

**IN THE SUPREME APPELLATE COURT GILGIT-BALTISTAN,
GILGIT.**

Before:-

**Mr. Justice Dr. Rana Muhammad Shamim, Chief Judge.
Mr. Justice Raja Jalal-ud-Din, Judge.
Mr. Justice Muzaffar Ali, Judge.**

**C.Misc. No. 124/2015
C. Misc. No.123/2015
C. Misc.No.121/2015
Review.No.05/2015 in
CPLA. No. 08/2015.**

Rehmat Alam

Petitioner.

VERSUS

Hafiz Ehsanullah & Others

Respondents.

**PETITION FOR LEAVE TO APPEAL UNDER ARTICLE 60
OF GILGIT-BALTISTAN (EMPOWERMENT & SELF
GOVERNANCE) ORDER, 2009.**

**REVIEW PETITION UNDER ARTICLE 65 OF GILGIT-
BALTISTAN (EMPOWERMENT & SELF GOVERNANCE)
ORDER 2009.ETC.**

PRESENT:-

1. Mr. Ali Nazar Khan Advocate-on- Record for the petitioner.

DATE OF HEARING: - 23.11.2015.

JUDGMENT.

Dr. Rana Muhammad Shamim, CJ....The learned Advocate-on-Record submits that this court vide its judgment in Civil. Appeal No. 43/2015, arisen from CPLA. No. 08/2015, dated 22.04.2015 has held that one Saif Ullah s/o Mehr Shah has already been nominated against the reserved seat for District Diamer in Ayub Medical College Abbottabad. Subsequently, whose nomination was allowed accordingly for the said session. Whereas respondent No. 01 namely Hafiz Ehsanullah s/o Abdul Khabir r/o Gayal

District Diamar shall be entitled to get admission in Ayub Medical College Abbottabad in the next year.

The petitioner Rehmat Alam s/o Jahangir Khan r/o village Goherabad Tehsil & District Diamer after passing FSc examination appeared in the KPK medical Nomination "Entry Test" and has been placed at serial No-02 in the Gilgit-Baltistan level merit list and placed at serial No.01 in the District Diamer level merit list whereas respondent No.01 has passed FSc in the year 2014 and appeared in the "Entry Test" but could not qualify on merits for nomination against the available reserved seat of MBBS. The respondent No.01 failed in the test and placed at serial No.286 in the Gilgit-Baltistan level merit list but due to the above referred impugned Judgment of this Court, he has been nominated against the reserved seat of MBBS available at Ayub Medical College Abbottabad for District Diamer and the petitioner beside scoring higher marks of 69.78% has been deprived from nomination. The respondent No. 01 who scored 53.35% marks and failed in the recent KPK "Entry Test" has been nominated on the basis of judgment of this court. Since the petitioner scored higher marks than respondent No. 01 has accrued legal and vested fundamental rights to be nominated against seat of MBBS available in Ayub Medical College Abbottabad. The learned Advocate-on-Record further contends that the petitioner has not been arrayed as respondent in the said petition consequent thereto the impugned judgment was delivered. The respondent No. 02 to 05 have nominated the respondent No. 01 Hafiz Ehsan Ullah to the

said reserved seat on the basis of the impugned judgment which is without jurisdiction based on misconception and illegal proposal of the respondent No. 04 i.e. the Secretary Education Gilgit-Baltistan. The petitioner being necessary party was not impleaded and the impugned judgment dated 24.04.2015 was passed on the back of the petitioner without impleading him.

In view of the above, the Civil.Misc.No.124/2015 is allowed. Consequently, the Civil. Misc. No.123/2015 is also allowed and the delay is condoned.

The learned Advocate-on-Record for petitioners further submits that since the petitioner Rehmat Alam s/o Jahangir Khan r/o Goherabad Tehsil & District Diamer has obtained higher marks i.e. 69.78%, who appeared in the “Entry Test” for MBBS seat reserved for District Diamer and has been placed at serial No. 02 at all over Gilgit-Baltistan level and at serial No. 01 of District Diamer level was entitled to be nominated against the seat of MBBS in Ayub Medical College Abbottabad, whereas on the basis of the impugned judgment dated 24.04.2015 of this Court the respondent No. 01 Hafiz Ehsan Ullah s/o Abdul Khabir r/o Gayal District Diamer who got 53.35% marks and failed in the “Entry Test” of KPK has been nominated for reserved seat for District Diamer in admission in MBBS course in Ayub Medical College Abbottabad, KPK.

We have heard the learned Advocate-on-Record for the petitioner, perused the case file and gone through the impugned judgment, in our considered view, the petitioner Rehmat Alam s/o

Jahangir Khan r/o Goherabad Tehsil & District Diamer is also entitled for reserved seat who scored higher marks in the "Entry Test" than the respondent No. 01 Hafiz Ehsan Ullah s/o Abdul Khabir r/o Gayal District Diamer who has been nominated against the reserved seat for District Diamer available in Ayub Medical College, Abbottabad. The petitioner cannot be deprived in whose favour vested right had already been accrued which cannot be taken away by any administrative order. Since the petitioner has qualified and declared successful in the "Entry Test" for MBBS seat reserved for District Diamer and he has been placed at serial No. 02 in all over merit list of Gilgit-Baltistan and at serial No. 01 of District Diamer is entitled to be nominated against the reserved seat in Ayub Medical College, KPK, Abbottabad.

In view of the above, we are inclined to partially accept the Review Petition and direct the respondent No. 04 i.e. Secretary Education, Gilgit-Baltistan, respondent No. 06, The Principal Ayub Medical College, Abbottabad and Secretary Education Khyber Pukhtunkhaw (KPK) to adjust and accommodate the petitioner namely Rehmat Alam s/o Jahangir Khan to give him admission in MBBS class either in Ayub Medical College, Abbottabad or in any Medical College of KPK to save his career who scored higher marks than all the candidates.

The Civil Miscellaneous No.121/2015 has become infructuous.

The Review Petition is partially allowed in above terms.

Chief Judge.

Judge.

Judge.

Whether the case is fit to be reported or not?

