

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

Before:-

**Mr. Justice Dr. Rana Muhammad Shamim, Chief Judge.
Mr. Justice Javed Iqbal, Judge.**

**Civil Appeal No. 84/2016
in
CPLA No.51/2016.**

Rupani Foundation through VC Ghulam Tahir having Office at
University Road Gilgit. **Petitioner.**

Versus

Provincial Government & 02 others **Respondents.**

PRESENT:-

1. Mr. Amjad Hussain Advocate alongwith Mr. Ali Nazar Khan Advocate-on-Record for the petitioners.
2. The Advocate General Gilgit-Baltistan on behalf of the respondents.

DATE OF HEARING: - 19.09.2017.

JUDGMENT.

Dr. Rana Muhammad Shamim, CJ..... This appeal has arisen out of the impugned judgment dated 16.03.2016 passed by the learned Chief Court whereby the Writ Petition filed by the petitioner was dismissed being meritless, hence, this petition for leave to appeal. This court vide order dated 10.11.2016 granted leave to appeal and the case is heard today.

2. Briefly, the facts of the case are that an organization namely “MOHENJOZ” claiming to be the Pakistan’s first ever “Market Place Working” for providing facility to the Pakistani artisans especially women artisans in terms of opening of their stores, displaying products networking with national/international buyers, promotional support, shipment and receiving international

payment using PayPal facility on site. On invitation dated 15.01.2015 to the petitioner which is a Non-Governmental Organization (NGO) working as an organization under “Aga Khan Development Network” to participate in the event titled “Centaurus Arts and Cultural Exhibition” at Islamabad to establish its stalls of artisans, women artisans, indigenous crafts, antique products, gemstones, jewelry and marble mosaic. The petitioner while accepting the invitation decided to take part in the said exhibition and nominated some representatives with value added gems and mineral products for attending the exhibition. On 29.01.2015 the representatives of the petitioner alongwith the its packed material consisted 58 rings and other polished materials and gems containing 48 packets when reached at Bassari Check Post. The police intercepted them and took the material in possession without showing any cogent reason. The respondents neither prepared memos of the seizure of items nor any recovery for seizing the confiscating articles taken in possession was prepared. The action of the respondents is illegal and against the principle of natural justice. The organization is non-profitable organization acting to create income opportunity through skill development all over Gilgit-Baltistan especially women skill development for last more than 08 years. The petitioner trained more than 700 people in the skill of gems cutting and polishing in 06 training centers. The action taken by the respondents is not only against the aims and objects of the

petitioner rather was to create hurdle in promotion of gems potential at Gilgit-Baltistan.

3. The learned counsel for the petitioner submits that the petitioner is a Non-Governmental Organization (NGO) which is encouraging, transporting and prompting the culture of this area in all over the Pakistan. He also submits that certain items were brought within the region i.e. rings etc. from the local area which do not fall under the definition of smuggling. He further submits that the petitioner was invited by an organization namely "MOHENJOZ" in order to promote the minerals and Gems potential of Gilgit-Baltistan in national and international market. Per learned counsel, the respondents with the assistance of local police have illegally intercepted the goods in question which was being transported within Gilgit-Baltistan. The respondents after taking into possession the articles in question, did not register criminal case against the petitioner which was mandatory in the eyes of law. He submits that the articles were importable and the seizure is illegal and without lawful authority. The petitioner filed an application against the action of the respondents before respondent No. 01 i.e. the Chief Secretary, Gilgit-Baltistan but the same remained unattended. The petitioner being aggrieved by and dissatisfied with the illegal seizure of the aforementioned items, was constrained to file Writ Petition in the learned Chief Court. Upon hearing it was dismissed vide impugned Judgment. Per learned Counsel, the learned Chief Court fell in error by observing that the petitioner has

violated the Northern Areas Mining Concession Rules, 2003. He submits that the impugned judgment passed by the learned Chief Court is the result of misconception of law and misreading/ non-reading of the facts of the case. He prays that the impugned judgment may graciously be set aside being not tenable in law.

4. On the other hand, the learned Advocate General supports the impugned judgment. He contends that the petitioner, no doubt, is a Non- Governmental Organization (NGO) working in social welfare side but its activities are against the law of the land & are not permitted. The petitioner with the pretext of the exhibition was trying to smuggle out the precious stones from Gilgit-Baltistan to down country. Per learned Advocate General, when the police deputed at Bassari Check Post, seized the items in question, no one come forward to claim the ownership of the said articles. He submits that the petitioner claimed ownership of the said articles belatedly in order to save itself from criminal prosecution. He further contends that an attempt to smuggle the said articles was made by the petitioner to down country which was foiled by the law enforcing agency. The petitioner has admittedly, no licence of mining to excavate gem stones in this region. He submits that the learned Chief Court has rightly dismissed the Writ Petition of the petitioner being meritless, hence, the same is required to be maintained.

5. We heard the learned counsels for the respective parties at length, perused the material on record and gone through the

impugned judgment. In our considered view, the impugned judgment is well reasoned. Further, the learned counsel for the petitioner could not point out any infirmity in the impugned judgment.

6. In view of the above discussions, we dismiss this appeal. Consequently, the impugned judgment dated 16.03.2016 in Writ Petition No. 18/2015 passed by the learned Chief Court is affirmed.

7. The appeal is dismissed in above terms.

Chief Judge.

Judge.