

HIGH COURT OF AZAD JAMMU & KASHMIR

Writ Petition No.1617/2022.

Date of institution. 18.04.2022.

Date of decision 26.07.2022.

Fiyaz Haider Nawabi, Advocate Supreme Court Mirpur Member
Azad Jammu & Kashmir Bar Council.

....Petitioner

VERSUS

1. Chief Secretary Azad Jammu & Kashmir Government, Civil Secretariat Muzaffarabad.
2. Secretariat Services and General Administration Azad Jammu & Kashmir Government through Secretary Services and General Administration Civil Secretariat, Muzaffarabad.
3. Secretariat Inland Revenue, Azad Jammu & Kashmir Government through Secretary Inland Revenue, Civil Secretariat Muzaffarabad.
4. Azad Jammu & Kashmir Government through Secretary Inland Revenue, Azad Jammu & Kashmir.
5. Board of Inland Revenue, Azad Jammu & Kashmir Government through Chairman Board of Inland Revenue, Azad Jammu & Kashmir Civil Secretariat.
6. Mushtaq Ahmed Tahir S/o Ghulam Rasool [District & Session Judge presently Registrar High Court of AJ&K] R/o Shahidan Wali Tehsil and District Mandi Bahaudin.

.....Respondents

WRIT PETITION

Before:- ***Justice Mian Arif Hussain, J.***
 Justice Syed Shahid Bahar, J.

PRESENT:

Raja Muhammad Hanif Khan, Advocate for the petitioner.

A.A.G for the official respondents.

Mr. Tahir Aziz Khan, Advocate for respondent No.6.

Judgment:-

(Justice Syed Shahid Bahar, J). The captioned constitutional petition has been filed by the petitioner under Article 44 of the Azad Jammu & Kashmir Interim Constitution, 1974 wherein he beseeched the prayer as infra:-

“It is, therefore, respectfully prayed that while restraining the respondents from withdrawing the process of the appointment of the petitioner as well as the approval of the Competent Authority dated 21.02.2022, the Chief Secretary, respondent No.1 individually and all the functionaries respondents may kindly be directed to notify the approval of the Prime Minister dated 21.02.2022 and the appointment of the humble petitioner to the office of Chairman Appellate Tribunal Inland Revenue Azad Jammu & Kashmir may kindly be notified. Any other relief which is admissible in accordance with law and the petitioner did not prayed the same may kindly be granted in the interest of justice.”

1. **PRECISE FACTS OF THE LIS IN HAND:-**

2. The petitioner is 1st Class State Subject, Advocate of Supreme Court of AJ&K and was an elected Member of the Azad Jammu & Kashmir Bar Council as well as remained the Vice Chairman of the Azad Jammu & Kashmir Bar Council. It is averred that **Section 130 of Income Tax Ordinance, 2001** and rules framed there under i.e. **Appellate Tribunal Inland Revenue Rules, 2020** provide the procedure & mechanism for the appointment of Chairman and Members of Appellate Tribunal Inland Revenue. It is

contended that the office of Chairman was lying vacant, hence, the Competent Authority initiated the process for the appointment of the Chairman Appellate Tribunal Inland Revenue. It is averred that the Hon'ble Chief Justice of Azad Jammu & Kashmir and the Hon'ble Chief Justice of the High Court of Azad Jammu & Kashmir recommended the name of the petitioner alongwith others for the appointment as Chairman Appellate Tribunal Inland Revenue in accordance with law. It is contended that upon the recommendations of both the Hon'ble Chief Justices, the worthy Prime Minister of Azad Jammu & Kashmir (Competent Authority) accorded approval on 21.02.2022 for the appointment of the petitioner as Chairman Appellate Tribunal Inland Revenue and the relevant file was sent to the Chief Secretary of Azad Jammu & Kashmir Government for issuance of formal notification but the Chief Secretary firstly procrastinated the matter and later on submitted a note to the Prime Minister for withdrawal of the approval dated 21.02.2022. It is further contended that the worthy Prime Minister rejected the note of the Chief Secretary and directed the Chief Secretary to notify the appointment of the petitioner. It is maintained that despite the lawful process of the appointment of petitioner as Chairman Appellate Tribunal Inland Revenue of Azad Jammu & Kashmir, the Chief Secretary with *mala-fide* intention delayed the matter intentionally. It is averred that

petitioner submitted applications to the Chief Secretary and to all other concerned to provide the copy of the process for the appointment alongwith other record but the same have not been provided to him, hitherto.

