

**HIGH COURT OF AZAD JAMMU AND KASHMIR**

Writ Petition No. 3139/2023.

Date of institution 20.11.2023.

Date of decision 23.12.2023.

1. Aman Pazir Qureshi S/o Sajid Pervaiz Qureshi R/o Ward No.2 near Police Station, Bhimber;
2. Adi Pazir Qureshi D/o Sajid Pervaiz Qureshi R/o Ward No.2 near Police Station, Bhimber.

... Petitioners

VERSUS

1. Chairman Joint Admission Committee Muzaffarabad Azad Jammu and Kashmir;
2. Member Joint Admission Committee Muzaffarabad Azad Kashmir;
3. Azad Govt. through Chief Secretary Azad Jammu and Kashmir.

... Respondents

**WRIT PETITION**

**Before:- Justice Sadaqat Hussain Raja, C.J.**

**PRESENT:**

Raja Sajjad Ahmed Khan, Advocate for petitioners.

Nemo for the respondents.

**JUDGMENT:**

The supra titled writ petition has been addressed under Article 44 of the Azad Jammu & Kashmir Interim Constitution, 1974, whereby, a direction is sought to the respondents to place the name of the petitioners on the tentative/provisional merit list for reserved seats of the session 2023-24.

I have heard the preliminary arguments on behalf of the petitioners and perused the record carefully.

The case of the petitioners is that they scored the aggregate of more than 88% and 84%, respectively, however, the respondents/competent authority have committed illegality while not adding their names on the tentative/provisional list, therefore, the impugned list is liable to be suspended.

To reach the just conclusion of the case, it is more appropriate to reproduce the conditions mentioned in the tentative/provisional list of District Refugee, 1947, for Session 2023-24 dated 10 November, 2023 as under:-

- “(1). This list is absolutely provisional and is subject to correction/revision/amendment in case of any bonafide error, omission, lapse, mistake, fraud or misrepresentation that occurs or is brought to the notice of Joint Admission Authorities within due time;
- (2). Mere figuring in this order of merit shall not confer any right on the candidate if he/she is otherwise found ineligible on detention of any error/mistake/fraud/misrepresentation at any stage of admission;
- (3). Candidates can make a written representation to Joint Admission Committee against any error, omission, lapse, mistake, fraud or misrepresentation in this provisional

merit list from 13-15 November 2023 (before 03:00 PM). Candidate must attach a documentary proof (e.g result card etc) in support of his/her claim otherwise the complaint shall be rejected;

(4). No complaint/application shall be entertained that is received at 04:00 PM on 15<sup>th</sup> November 2023;

(5). After necessary corrections/amendments, the final merit list and selection lists shall be displayed as per schedule;

(6). The name of candidate not deposited their fee are not included in this merit list;

(7). Candidate Result awaiting of MDCAT shall be include in list after conducting of test.”

(Underlining is mine)

The petitioner Amin Pazir Qurehsi has attached his Intermediate Examination Result Card issued by the Board of Intermediate and Secondary Education Mirpur, as Annexure “A” with paper book at page 09 which transpires that he passed his Intermediate Examination from Insight Model College Bhimber. Another result Card of Intermediate Examination of Adi Pazir Qureshi has also been attached with the writ petition which also transpires that she also passed her Intermediate Examination from Insight Model College Bhimber as regular student. Father of petitioner Sajid Pazir

Qureshi filed an application before the Deputy Commissioner Rehabilitation for issuance of Entitlement Certificate (Istiqaq Certificate). The Deputy Commissioner Rehabilitation issued Entitlement Certificate (Isteqaq Certificate) in favour of petitioners.

