

**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. 24/2017
In
CPLA No. 49/ 2017**

Abdul Jabbar & 02 others

Petitioners.

Versus

Subhan Mir & 11 others

Respondents.

PRESENT:-

1. Mr. Muhammad Hussain Shehzad Advocate alongwith Mr. Latif Shah Advocate and Mr. Rehmat Ali Advocate-on-Record for the petitioners.
2. Mr. Manzoor Ahmed Advocate alongwith Mr. Shakoor Khan Advocate and Mr. Ali Nazar Khan Advocate-on-Record for respondents.

DATE OF HEARING: - 10.04.2018.

JUDGMENT.

Dr. Rana Muhammad Shamim, CJ..... This petition has been directed against the impugned order dated 01.03.2017 in Review Petition No. 281/2016 in Writ Petition No. 92/2016 whereby the said Review Petition was allowed by setting aside the order dated 09.09.2016 passed by a Division Bench of the learned Chief Court and directed its own office for impleading some other persons as respondents, hence, this petition for leave to appeal. This court vide order dated 15.06.2017 granted leave to appeal. The notices were issued to the respondents and the case is heard today.

2. Briefly, the facts of the case are that the respondent No. 09 to 12 advertised posts of male Elementary School Teacher (EST)

BPS-14 for Zian hard area District Astore through daily newspaper dated 02.02.2016 inviting the applications from interesting persons. The petitioners submitted their application against the said advertised posts and qualified the written test conducted by National Testing System (NTS). The respondent No. 09 to 12 had directed the petitioners to submit their documents and accordingly the petitioners submitted the attested photocopies of requisite documents. Later on, the respondent No. 09 to 12 conducted the interview from the candidates of UC Qamri and hard area Zian separately. In the meantime, it comes in the knowledge of the petitioners that the respondent No. 09 to 12 has displayed a list in which the hard area of Zian has not been mentioned. Subsequently, the Zian hard area was merged with whole area of UC Qamri. The petitioners being aggrieved filed Writ Petition No. 92/2016 in the learned Chief Court which upon hearing was allowed vide order dated 09.09.2016. Later on, some other stranger persons (respondent No. 01 to 08) filed Review Petition No. 281/2016 before the learned Chief Court. Upon hearing, the learned Chief Court converted the said Writ Petition into an application under Section 12(2) CPC and allowed the same by setting aside the order dated 09.09.2016 in Writ Petition No. 92/2016 filed by the petitioners.

3. The learned counsels for the petitioner submit that the petitioners are entitled for appointment against the posts of EST BPS-14 Zian Hard Area being fulfillment of criteria given in the advertisement dated 28.02.2016. They also submit that the

respondent No.09 to 12 malafidely merged the Zian Hard Area into UC Qamri and the only candidates belonging to Zian Hard Area can deliver the services to the students very much better than the candidates of other area. Per learned counsels, the respondents deviated their own issued/published advertisement and had issued a list of candidates belonging to Qamri Minimerg area, Kalish, GratNala and Sheikh Pura including the names of the petitioners which was/is against the law, natural justice and fundamental rights. They add that the Review Petition filed by eight (08) other persons who were strangers have no locus standi to file the same. They reiterate that the petitioners in the same Review Petition were ordered to be impleaded as respondents. Consequently, after impleading the same strangers in Review petition, the same was allowed vide impugned order dated 01.03.2017. They further submit that the strangers can not file the Review Petition and/or otherwise there must be grounds for a review petition as the scope of the review is limited only to the petitioners who initially filed a petition. In support of their contentions, they relied upon a case law reported as 1987 CLC, 1911. They submit that the learned Chief Court fell in error while converting the Writ Petition into an application under Section 12(2) CPC and the same is not tenable in law. They pray that the impugned order dated 01.03.2017 passed by the learned Chief Court may graciously be set aside by maintaining the order dated 09.09.2016 passed in Writ Petition No. 92/2016 by the learned Chief Court.

4. Conversely, the learned counsels appearing on behalf of the respondents support the impugned order passed by the learned Chief Court. They contend that the respondent No. 01 to 08 are the residents of the same hard area i.e. Union Council Minimerg. They also contend that the respondents are necessary party to Writ Petition No. 92/2016 and deserved to be impleaded. Per learned counsels, the learned Chief Court has rightly converted the Writ Petition into Review Petition under Section 12(2) CPC and the same is well reasoned and well founded. They pray that the impugned order dated 01.03.2017 may pleased be maintained.

5. We have heard the learned counsels for the respective parties at length, perused the material on record and gone through the impugned order passed by the learned Chief Court and also gone through the case law cited by the learned counsels for the petitioners. In our considered view, the impugned order dated 01.03.2017 passed by the learned Chief Court is not well reasoned and well founded being passed contrary to the law and facts of the case. The case law cited by the learned counsels for the petitioners is applicable.

6. In view of the above discussions, we allow this appeal. Consequently, the impugned order dated 01.03.2017 passed in Review Petition No. 281/2016 by the learned Chief Court is set aside and the order dated 09.09.2016 in Writ Petition No. 92/2016 passed by the Division Bench of the learned Chief Court is maintained.

7. The appeal is allowed in above terms.

Chief Judge.

Judge.