

HIGH COURT OF AZAD JAMMU AND KASHMIR

Writ Petition No.2308/2024;

Date of Institution. 04.09.2024;

Date of Decision. 11.09.2024

Mujahid Hussain Naqvi most Sr. Advocate Supreme Court in
Central Bar Association Muzaffarabad (late) Anjum Nisar
Mir Aiwan-e-Adl, (Chamber No. 24), Muzaffarabad (A.K).

.....Petitioner

Versus

1. Humayun Nawaz Khan Fudge and so called Barrister S/o (late) Mohammad Nawaz Khan R/o Pothi Bala Rawalakot, Azad Kashmir.
2. Azad Govt. of the State of Jammu and Kashmir through Secretary Law, Justice & Parliamentary Affairs Department, Block No. 10, new Civil Secretariat, Muzaffarabad;
3. Azad Jammu and Kashmir Bar Council through its Chairman/ Vice Chairman/ Secretary/ Members, Bar Council Secretariat, E-Block, Old Secretariat, Muzaffarabad;
4. Advocate General Azad Jammu and Kashmir Ex-officio Chairman Bar Council, Supreme Court Building, Chatter, Muzaffarabad;
5. Vice Chairman Azad Jammu and Kashmir Bar Council, E-Block, O Secretariat Muzaffarabad;
6. Chairman Executive Committee/Disciplinary Committee Bar Council AJ&K, E-Block, old Secretariat, Muzaffarabad ;
7. Registrar High Azad Jammu and Kashmir Supreme Court, Supreme Court Building, Chatter Muzaffarabad.
8. Registrar High Court of Azad Jammu and Kashmir, High Court Building Chatter Muzaffarabad;
9. Shoukat Husain Awan (Rtd), Secretary Azad Jammu and Kashmir Bar Council, Cement Blocks Masciner, R/o Lower Chatter, Muzaffarabad;

10. Muhammad Mustafa Superintendent, so called Secretary Azad Jammu and Kashmir, Bar Council E-Block old Civil Secretariat Muzaffarabad;
11. Raja Gul Majeed Khan, (the then) Advocate General/ Ex-efficio Chairman of AJ&K Bar Council in year 2010, Districts Complex, Aiwan-e-Adl, Muzaffarabad, Azad Kashmir.
12. Inspector General Police of Azad Jammu and Kashmir Government Central Police Office, new Secretariat, Complex, Muzaffarabad.

.... Respondents

WRIT PETITION

Before:-	Justice Sadaqat Hussain Raja ,	C. J.
	Justice Sardar Liaqat Hussain,	J.
	Justice Mian Arif Hussain,	J.
	Justice Syed Shahid Bahar,	J.
	Justice Sardar Muhammad Ejaz Khan,	J.
	Justice Ch. Khalid Rasheed,	J.

PRESENT:

Syed Ashfaq Hussain Kazmi, Advocate for the petitioner.
Sh. Masood Iqbal, Advocate General for official respondents.

ORDER:

(Justice Sadaqat Hussain Raja, Chief Justice) In the above titled writ petition, the petitioner has challenged licence/ practice of respondent No. 1 as an Advocate seeking with multiple forms of relief.

The petitioner challenged the license of pleadership of respondent No. 1. As petitioner and respondent No. 1 are members of legal fraternity and allegations of presenting false

documents for obtaining license of advocacy of respondent No. 1 were raised by the petitioner. Hence, keeping in view the gravity of the matter, Full Court was assembled for hearing of the case. However, today the petitioner failed to appear before the Court and Syed Ashfaq Hussain Kazmi Advocate, filed power of attorney on his behalf and stated at bar that he does not want to press the instant writ petition as per instructions of his client. The learned counsel for the petitioner further submitted that if any content of the writ petition which in view of court is scandalous or disrespectful towards respondent No. 1 or contemptuous, the Court may be deleted.

As stated earlier, keeping in view the gravity of the matter, the Full Court was constituted and this fact was in the knowledge of the petitioner. Thus, we do not intend to dismiss the writ petition solely based on the request for withdrawal by the learned counsel for the petitioner.

The petitioner explicitly stated in paragraph No. 4 of the writ petition that he was compelled to file writ petition due to hearsay and rumours indicating that respondent No. 1 is not a Barrister at law from any recognized University, College law Inn alike educational institution from abroad. Thus, from the petitioner's own assertion it becomes crystal clear that the

petitioner has filed the instant writ petition on the basis of assumptions and speculations just to humiliate the respondent No. 1. As the petitioner himself pleaded that he is an Advocate since January 1974, thus, a senior Advocate should not be oblivious to law. A writ petition cannot be filed on the basis of rumours, assumptions and speculations rather the same is to be decided on the basis of pleadings of the parties, available record and affidavits filed by both the parties. The petitioner has not attached any record in support of his claim that respondent No. 1, is not a Barrister at law and has obtained license of advocacy fraudulently. He has also filed an affidavit based on assumptions and conjectures.

It is pertinent to mention here that the allegations in the writ petition are completely scandalous and derogatory regarding respondent No. 1 without any proof. It is in the notice of the Court that the petitioner admitted before the Apex Court of Azad Jammu and Kashmir about his mental health issues. The contents of the writ petition categorically reflects the state of the mental health of the petitioner. The petitioner himself presented an application for exemption from personal appearance and adjournment of the case. The contents of the application also create question marks on the mental health of the petitioner.

Previously, in a case titled “Mujahid Hussan Naqvi Vs Election Commission of Azad Jammu and Kashmir and others” decided on 17.08.2021, which has been upheld by the Apex Court vide judgment dated 21.03.2022, in which this Court ordered the family of petitioner to ensure treatment of his mental health, however, the same was not done and the petitioner was left free to scandalize and malign reputable individuals. It is very regrettable that petitions and applications of this nature are filed on behalf of petitioner whereby many advocates are scandalized followed by the circulation of the news in print and social media. For the safeguard of the society, it is in the best interest of justice that this Court reiterates its order and family of the petitioner is directed to ensure the treatment of petitioner within one month and report shall be submitted before the Registrar of this Court. Failure to comply will necessitate the intervention of Mental Health Authority of AJK for the treatment of petitioner.

Given the concerns raised regarding the petitioner’s health, he is deemed ineligible to practice law, leading to the suspension of Advocacy licence till further orders. Additionally, the contents of writ petition deemed scandalous, derogatory contemptuous and inconsistent with proper legal standards, resulting in the deletion of all paragraphs of the writ petition. The office is directed not to issue copy of this writ petition to any

individual. The office is also directed to send the copies of this order to family of the petitioner for compliance and for Azad Jammu and Kashmir Bar Council for information.

For the forgoing reasons, the writ petition is not maintainable, it is therefore, dismissed in limine.

Muzaffarabad,

11.09.2024

Chief Justice

Judge

Judge

Judge

Judge

Judge