SUPREME COURT OF AZAD JAMMU AND KASHMIR
(Appellate Jurisdiction)

PRESENT:
Raza Ali Khan, J.
Khalid Yousaf Chaudhary, J.

Civil Appeal No.203/2025
(PLA filed on 29.03.2025)

Nadeem Ehsan Khan s/o Ehsan Ullah Khan, r/o Madina Market, Tehsil & District Muzaffarabad.

… APPELLANT

VERSUS

Board of Revenue Azad Jammu & Kashmir, Muzaffarabad through its Registrar, having his office at New Secretariat Muzaffarabad & 5 others.

…RESPONDENTS

[on appeal from the judgment of the High Court
Dated 20.01.2025, in Writ Petition No.1253 of 2024]

FOR THE APPELLANT:	Mr. Shahzad Shafi Awan, Advocate.
FOR RESPONDENT No.6	Mr. Shahid Ali Awan, Advocate.
Date of hearing:	12.02.2026.

JUDGMENT:-

***Khalid Yousaf Chaudhary, J*:-** This appeal, by leave of the Court, is directed against the judgment dated 20.01.2025 passed by the learned High Court, whereby the writ petition filed by the appellant, herein, has been dismissed on the ground of laches.

2. The facts emerge out from the record are that the name of Respondent No.6, herein, was recorded as "*Qias Din*" since birth and was entered as such in the revenue record. Under the said name respondent No.6, conducted sale and purchase transactions and appeared as a witness in various agreements, being an inherent co-sharer in the *Khewat* situated at *Mouzia Ranjata*, Muzaffarabad. Subsequently, he shifted to *Mouzia* Tariqabad/Jalalabad, Muzaffarabad, allegedly concealed his original name, and started using the name "*Ghiyas-ud-Din*," whereafter certain lands were allotted in that name. Respondent No.6 filed an application before Tehsildar Revenue/Assistant Collector (Respondent No. 4) for correction of his name in the revenue record, pursuant to which Mutation No. 306 was attested through order dated 01.04.2009; however, the same was later cancelled due to non-availability of proof. Against the cancellation, Respondent No. 6 filed a revision before the Commissioner, Muzaffarabad Division, who remanded the matter for fresh proceedings, whereupon approval of *Fard Badar* was granted on 14.07.2018. The appellant challenged the said approval through revision, which was accepted, and the matter was remanded with a direction to hear the appellant. After initiating proceedings and considering the objections filed by the appellant, Respondent No. 4 ultimately allowed the application and sanctioned correction of the name through decision dated 17.06.2021. The appellant assailed the said decision through revision before the Additional Commissioner Revenue, Muzaffarabad, which was dismissed on 23.09.2022; thereafter, an appeal preferred before the Member (Judicial) Board of Revenue, was also dismissed vide order dated 02.01.2024. Against the said order, the appellant filed a writ petition before

the High Court, which has been met the same fate on the ground of laches through the impugned judgment dated 20.01.2025.

3. Mr. Shahzad Shafi Awan, the learned counsel for the appellant, after narrating the necessary facts, submitted that the impugned judgment passed by the learned High Court is contrary to law, rules and the facts of the case. He argued that through the impugned judgment the learned High Court has dismissed the writ petition filed by the appellant, herein, without considering the contents of the writ petition. The order dated 02.01.2024 passed by the Member (Judicial) Board of Revenue was neither communicated to the appellant nor to his counsel through notice or any other recognized mode, and the order itself does not reflect the date of hearing, thereby depriving the appellant of timely knowledge. He maintained that after having knowledge the appellant immediately obtained the certified copy of the order and filed the writ petition without any delay, along with the application for condonation of delay, however, the learned High Court failed to consider the same and dismissed the petition on the ground of laches. He emphasized that the learned High Court failed to address the substantive legal questions raised before it and dismissed the writ petition in a mechanical manner, hence the impugned judgment is not sustainable in the eye of law. In support of his submissions, the learned counsel placed reliance upon the case reported as (2022 SCR 1615) and prayed for acceptance of appeal.

4. Mr. Shahid Ali Awan, the learned counsel for respondent No.6, controverted the arguments advanced by the learned counsel for the appellant with full force and contended that the impugned judgment is fully in accordance with law and calls for no interference by this Court. He submitted that the writ

petition was filed before the High Court after the lapse of 135 days of passing the order by the learned Member Judicial Board of Revenue i.e. dated 02.01.2024. In view of the settled principle of law, the reasonable time for invoking constitutional jurisdiction, is three months. The appellant has failed to explain the delay in filing the writ petition, hence, the learned High Court has committed no illegality while dismissing the writ petition on the ground of laches. The learned Advocate placed reliance upon the case reported as (2022 SCR 1088) and prayed for dismissal of appeal.

