

JUDGMENT SHEET

**PESHAWAR HIGH COURT
MINGORA BENCH
(Judicial Department)**

**W.P. No. 862-M/2021
With CM No.1735-M/2021
A/W C.M. No. 1806-M/2021
(for impleadment)**

JUDGMENT

Date of hearing:- 01.02.2022

Petitioners:- (Amir-ul-Mulk & others) by Mr. Muhib Ullah Tarichvi, Advocate.

Respondents:- (Govt: of KPK & others) by Mr. Haq Nawaz, Aastt: A.G. and Mr. Rahim Ullah Chitrali, Advocate for applicants of C.M. 1806-M/2021 along with Mr. Sheroze Mufti Assistant Commissioner Revenue Chitral Lower, in person.

WIQAR AHMAD, J.- Petitioners have filed the instant constitutional petition under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973 praying for the following prayer;

"It is therefore, most humbly prayed that on acceptance of the instant writ petition, in exercise of the extraordinary constitutional jurisdiction, this Hon'ble Court may graciously be pleased to;

- a) *Declare the order/action initiated by the respondent No.4 issued office notification bearing No. 7308-36/F.No.490/Vol/SST (M) complaints Karak; Dated 11.08.2021 and subsequently DPC held on dated 01.09.2021 through order dated 17.09.2021 bearing No. 1179-99/F-DPC Junior to Sr. Cadre/2021; to the extent of promotion of District Upper & Lower Chitral employees (Male & Female) are illegal without lawful authority, discriminatory, without jurisdiction, violation of rights of petitioners and against the principle of natural justice and further direction to respondents to transfer the district cadre employees of Upper Chitral working in Lower Chitral to their own districts as according to their domicile of initial / first appointment.*

- b) *Direction to the Government of Khyber Pakhtunkhwa to constitute an independent committee for the bifurcation process of employees of district cadre working in different department in District Upper and Lower Chitral.*
- c) *Any other writ/order/direction deemed proper and just in the circumstances of the case may also be issued/order/given."*

2. The matter relates to distribution of seats in various establishments of the provincial government as well as the local governments of Chitral Lower and Chitral Upper. The matter has not yet been conclusively decided at departmental end and therefore it would not be appropriate for this Court to intervene in an administrative matter which is not ripe for decision of this Court. In the case of "Sh. Ajaz Rasool vs. Vice Chancellor, Karachi University, Karachi and 3 others" reported as 1999 CLC 1942, Hon'ble Sindh High Court while seized with a situation akin to the present one, had held petition of the respective petitioner as non-maintainable being pre-mature for the reason that same had been filed at a stage when the matter had not been finalized at departmental end. Relevant findings given in said judgment are reproduced hereunder for ready reference;

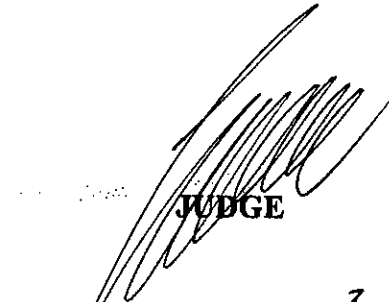
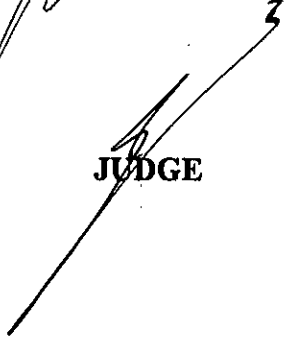
"The second ground on which the petition merits dismissal is that the writ petition is obviously premature. As we have earlier stated, in this case only a show cause had been served upon the petitioner and a writ petition, therefore, in such a situation would not be competent.

In the instant case, as we have already observed hereinabove, only a meeting of the Syndicate was called to consider the report of the three members Committee. Neither any notice was issued to the petitioner nor any action was taken against him. As such, this petition is premature and the jurisdiction of this Court under Article 199 of the Constitution, could not be invoked as the petitioner is not an aggrieved person as envisaged in the said Article.

When learned counsel for petitioners was confronted with this situation he requested that the matter may be placed before the appropriate authorities for consideration. Request is justified. The instant writ petition is therefore ordered to be converted into a departmental representation pending before the Secretary Establishment Government of Khyber Pakhtunkhwa, who shall look into the matter in its entirety and provide guidelines to administrations of the two Districts for proceeding according to law. He may take onboard concerned heads of the departments which have already been devolved to the District Government. Needful may be done within a period of three months of receipt of copy of this order. Office is directed to send copies of the entire record of the instant writ petition along with order of this Court to the Worthy Secretary Establishment Government of Khyber Pakhtunkhwa for

consideration. The instant writ petition is accordingly disposed of.

Announced
Dt: 01.02.2022


JUDGE

JUDGE

Handwritten:
11/02/2022