

**IN THE SUPREME APPELLATE COURT GILGIT-BALTISTAN,
GILGIT.
CPLA. No. 08/2015**

Before:-

- 1. Mr. Justice Raja Jalal-ud-Din, Chief Judge**
- 2. Mr. Justice Muzaffar Ali, Judge.**

Saif Ullah s/o Meher Shah r/o Sazeen District Kohistan KPK

Petitioner/Defendant.

Versus

1. Hafiz Ehsan ullah s/o Abdul Khabir r/o Gayal Darail District Diamer.
2. Provincial Government through Chief Secretary GB.
3. Deputy Commissioner/Collector Diamer.
4. Secretary Education Colleges GB.
5. Director Education Colleges GB.
6. Principal Ayub Medical College Abbottabad.

Respondents/Plaintiffs.

PETITION FOR LEAVE TO APPEAL UNDER ARTICLE 60 OF GILGIT-BALTISTAN (EMPOWERMENT & SELF GOVERNANCE) ORDER 2009 READ WITH ENABLING RULES OF GB SUPREME APPELLATE COURT AGAINST THE IMPUGNED JUDGMENT/ORDER DATED 26.02.2015 PASSED BY THE LEARNED CHIEF COURT GILGIT-BALTISTAN IN CIVIL REVISION NO. 07/2015 WHEREBY SETTING ASIDE THE JUDGMENT/ORDER OF VACATION DISTRICT JUDGE GILGIT DATED 13.02.2015, JUDGMENT/ORDER OF VACATION CIVIL JUDGE GILGIT DATED 05.01.2015 AND ALLOW THE PETITION FOR TEMPORARY INJUNCTION OF THE PETITIONER/PLAINTIFF FILED WITH SUITED AND PASSED TEMPORARY INJUNCTION TO THE EFFECT THAT THE DOMICILE CERTIFICATE ISSUED IN FAVOUR OF THE RESPONDENT NO. 1 WILL BE TREATED AS SUSPENDED TILL FINAL DISPOSAL OF THE SUIT. RESPONDENT NO. 2 TO 6 NOT TO ISSUE ANY FRESH DOMICILE CERTIFICATE IN FAVOUR OF THE RESPONDENT NO. 1 TILL FINAL DISPOSAL OF THE SUIT. RESPONDENT NO. 2 TO 6

RESTRAINING FROM MAKING ANY NOMINATION OF RESPONDENT NO. 1 TO THE SUIT SEAT TILL FINAL DISPOSAL OF THE SUIT WITHOUT ANY COGENT REASONS.

FOR SETTING ASIDE THE IMPUGNED JUDGMENT/ORDER DATED 26.02.2015 PASSED BY LEARNED CHIEF COURT GILGIT-BALTISTAN AND IMPUGNED JUDGMENT/ORDER DATED 05.01.2015 PASSED BY VACATION CIVIL JUDGE GILGIT AND FOR MAINTAINING JUDGMENT/ORDER OF VACATION DISTRICT JUDGE GILGIT DATED 13.02.2015, BY CONVERTING THIS PETITION FOR LEAVE TO APPEAL INTO APPEAL AND ACCEPTING THE APPEAL FOR THE ENDS OF JUSTICE, LAW AND EQUITY.

Present:-

1. Mr. Joher Ali Advocate for the petitioner.
2. Mr. Amjad Hussain Advocate for the respondent No. 1.
3. The Director College/Secretary Nomination Board Education Department GB.
4. The DD Nomination Education Department GB.

Dated of Hearing: 22-04-2015

ORDER

Mr. Justice Raja Jalal-ud-Din, CJ..... The instant petition for leave to appeal has been directed against the Order/Judgment dated 26.02.2015, passed by the learned Chief Court GB and order dated 05.01.2015, passed by the learned Vacation Civil Judge Gilgit. The brief facts of the case are as such that the present petitioner was nominated against the Medical seat reserved for District Diamer as the petitioner is domiciled resident of district Diamer and he had obtained higher marks than the marks obtained by the present respondent No. 1. The respondent No. 1 challenged

the bonafide residency of the present petitioner though suit No. 149/2014. The main suit is subjudice before the learned Civil Judge Gilgit but the interim matter traveled from Civil Court to this Court.

We after hearing the present petition for leave to appeal, honestly felt that if the matter is allowed to go through procedural formalities of the Courts than the reserved seat of Ayub Medical College Abbottabad will be lost and none of the parties will be able to avail the reserved seat in said Medical Collage as a short span of time is left to get the admission therein. We feel that the loss will be not only to the parties of the suit but it will affect the Gilgit-Baltistan at large. Therefore, we tried to resolve the matter amicably without going in to the procedural formalities and asked the parties to settle the issue between themselves. They were given various chances for the said purpose, which failed.

We intended to avoid any decision on merits, which would follow a lengthy procedure form civil Court up to this Court. Meanwhile, the Secretary Education Gilgit-Baltistan Mr. Sana Ullah came to rescue and proposed to accommodate both the candidates by the formula that on candidate to be nominated this year and the other to be nominated in the next session. We appreciated the proposal as it is plausible and the parties of the petition have also consented to the proposal.

Since, the present petitioner has already been nominated against the reserved seat for district Diamer in Ayub Medical Collage Abbottabad, as such, we allow the nomination of the

present petitioner in the said Medical Collage against the reserved seat of District Diamer Gilgit-Baltistan for this session. We also declare that the present respondent No. 1 shall be entitled to get admission in Ayub Medical Collage against a reserved seat for Diamer District in the next year. We have taken cognizance matter in exercise of the original jurisdiction of this Court and we disposed the suit No. 149/2015 calling the file of the suit in terms of the above stated settlement.

In view of the matter, the instant leave to appeal is disposed of in the above terms.

Chief Judge

Judge