5. We have heard the learned counsel for the parties at considerable length and have carefully examined the record with their able assistance. The core question falling for determination is whether the learned High Court was justified in dismissing the writ petition solely on the ground of laches, without properly evaluating the explanation tendered by the appellant and without entering into the merits of the controversy.

6. From the perusal of the record, it transpires that the appellant instituted the writ petition before the High Court seeking the quashment of the order dated 02.01.2024, passed by the learned Member (Judicial), Board of Revenue, on 17.05.2024, after the lapse of 135 days. The learned High Court, through the impugned judgment, dismissed the writ petition on the ground of laches, while placing reliance upon the judgment of this Court reported as *Altaf Hussain Bukhari v. Zeeshan Shoukat & others* [2022 SCR 1088], wherein this Court has observed as follows:

> *"It is now well settled that constitutional petition has to be filed within a reasonable time. Aggrieved person has to challenge the impugned order not later*

> *than three months, which is a reasonable time and if constitutional petition is filed after the expiry of three months, the period thereafter has to be in adequately and sufficiently been explained by the petitioner. In this case, we are satisfied that the petitioner was negligent in prosecuting the matter and the writ petition was filed after inordinate delay, hence, the same was hit by the principle of laches and was not maintainable."*

From the foregoing, it is evident that this Court, in the judgment referred to hereinabove, held that the reasonable period for filing a writ petition before the High Court is three months, and that any petition instituted beyond this period must be accompanied by a satisfactory explanation for the delay. Examining the facts of the present case in light of the said dictum, it stands admitted that the writ petition was filed after the expiry of three months; thus, the determinative question is whether the appellant has sufficiently explained the delay or not. The record reflects that the appellant along with the writ petition filed an application for condonation of delay, asserting that he had no knowledge of the order dated 02.01.2024 passed by the learned Member (Judicial), Board of Revenue, as no notice of its pronouncement had been served upon him, and that immediately upon acquiring knowledge, he obtained a certified copy and promptly approached the High Court. This explanation finds support from the record, as the order impugned in the writ petition was neither communicated to the appellant nor to his counsel through any legally recognized mode. Even the order dated 02.01.2024, itself does not disclose the date of hearing. The failure of the Member (Judicial), Board of Revenue, to either pronounce the order in the presence of the parties on a specified date or, if reserved, to issue notice of its pronouncement, constitutes non-adherence to the mandatory procedural

requirements. In these circumstances, the appellant's explanation regarding lack of knowledge cannot be regarded as improbable, artificial, or lacking in bona fides. The learned High Court was obliged to assess the explanation in its proper legal perspective rather than dismissing the petition mechanically on the ground of laches.

7. Even otherwise, it is well-settled that the doctrine of laches must be applied with reference to the conduct of the parties and the surrounding circumstances; delay alone is not conclusive and must be evaluated together with its length, the explanation furnished, the conduct of the party, the nature of the right involved, and the element of prejudice. We are fortified in our view from the case reported as *Muhammad Mobeen Khan v. Farzand Begum & others* [2014 SCR 291), wherein the Court observed as under:

> *"7. It is also pertinent to mention here that the question of laches in writ petition is always considered in the light of the conduct of the person invoking the writ jurisdiction of the High Court, the degree of his negligence if any, grant of relief sought by him, and the injustice to be caused to the opposite party. The laches in simplest form means failure of a person to do something which should have been done by him within a reasonable time and is not synonymous with delay alone but it can be worked out to the disadvantage to another person in the matter of his right."*

Reliance may also be had upon a case reported as *Azad Government and 2 others vs. Syed Tayyab Gillani and 14 others* [2009 SCR 415], wherein it was observed by this Court as under:-

> "*… the doctrine of laches will not apply arbitrarily and the delay per se is no ground for invoking laches. It would only apply where the Court feels that it would be unjust to allow the remedy either because a party by his conduct has placed the other party in a situation of*

disadvantage in which it would not be reasonable to place him…."