II. **ENSUING PROCEEDINGS:-**

3. Instant writ petition was admitted for regular hearing vide order dated 01.06.2022 and respondents were directed to file written statement on or before 27.06.2022, hence, needful was done by respondents and in reply the replication has also been filed on behalf of petitioner.

III. **ASSERTIONS SET FORTH BY THE PETITIONER:-**

4. Mr. Raja Muhammad Hanif Khan, the learned counsel for the petitioner reiterated the facts and grounds narrated in the writ petition and fervently contended that the process for appointment of the petitioner as Chairman Appellate Tribunal Inland Revenue of Azad Jammu & Kashmir was initiated in accordance with law and rules on the subject and after recommendations of both the Hon'ble consultees i.e. Esteemed Chief Justice of Azad Jammu & Kashmir and Revered Chief Justice of High Court AJ&K resultant of which, the worthy Prime Minister (competent authority) accorded the approval on 21.02.2022, but the Chief Secretary against the law and rules, submitted the note on file for withdrawal of the approval of worthy Prime Minister

dated 21.02.2022. The learned counsel argued that formal notification has not been issued in favour of petitioner and mater has been delayed due to one or the other reasons by the respondents. The learned counsel maintained that all legal requirements were fulfilled for the appointment of the petitioner to the office of Chairman Appellate Tribunal Inland Revenue, whereas, note of the Chief Secretary was in stark violation of Section 130 of the Income Tax Ordinance, 2001 read with the rules on the subject as adopted in Azad Jammu & Kashmir. The learned counsel in support of his claim referred to and relied upon the following case law with brief points:-

1. 2015 SCR 860.
2. 2019 SCR 391.
3. PLD 2012 SC AJK 42.
4. 2015 SCR 238-B.
5. 1995 SCR 374 at page 377.
6. 1999 SCR 204 para 8(2).
7. 2004 SCR 329 at page 335 & 336.
8. 2017 SCR 236 at page 240.
9. 2019 SCR 703 at page 706.
10. 2015 SCR 123.
11. 2021 SCR 665.

5. In the cases reported as 2015 SCR 860 titled Ziab-un-Nisa Vs. Tahira Khanum & 5 others and 2019 SCR 391 titled Khizar Abbas Vs. Azad Govt. and others listed above, the Hon'ble Apex Court of Azad Jammu & Kashmir held that *if during pendency of any lis before judicial forum, any of the party, due to subsequent events, requires to take some action, he/she must approach to the*

concerned judicial forum and seek its permission. Taking such actions which directly or indirectly amount to interfere in the subject matter of the case pendente lite before the forum, is totally against the law and principle of administration of justice. The learned counsel for the petitioner submitted that approval of the competent Authority was withdrawn after filing of writ petition, hence, the respondents have negated the dictum of the Apex Court as well as violated the provision of rule 11 of Rules of Business. The learned counsel also placed reliance on the case law reported as **PLD 2012 SC AJK 42, 2015 SCR 408 and 2021 SCR 238-B**, wherein it has been laid down that when a particular method for performance of an act was prescribed under an Act or Rules, then such act must be performed according to that particular method or not at all. The learned counsel vehemently argued that Public Functionaries must act justly, fairly and in accordance with law, in this regard he placed reliance on 2010 PLC (CS) 266 (A&D) relevant page 274 and 2011 PLC (CS) 836 (E) relevant page 841-E. The learned counsel pointed out that the writ petition is competent for implementation of the order of Prime Minister and placed reliance on the cases reported as 1995 SCR 374 and 1999 SCR 204. Finally, the learned counsel prayed that by accepting the instant writ petition, the respondents may be directed to notify the approval of the worthy Prime Minister of Azad Jammu & Kashmir dated

21.02.2022 and appointment of Petitioner may be made accordingly.

