

**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. 42/2017

In

CPLA No. 32/2017.

Mst. Shehla Batool & others

Petitioners.

Versus

Mst. Amrood Begum & others

Respondents.

PRESENT:-

1. Mr. Mir Akhlaq Hussain Advocate alongwith Mr. Rehmat Ali Advocate-on-Record for the petitioners.
2. Mr. Munir Ahmed Advocate on behalf of the respondents.
3. Mr. Johar Ali Advocate/Legal Adviser Education Department Gilgit-Baltistan.

DATE OF HEARING: - 11.08.2017.

ORDER.

Dr. Rana Muhammad Shamim, CJ..... This petition for leave to appeal has arisen out of the impugned order dated 16.02.2017 in Civil Revision No. 12/2017 passed by the learned Chief Court whereby the said Civil Revision filed by the respondent No. 01 & 02 was accepted by restraining the official respondents to make appointment of any of the parties or any other person against the suit posts. The petitioners being aggrieved by and dissatisfied with filed this petition for leave to appeal. This court vide order dated 27.04.2017 issued notices to the respondents and the case is heard today.

2. Briefly the facts of the case are that the respondents filed a Civil Suit No. 46/2016 for declaration etc alongwith an application for temporary injunction under Order 39 Rule 1 & 2 CPC in the Court of learned Civil Judge Astore. Upon hearing the learned Trial Court dismissed the application for temporary injunction vide order dated 08.12.2016 which was upheld by the learned First Appellate Court Astore vide judgment dated 22.12.2016. The respondents being aggrieved preferred Civil Revision No. 12/2017 before the learned Chief Court which was allowed, hence, this petition for leave to appeal.

3. The learned counsel for the petitioners submits that the Education Department Gilgit-Baltistan advertised certain posts of Elementary School Teachers (EST) BPS-14 only for permanent residents of villages Gutumsir. He also submits that the petitioners and respondents No. 01, 02 & 09 appeared in the test/interview who secured highest marks in the said test/interview and placed on top of the merit list. Per learned counsel prior to their appointment/selection the petitioners submitted their complete documents including Permanent Residence Certificate (PRC) duly issued by the competent authorities which was one of the pre-requisite codal formalities for being eligible for the said posts. He submits that the respondents filed a Civil Suit No. 46/2016 for declaration etc alongwith an application for temporary injunction under Order 39 Rule 1 & 2 CPC in the Court of learned Civil Judge Astore which upon hearing was dismissed by the learned trial Court

vide order dated 08.12.2016 which was upheld by the learned First Appellate Court Astore vide judgment dated 22.12.2016. The respondents being aggrieved preferred Civil Revision No. 12/2017 before the learned Chief Court which was allowed. Per learned counsel the learned Chief Court fell in error while passing the said impugned order, hence, the same is not tenable and liable to be set aside. He prays that the impugned order dated 16.02.2017 in Civil Revision No. 12/2017 passed by the learned Chief Court may graciously be set aside to meet the ends of justice.

4. On the other hand, the learned counsel for the respondents supports the impugned order dated 16.02.2017 in Civil Revision No. 12/2017 passed by the learned Chief Court. He contends that since the eligibility of the petitioners has to be determined by the learned Trial Court, therefore, it is essential that the appointments of the petitioners be restrained in order to avoid any financial loss to the Government exchequer in case of non-eligibility of the petitioners for the said posts on the basis of their Permanent Residence Certificate (PRC). Per learned counsel the impugned order dated 16.02.2017 in Civil Revision No. 12/2017 passed by the learned Chief Court is well reasoned and well founded being passed in accordance with law and facts of the case, hence, the same is required to be maintained.

5. We have heard the learned counsels for the respective parties at length, perused the record of the case file and gone through the impugned order dated 16.02.2017 in Civil Revision No.

12/2017 passed by the learned Chief Court. Admittedly, not only the petitioners have been adversely affected but also the academic activities of the school have been disturbed due to non-availability of teachers by reversing the impugned order dated 16.02.2017 in Civil Revision No. 12/2017 passed by the learned Chief Court. The Government Functionaries can not be stopped to pass the administrative orders in order to run the affairs of school in public interest at large.

6. In view of the above discussions, we convert this petition into an appeal and the same is allowed. Consequently, the impugned order dated 16.02.2017 in Civil Revision No. 12/2017 passed by the learned Chief Court is set aside by maintaining the concurrent findings of the two Courts below.

7. The appeal is allowed in above terms.

Chief Judge.

Judge.