8. It may also be observed here that according to the established principle of law the remedy of constitutional jurisdiction, being discretionary in nature, must be exercised to advance the cause of justice rather than to discourage it on technical grounds. A constitutional petition ought not to be dismissed merely on the ground of laches without examining the norms of justice and the surrounding circumstances of the case. Where a litigant furnished a reasonable and satisfactory explanation for the delay, the Court, in the exercise of its equitable and discretionary powers, is competent to condone such delay, particularly when refusal to do so may result in perpetuation of injustice. Guidance in this regard may be drawn from the judgment reported as *"Ghazala Farid vs. Azad Govt. & 17 others"* [2022 SCR 1615], wherein it has been authoritatively held that the question of laches is to be determined in the light of the conduct of the litigant and the likelihood of prejudice to the opposite party, and that delay by itself should not operate as an absolute bar to the adjudication of a matter on merits. The relevant portion is reproduced hereunder:-

> *"The dismissal of writ petition on the sole ground of laches depends upon the facts and circumstances of each case, but there can be no exception to the rule that the delay in seeking the remedy of appeal, review or revision beyond the period of limitation provided under the statute in absence of reasonable explanation, cannot be condoned and in the same manner if the remedy of writ petition is not availed within reasonable time, the interference can be refused on the ground of laches. However, the laches cannot be equated with limitation and by itself is not a sufficient ground to non-suit a person if the equities are not against him and he has not been*

> *sleeping over his right or was not indolent. The question of laches in the writ petition is always considered in the light of the conduct of the person invoking the Constitutional jurisdiction of the High Court and the degree of his negligence if any and that if by grant of relief being sought by him no injustice is caused to the opposite-party, the Constitution petition should not be dismissed merely on the ground of laches without examining the dictates of justice. The laches in simplest form mean failure of a person to do something which should have been done by him within a reasonable time and is not synonymous with delay alone but it can be worked out to the disadvantage to another person in the matter of his right. In suitable cases, the Court in its discretionary jurisdiction, subject to the offering of reasonable explanation, can condone the delay in filing an appeal, review or revision as the case may be and similarly, can also ignore the delay if any in filing the writ petition in the interest of justice. In the case in hand, the writ petition before the High Court has been filed after inordinate delay of six months without assigning any reasonable explanation whatsoever for the aforesaid delay, hence, the High Court has rightly dismissed the writ petition on this ground."*

9. Keeping in view the above legal and factual backdrop, it appears that the learned High Court dismissed the writ petition without taking into account the explanation put forth by the appellant while misconceiving the judgment of this Court. Such an approach, in our considered opinion, does not accord with the settled principles governing the exercise of constitutional jurisdiction. The ends of justice, therefore, warrant that the parties be afforded a fair opportunity of hearing and that the matter be decided on merits rather than being foreclosed on a technical ground.

10. For the foregoing reasons, this appeal is accepted. The impugned judgment dated 20.01.2025 passed by the learned High Court is hereby set aside. The case is remanded to the learned High Court for a fresh decision on merits, strictly in accordance with law.

Before parting with the judgment, it is deemed appropriate to observe here that this Court has consistently noticed, while adjudicating matters arising out of revenue jurisdiction, that after conclusion of arguments no formal notice of pronouncement of the judgment/order is served upon the parties or their counsel. Consequently, aggrieved parties often remain unaware of the date of announcement of the judgment, thereby being exposed to serious prejudice in availing their statutory remedies within the prescribed limitation. It is further observed that in several such judgments the date of hearing is not reflected in the body of the judgments. Such omissions not only create ambiguity regarding computation of limitation but also impair procedural transparency and judicial discipline. The pronouncement of judgments without notice to the parties, particularly when the matter stands reserved is inconsistent with the principle of fair trial and due process. The right of appeal is a substantive statutory right and its effective exercise necessarily demands timely knowledge of the impugned decision. Therefore, to avoid such complications and to ensure transparency, fairness, and procedural propriety, it is hereby directed that the Revenue Courts/authorities must clearly specify the date of hearing in the body of the judgment. Furthermore, where a judgment is kept reserved, the Revenue Authorities/Courts must issue advance notice to the parties of the date fixed for pronouncement of the said judgment, so that the parties may be duly informed and no prejudice is caused to their right of availing

legal remedies within the prescribed period of limitation. A copy of this judgment shall be transmitted to the Senior Member Board of Revenue, for compliance.

JUDGE **JUDGE**

(JII) (JI)

Muzaffarabad,
18.02.2026.