IV. **ASSERTIONS DELINEATED BY THE OFFICIAL RESPONDENTS:-**

6. The learned A.A.G appearing on behalf of official respondents while controverting the arguments of the learned counsel for the petitioner contended that the procedure, mechanism and requisite qualifications regarding constitution of Appellate Tribunal Inland Revenue and appointment of its Judicial Member/ Chairperson and other Members have duly been prescribed in Section 130 of Income Tax Ordinance, 2001 read with “the Appellate Tribunal Inland Revenue (Appointment of Chairperson and Members) Rules, 2020”. The learned A.A.G further contended that no malafide intention of respondent No.1 was involved rather the respondent No.1 highlighted the legal position and legal requirements involved in the matter, while the noting of respondent No.1 was recorded on legal footage and on administrative grounds as well as to safeguard the supremacy of law. The learned A.A.G staunchly contended that as no order has been issued against the petitioner, hence, the writ petition is premature and petitioner has no locus standi to file this writ petition. The learned A.A.G prayed for dismissal of the writ petition.

V. **ASSERTIONS PROFFERED BY THE RESPONDENT NO.6.**

7. Mr. Tahir Aziz Khan, the learned counsel for respondent No.6 in reply of the arguments of the learned counsel for the petitioner contended that the writ petition is legally incompetent as the post/ assignment of the Chairman Appellate Tribunal Inland Revenue Azad Jammu & Kashmir is a functional post of a judicial Officer/Judge which is not an assignment of executive or administration/civil servant, therefore, the sanctity attach to a Judge demands that a person should not adopt a way to get his appointment on his sweet will, so seeking appointment on the post of Chairman Inland Revenue is bad in law rather it amounts to frustrate the fair play of justice, supremacy of law and merit system. The learned counsel vehemently argued that under the due procedure / provisions of Rules of Business the concerned respondents duly submitted the initial approval before the competent authority, upon which the relevant authority reviewed the same and accordingly proceeded further in the matter, moreover, the petitioner concealed the matter from this court despite the fact that it is celebrated principle of law that apart from the provision in Rules of Business, independent power to withdraw the order passed by the Prime Minister (Competent Authority) was available to him under Section 21 of the General Clauses Act, 1897. The learned counsel enthusiastically contended that the petitioner is not an aggrieved person in the eye of law,

hence, writ petition is liable to be dismissed. He submitted that petitioner did not array the necessary parties including the competent authority in the writ petition, so, the writ petition is also dismissed on this sole point too. The learned counsel pointed out that on one hand the petitioner claims to be appointed as Chairman Appellate Tribunal Inland Revenue but on the other hand, in order to substantiate his claim he is unable to bring on record few reported cases even a single reported case of Inland Revenue and also failed to provide any detailed cause list of Inland Revenue cases in order to substantiate that he remained in practice of the cases of Inland Revenue on the basis of which he can strengthen his claim of competence. The learned counsel submitted that in Pakistan the post of Judicial Member/ Chairman Inland Revenue is used to be filled through Federal Public Service Commission (FPSC) by having due Selection Process through advertisement in Daily newspapers. The learned counsel staunchly contended that the petitioner failed to narrate that the Hon'ble Chief Justice of Azad Jammu & Kashmir being consultee recommended four names in the panel for post in question to the worthy competent authority, hence, the competent authority is legally/ fully competent to make appointment of any candidate out of the panel of four and competent authority has choice under law to make appointment of any one candidate among four

candidates. The learned counsel finally prayed for dismissal of the writ petition by referring following case law:-

1. PLD 1973 Supreme Court 144.
2. 2000 SCR 97.
3. 2016 SCR 1599.
4. 2013 SCR 1176.
5. 2014 SCR 995.
6. 2003 SCR 142.
7. 1997 SCR 389.