The petitioners have also attached Effectees Certificate Mangla Dam with the writ petition which has been issued in their favour. The relevant certificate is as under:'

کمشنر میرپور ڈویژن (شعبہ امور منگلا)  
میرپور (آزاد جموں و کشمیر)  
سٹوکیٹ متاثرہ منگلا ڈیم۔

بروئے رپورٹ کلکٹر امور منگلا ڈیم زیر نمبر ایم ڈی آر پی اسی ایل اے میرپور  
2023/132 مورخہ 16.02.2023 مسمی محمد پندیر ولد عبد الحمید کی اراضی واقع موضع چوکھ تحصیل میرپور  
ازاں کھاتہ کسٹوڈین منگلا ڈیم کی ابتدائی تعمیر کے وقت متاثر ہو چکی ہے جس کا معاوضہ زیر آسامی نمبر 271 مرتب  
ہو کر ادا ہو چکا ہے۔ بدیں وجہ عدی پندیر قریشی ولد ساجد پندیر قریشی ساکن وارڈ نمبر 02 نزد پولیس اسٹیشن بھمبر،  
متاثرہ منگلا ڈیم کے ذمرہ میں آتا ہے۔

کمشنر (منگلا ڈیم افیئرز میرپور)

The petitioners claim that they are Mangla Dam Effectees and their family got affected due to Mangla Dam Project. A certificate has been issued by Commissioner Mangla Dam Affairs Mirpur has also been attached with the writ petition. A perusal of certificate issued by Commissioner Mangla Dam Mirpur transpires that the family of petitioners was effected by the construction of Mangla Dam but

categorically mentioned that their family has not settled in Pakistan and they are residing in Azad Jammu and Kashmir District Bhimber. In a case reported as 2013 SCR 795 titled Imran Ali Vs Public Service Commission, Azad Jammu and Kashmir, the Hon'ble Supreme Court has directed the Government to immediately provide a mechanism while making arrangements for equal protection of rights including the right of service and admission in professional Colleges/Universities of Azad Jammu and Kashmir and Pakistan for the category of State Subjects who are displaced due to construction of Mangla Dam or any other national cause and settled in Pakistan. The relevant portion of the judgment is as under:

We hereby direct the Government to immediately provide a mechanism while making arrangements for equal protection of rights including the right of service and admission in professional Colleges/Universities of Azad Jammu and Kashmir and Pakistan for the category of State Subject, who are displaced due to construction of Mangla Dam or any other national cause and settled in Pakistan. The needful shall be done within two months. If the appellant falls in the merit position after interview, the P.SC shall sent recommendations for his appointment against the seat reserved for category he is placed.

In compliance of direction of the Hon'ble Supreme Court the amendment was made in Interim Constitution 1974.

As per Article 22(iii) of the Interim Constitution, 1974, only those persons fall in the definition of Mangla Dam Effectees who are residing now in any province of Pakistan. The Article 22(iii) of Interim Constitution 1974, is as under:

22. (1
- (i).....
  - (ii).....
  - (iii) six members to be elected from amongst themselves by such of the State Subject from occupied areas of districts of Jammu, Kathua, Reasi, Udhampur, Poonch State and Mirpur as existence on the 14<sup>th</sup> day of August 1947 and Mangla Dam Effectees who are now residing in any of the province of Pakistan.

A bare reading of above-reproduced judgment of Apex Court and Article of Interim Constitution reveal that the effectees of Mangla Dam must be residing in any province of Pakistan. It is established from the record appended with the writ petition they are Mangla Dam effectees but they do not fall for any relief which is specified for Mangla Dam Effectees who are residing in Pakistan. The petitioners are residing in District Bhimber they should be considered against the quota of District Bhimber rather against the quota of Mangla Dam Effectees residing in Pakistan. So, the petitioners have not attached any reliable documents with the writ petition, which strengthen their claim that they are residing in any of the Province of Pakistan now, hence, the writ petition is not maintainable.

The outcome of the forgoing reasons is that the instant writ petition, having no statutory backing, stands dismissed in limine.

Muzaffarabad.  
23.12.2023

**CHIEF JUSTICE**

**Note**:- Judgment is written and duly signed. The office is directed to intimate the parties or their counsel.

**CHIEF JUSTICE**

Approved for Reporting.

**CHIEF JUSTICE**