Court in *Umar Shehzad v. Azad Government*[1], held that writ petition challenging the appointment of CEO was not maintainable based solely on speculative concerns, reiterating that Constitutional jurisdiction is not a platform for hypothetical disputes.

Similarly in *Bashir Ahmed Badini v. Hon'ble Chairman*[2], the Supreme Court of Pakistan affirmed that Courts do not adjudicate on the basis of sentiment or anticipation and that speculative harm does not constitute a cause of action.

7. In a consistent line of cases, Superior Courts have reiterated that speculative harm or presumed injury

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[1] (2023 SCR 879)
[2] [2022 SCMR 448; 2022 PLC (C.S.) 610]

does not warrant Constitutional intervention. Relief under writ jurisdiction must be grounded in a clear violation of law or a manifest breach of a legal or fundamental right resulting in tangible harm. Constitutional remedies are extraordinary in nature and intended to be involved only in the absence of alternative remedies and in the face of established illegality or arbitrariness. Entertaining petitions based on conjectures not only clogs the judicial docket with premature claims but also erodes administrative domain. Courts must act only when an executive action yields legally cognizable consequences that infringe rights.

8. It is, however, pertinent to clarify that the scope of the writ of prohibition, being a constitutional remedy rooted in the principles of judicial restraint and legality, is not entirely foreclosed. While it may not be invoked on the basis of presumptive harm or administrative apprehensions, the writ retains its efficacy in circumstances where a judicial, quasi-judicial, or statutory authority is about to assume jurisdiction not vested in it by law, or to proceed in a manner patently inconsistent with statutory obligations or constitutional guarantees. The essence of the writ lies in its preventive character, designed to arrest jurisdictional excesses and legal improprieties before they result in irrevocable injury. Thus, in appropriate cases, where there is a clear and imminent threat of unlawful exercise of authority, the doors of constitutional jurisdiction remain open to consider such relief.

In view of the foregoing analysis, the High Court was justified in dismissing the writ petition *in*

limine, as no actionable illegality or infringement of rights was established. Consequently, this appeal, being devoid of merit, is hereby dismissed. There shall be no order as to costs.

JUDGE **CHIEF JUSTICE**

Mirpur,
22.05.2025.