8. **We have heard the learned counsel for the parties as well as the learned A.A.G and gone through the record of the case with relevant law on the subject.**

VI. **ADJUDICATION BY THE COURT:-**

9. Be that as it may the powers of the Executive and the Legislature or even of the Judiciary being themselves the creation of the Constitution must operate within the spheres of their allotted jurisdiction.

10. Unless there is a clear constitutional provision prohibiting the interference by the Courts all constitutional process prescribed under the Constitution or for that matter under any Subordinate Law are capable of being enforced by the Courts of law.

11. Through the course of interpretation the principle of law enunciated by the superior Courts are called Judge-made law having biding effect upon all the functionaries and branches of government.

It has been held in chain of precedents that:-

- (I) A thing which is prescribed to be performed in a particular manner can only be done in the same manner otherwise performance of act contrary is nullity.
- (II) A thing which cannot be allowed to perform directly cannot be done indirectly.

Well said by someone that if men are angels there would be no need of government meaning thereby that an err is human.

12. Our Constitution is practically based upon doctrine of trichotomy of powers i.e. trias politica indicating the troika as Legislature, Judiciary and Executive. Law making is purely job of the Legislature while interpretation of the Constitution & Laws made there under is assigned to Judiciary as well as power of judicial review over the executive action, whereas implementation of laws and execution is duty of the Executive.

13. The Executive is not above law and it must when called upon to defend its action show the legal authority when it derives the source of its powers, if however, it is not able to show this, its acts in so far as they conflict with legally protected interests of individuals or groups, must be declared by Courts as being beyond its jurisdiction and authority in this context.

14. Now coming back to the saga of factual matrix of the lis in hand, it is abundantly crystal clear that Appellate Tribunal Inland Revenue (Appointment of Chairperson and Members) Rules, 2020 occupying the field equally provides room qua appointment of an advocate (having ten years practice as such) against the slot in question inter alia District Judges without introducing any preferential edge to the District Judges by any way or making any distinction in this regard.

a. **MODUS OPERANDI FOR APPOINTMENT OF CHAIRMAN ILR**

15. The law governing the matter of appointment of the Chaimran (Appellate Tribunal Inland Revenue) is Income Tax Ordinance 2001 and Rules made therein under i.e. The Appellate Tribunal Inland Revenue (Appointment of Chairman & Members) Rules 2020 (hereinafter shall be called as rules).

It is useful to reproduce the Section 130 (3) of the Income Tax Ordinance as well as relevant rule 3 of the Appellate Tribunal Inland Revenue Rules, 2020.

- 130. **Appellate Tribunal** (1)
- (2)
- (3) No person shall be appointed as judicial member of an Appellate Tribunal Inland Revenue unless he-
 - (a) has been a Judge of a High Court;
 - (b) is or has been a District Judge; or
 - (c) is an advocate of a High Court with a standing of not less than ten years; or
 - (d) possesses such other qualification as may be prescribed under sub-section (2) of this section.

Rule 3 of “the Appellate Tribunal Inland Revenue (Appointment of the Chairperson and Members) Rules, 2020 describe the manner of appointment of the Judicial Member of the Tribunal as under:

3. **Manner of appointment.**--- (1) No person shall be appointed as a judicial member of the Tribunal unless he—

(a) is a citizen of Pakistan;

(b) is of good mental and bodily health and free from any physical defect likely to interfere with discharge of his duty and for that purpose he shall be required to obtain a physical fitness certificate from authorized medical board before assumption of charge as member;

(c) has by a competent court of law not been convicted for an offence of moral turpitude;

(d) has by a competent court of law not been declared as un-discharged insolvent;

(e) has not been dismissed from service of Pakistan;

(g) has not been guilty of and for that purpose a penalty has not been imposed upon him for indiscipline, misconduct or corruption while in service of Pakistan and in case such penalty is imposed during his appointment as member it shall be a valid ground for his removal from office of the member; and

(h) he—

(i) has been a Judge of a High Court;

(ii) is or has been a District Judge; or

(iii) **is an advocate of a High Court with a standing of not less than ten years.** (*emphasis supplied*)

(2) The appointment of a judicial member shall be for a period of three years.”

16. As the Executive Function evidently includes the initiation of legislation as well as framing of sub-ordinate legislation, thus deviation from rules in garb of mere past practice is a flabbergasting state of affairs. Class and area of selection has stood determined by the law from which a selection for panel can be made without any distinction and thereafter the name of the

petitioner was once approved among the other candidates by the competent authority, thus, the matter could not be re-opened and revisited by Executive authority in garb and guise of mere hypothesis and reasoning alien to the rules, it inter alia amounts to discard the wisdom of Hon'ble Judicial Consultees.

17. It is pertinent to mention here that for doing complete justice we have summoned the original record pertaining to processing of the matter. Gist of reasoning furnished by the relevant quarters for revisiting the name of the petitioner are useful to reproduce infra:-

- (i) CBRS appellate tribunal has never seen a non-Judge as its Chairman and too many experiments simultaneously might prove to be counter productive.
- (ii) In the history of tribunal, its Chairman had always been a Session Judge.

18. Discarding the name of the petitioner on the strength of above reasons, is deviation from rules, particularly clause (h)(iii) of sub-rule (1) o Rules 202, clear cut discrimination, besides impliedly questioning and discarding the wisdom of Hon'ble Judicial Consultees, thus same militates against the command of Constitution.

19. Drawing a zigzag upon straight road map indicated by the Rules, cannot be allowed, rational behind discarding name of

the petitioner is merely an apprehension, wish and whim and nothing more than that, such jurisdiction is tantamount to arbitrary classification (having no nexus with the scheme of rules). Rules recognizes two classes for selection of panel against the Chairman Appellate Tribunal Inland Revenue i.e. from Session Judges simultaneously from Advocates, no classification, preference or if and but is provided in the relevant Rules.

Question before us is whether answering respondents can declass and disqualify the petitioner on the logic exposed supra in black and white?.

20. After deep deliberation, answer is in negation as it amounts to derail and fragile the scheme of concerned Rules on the basis of an opinion (which cannot override or replace plain language employed in the rules), proper recourse in such like eventuality was to get the rules amended by adopting due process of law initiating matter quo revisiting the rules by this angle instead of embarking upon the matter in an arbitrary fashion.

21. After perusal of record appended with the case as well from the file summoned, we are of the considered opinion that reasoning furnished and exposed by the relevant quarters is arbitrary, superficial, preposterous, having no rational nexus with the existing rules, more so offending the wisdom of Hon'ble Chief Justice of Azad Jammu & Kashmir (as being Judicial Consultee)

reasoning so given directly hit the qualification already judged and approved by the Hon'ble Judicial Consultee.

22. Now we deal with the objection raised by the other side. Mr. Tahir Aziz Khan, learned Advocate vehemently pressed the objection of misjoinder of parties by alleging that as the subsequent approval has been accorded by the worthy Prime Minister, hence, he was a necessary party in the lis but he was not arrayed as a party by the petitioner as well. He further added that petition is premature and no vested right was created in favour of the petitioner, hence, the authority was competent to revisit the matter.

23. We would like to advert to the issue of maintainability in this place, as the proceedings impugned are palpably against the rules, thus, technicalities cannot be allowed to stand in the way of Justice even otherwise proceedings carried on after taking cognizance by this Court and despite issuance of status-quo are simply liable to be ignored having no legal consequences, that too notification is yet to be issued, Govt. is already a party in the lis, rebound and revisit of process is an intra departmental proceedings, thus, the objection is overruled and discarded.

24. It is germane to mention here that Codified Statutory Rules are in field, the normal practice or for that matter policy in deviation of the rules cannot be given preference over rules, in the

instant matter how the unwritten policy in guise of practice can be allowed to prevail.

25. No cavil with the proposition that the authority having power to issue any legal instrument by way of notification/ order etc. is also clothed with powers to undo the same if decisive step has not been taken, this power takes breath from **Section 21 of the General Clauses Act, 1897**. It provides the General law of locus poenitentiae that power to issue includes power to add, to amend, vary or rescind, any order enactment, rules, bye-laws etc. made by issuing agency meaning thereby that relevant authority is simultaneously equipped with power to destroy and alter the same.

26. The proposition above is not attracted in the instant matter, as after perusal of record it is unequivocally established that intent and rational exposed/exhibited by the relevant quarters pertaining to revise and alter the sanction militates against the scheme of rules and norms of justice, thus, calling for interference in extra ordinary jurisdiction by this Court avoiding technical modalities.

27. It is settled principle of law that discretionary powers are not absolute, unguided and unbridled. In this sense, powers available under Section 21 of the General Clauses Act, 1897 are not uncontrolled and could not be exercised in an arbitrary fashion. In

2011 SCR 257, the Hon'ble Supreme Court of AJ&K laid down that arbitrary exercise of powers is discrimination and violation of constitutionally guaranteed fundamental rights. Due process of law and to be dealt with in accordance with law is a fundamental right which *ex-facie* is hit by the impugned proceedings. It is an enormous and pivotal question to be resolved by this Court. All the enactments, laws/by-laws, notifications, policies etc offending the fundamental rights/command of the Constitution are simply liable to be ignored.

28. It is noted that reasoning behind discarding the name of the petitioner is cursory and slipshod approach which is alien to the box of rules, thus revisiting and recalling the name of petitioner on out of the box solution (not recognized by the rules) cannot sustain at all.

29. Furthermore, it is an inalienable right of every citizen to be dealt with in accordance with law law as enshrined in the Interim Constitution and it is the duty of the public functionaries to act within the four corners of the mandate of the Constitution and law of the land, reversal of the name of the petitioner upon hypothetical / self-supposed ground (not supplied by the rules) without proper application of the mind and without any backing of law does not qualify as an action in accordance with law.

“Expressive unus est exclusion alterius” Act which is directed to be done in a particular manner, it must be done in that manner or not at all.

TOR’s provided in the rules are clear enough, it is also established that it is for the first time that someone was recommended from legal fraternity by adhering to the rules, which even otherwise seems appropriate and judicious, hence, doctrine of legitimate expectations and administrative justice are also fully attracted into the matter.

30. Apathy displayed in the matter by the relevant quarters is regrettable, no eventuality arises and no room left in the recommended panel of the Hon’ble Chief Justice of AJ&K (as being judicial consultee in the matter) to dislodge and discard the name of the petitioner by disqualifying him from the slot on self assumed reasoning.

31. It is useful to reproduce the juxtaposition verbatim of the Para No.1 of writ petition and reply of the same which unequivocally reveals that the respondents have impliedly attempted to discard and frustrate the wisdom of the Hon’ble Chief Justice of Supreme Court.

Para No.1 of Writ petition

1. That the humble petitioner is first class State Subject and an Advocate Supreme Court of Azad Jammu &

Reply of Para No.1 of Writ petition

1. That the contents of para No.1 are incorrect and misleading. The petitioner’s claim that he is fully

Kashmir and was also elected Member of Azad Jammu & Kashmir Bar Council as well as remained the Vice Chairman Azad Jammu and Kashmir Bar Council. The petitioner is a person qualified for appointment of Judge High Court as well as Chairman Appellate Tribunal Inland Revenue Azad Jammu & Kashmir.

qualified for appointment as Chairman Appellate Tribunal Inland Revenue Azad Jammu & Kashmir is not sustainable as the petitioner does not fulfill the requirement of Section 130(3) of Income Tax Ordinance, 2001.”

Above specific words employed in written reply submitted on part of respondents wherein by questioning qualification of the petitioner they have amounted to dislodge and frustrate the wisdom rendered by the Hon’ble Chief Justice of AJ&K (Judicial Consultee in the matter), thus, such like stance is contemptuous as well.

32. Noteworthy to mention that for the transaction of the business of the Government in view of powers conferred by Article 58 of AJ&K Interim Constitution, 1974 specific rules are holding the field i.e. The AJ&K Rules of Business 1985 providing complete procedural modalities and road map as to how the entire business of government is required to be carried out.

33. In rule 9(4) of the above rules it has been categorically mentioned that in case if an order contravenes any law, officer next below instead of implementing the same is under legal obligation to point it out to the officer making the order and the

latter shall refer the case to the next higher authority. It is useful to reproduce the supra rule as under:-

AJ&K Rules of Business, 1985

“9. General Procedure for disposal of business:

(1) xxx.

(2) xxx.

(3) xxx.

(4) if an order contravenes any law, rule or policy decision, it shall be the duty of the officer next below the officer making such order to point it out to the officer making the order and the latter shall refer the case to the next higher authority.”

34. Be that as it may in the matter in hand it seems that while revisiting the case of the petitioner the above rules have been overlooked and brushed aside.

35. Name of the petitioner once recommended (among others) by the (Judicial Consultee) Hon’ble Chief Justice of AJ&K means that he is qualified to be appointed, hence, only selection is to be made by the authority by picking a name from the Panel sent by the Judicial Consultee. Although selection of the name from Panel is a sole prerogative of the competent authority but simultaneously it is not within domain and spheres of competent authority to discard any name appearing in the Panel by questioning his qualification and competence.

36. It is noteworthy to mention that in any case if opinion of the executive authority comes in conflict with the opinion or

wisdom of Judicial Consultee or Consultees the latter shall be preferred, for all practical purposes.

37. Before parting with the judgment, we deem it proper for promotion of rule of law at administrative end by holding that Rules of Business, 1985 taking breath from the Azad Jammu & Kashmir Interim Constitution, 1974 are not simply a booklet to be decorated in the shelves of offices and libraries or for that matter just to cited and referred, but a roadmap of procedural modalities to be adhered to and implemented in letter and spirit while dealing with the official business.

The respondent government is directed to do needful qua providing translated urdu version of the rules of business to all heads of the departments/administrative officers in order to affix the same in every office at any conspicuous place.

b. ANALYSIS:-

38. It has been established that approval of the competent authority (worthy Prime Minister) in favour of the petitioner was withdrawn after institution of instant lis and substance of stay order by this Court. Revisiting of the matter and withdrawal of the name of the petitioner is against the scheme and spirit of law and arbitrary. Reasoning furnished for revisiting the same is novel and alien to the law. Material propositions have been denied evasively. Affidavit in support of the contents of the writ petition has not

been confronted by filing counter affidavit by the official respondents. The affidavit of A.A.G is not fulfilling requirements mentioned in Rules 84 and 85 of AJ&K High Court Procedure Rules, 1984. Questioning the qualification and eligibility of the petitioner amounts to fragile and frustrate the wisdom of the Hon'ble Chief Justice of Azad Jammu & Kashmir (as Judicial Consultee). Status-quo issued by the High Court in extraordinary jurisdiction becomes operative at the spur of the moment when it has been issued and after taking cognizance by the Court without getting prior permission from the Court, no order could be passed.

c. **NUB OF THE INSTANT LIS:-**

For the above multiple reasons, instant writ petition is accepted, the subsequent proceedings quo revisiting and withdrawal of the name of the petitioner are nullity in the eye of law; having no legal consequences and the respondents are directed to notify the name of the petitioner in light of the previous approval accorded in his favour on 21.02.2022 within one month.

Muzaffarabad,
26.07.2022.

-Sd-
JUDGE
(A)

-Sd-
JUDGE
(S)

APPROVED FOR REPORTING