

HIGH COURT OF AZAD JAMMU & KASHMIR

Writ Petition No.88/2023.

Date of institution 29.05.2023.

Date of decision 07.11.2025.

Dr. Dilnawaz Gardezi, Relieved Vice Chancellor University of Kotli
AJK, R/o Rawalakot, District Poonch, AJ&K/ Professor Emeritus
University Poonch Rawalakot.

....Petitioner

VERSUS

1. Chancellor University of Kotli AJ&K/ President AJ&K
Government Muzaffarabad.
2. Vice Chancellor, University of Kotli AJ&K.
3. Registrar, University of Kotli AJ&K.
4. Secretary Presidential Affairs, AJ&K Kashmir House
Islamabad.
5. Deputy Commissioner Inland Revenue Circle 03, Kotli, AJK.

....Respondents

WRIT PETITION

Before:- **Justice Syed Shahid Bahar, J.**

In presence of:

Sardar Shamshad Hussain, Advocate for the petitioner.

Sardar Zafar Iqbal, Legal Advisor for University of Kotli.

Sardar Shafique, A.A.G for the State.

Judgment:

Above titled writ petition has been filed under Article
44 of the Azad Jammu & Kashmir Interim Constitution, 1974,
whereby the petitioner is imploring infra relief:-

“Under the circumstances, it is humbly prayed
that while setting aside the orders of Chancellor
of AJ&K University dated 28.04.2023 (Annexure
PH), the respondents may kindly be directed to
deliver the possession of the vehicle alongwith
sale documents, the use charges from the date
of receipt of sale amount may kindly be directed
against the respondents. Respondents may
please be commanded to pay Rs.5000/- per day
as use charge of vehicle from the day, the sale
amount was deposited with the university.”

Facts in brevity

2. Facts of the case at hand as per petitioner are that he served as a Vice Chancellor at University of Kotli on the contractual basis for five years and was relieved from the afore-stated assignment in year 2022. Petitioner alleged that under the Statute / Calendar of University, volume 1 Section 4 pertaining to fringed benefits relieving Vice Chancellor is entitled to retain the custody of the vehicle under his use subject to the payment of depreciated costs to be determined by the relevant authorities. Petitioner moved an application for the grant of vehicle under his use as entitled to Vice Chancellor. Petitioner averred that first letter in this connection was addressed to Registrar AJK University Kotli while replying the aforesaid letter, petitioner was required to submit the details of vehicle; petitioner submitted an application before Secretary Presidential Affairs, Chancellor (**Annexure PA**) as well as another letter was addressed in this context marked as “**Annexure PC**”. Petitioner further averred that Inland Revenue Department Circle 3 Kotli (DC Inland Revenue) in continuation of the process initiated by the university determined the depreciated value of the vehicle for the year 2022 as 844, 449/- rupees. Petitioner contended that after the completion of the formal procedure and determination of depreciated value of the vehicle, Chancellor University of Kotli/ Worthy President accorded the approval along with the direction for rechecking the deprecated value before taking the final steps (Annexure PD is attached with the petition).

Petitioner further contended that in compliance with the approval letter, the depreciated value of the vehicle registration No.KI-GA-104 was finally fixed as Rs.968622/-. The University of AJK Kotli through Nitrification No. Admin/ 1038/2023 addressed to Secretary Presidential Affairs intimated Secretary Presidential Affairs to sell the vehicle to the petitioner. On intimation petitioner deposited the said amount in the University Account with Meezan Bank Kotli on 15.03.2023 through a cheque bearing No.D77067363 and in this context, Registrar University of Kotli addressed a letter to the petitioner vide a script dated 15.03.2023, same is appended with the petitioner as "Annexure PG". Petitioner zealously contended that the Chancellor University without catering for the law and without seeking any amendment in the statutes/calendar by deviating from the earlier approval vide a letter dated 28.04.2023 imposed a ban on the sale of vehicles under the use of Vice Chancellor, which is totally illegal and based on malafide, hence liable to be set aside by accepting instant petition.

3. In reply after admission of the writ petition, respondents submitted written statement wherein the claim of the petitioner has been refuted and contended therein that the authority (Chancellor) did not agree to sell the vehicle to outgoing all Vice Chancellors including the petitioner. Respondents averred that the authority, worthy Chancellor of the University has formed a uniform policy, not to sell vehicle to outgoing VC as prevailing in all universities of Pakistan and amended the Rules to this effect. The

respondents denied the claim of the petitioner and vehemently contended that the issuing authority is competent to recall approval order pass by it under clause 21 & 23 of the General Clauses Act, thus, petition at hand is incompetent and liable to be dismissed.

4. Pro and contra arguments heard. Record appended with the petition has also been perused.

VERDICT OF THE COURT

5. The main stance of the petitioner portrayed in the petition is that the order passed by the Chancellor dated 28.04.2023 may be set as the same has been issued against the law and rules, and respondents may also be directed to pay Rs.5000/- per day as use charge of vehicle from the day, the sale amount was deposited with the University. The petitioner was served as Vice Chancellor of University of Kotli on the contractual basis for five years and was relieved from his assignment in the year 2022. Statutes/ Calendar of University, volume 1 Section 4 pertaining to fringed benefits and relieving VC is entitled to retain the custody of the vehicle under his use subject to the payment of depreciated costs to be determined by the relevant authorities. Relevant provision is necessary to reproduce as under:-

SERVICE STATUTES

SECTION-IV

1. STATUTES FOR FRINGE BENEFITS OF THE VICE CHANCELLOR OF THE UNIVERSITY

- (i) XXXXXXXXXXXXXXXXXXXX
- (ii) XXXXXXXXXXXXXXXXXXXX
- (iii) XXXXXXXXXXXXXXXXXXXX

- (iv) He shall have option, subject to the approval of Chancellor of the University, to buy the Vehicle in his official use during his tenure at depreciated cost at the time of his retirement after completion of a full term.
- (v) XX.

6. Record shows that the worthy Chancellor without catering for the law and without seeking any amendment in the statutes/calendar of University by deviating from the earlier approval, vide impugned letter dated 28.04.2023 imposed a ban on the sale of vehicles under the use of Vice Chancellor (said notification is attached with the file as “**Annexure PK**”). The petitioner in support of his claim annexed number of documents/letters etc. with the writ petition and same are attached as “Annexure P1 to Annexure PM”, which strengthen the case of the petitioner. It is worth-mentioning that without bringing on any amendment in the Statute, impugned restriction is alien to the statutes, moreover depicts malafide on the part of the respondents.

7. Trite that Act of the Assembly cannot oppose the Constitution, vis-à-vis rules made under the Act cannot override the Act, likewise policy or for that matter any Circular or practice cannot be allowed to take a different way which is not indicated in the Statute.

8. It is now almost settled principle of law that when a particular method of performance of an act is prescribed under an

Act or rule then such act must be performed according to the prescribed method alone or not at all.¹

9. Keeping in view the clear provisions of statute/calendar referred above, valuable rights have been attached to the vehicle under claim. It is also mentioned here that the preceding Vice Chancellors who were relieved from their jobs were given full fringed benefits along with the delivery of vehicles under their use as envisioned by the Statute, whereas, petitioner herein has been treated in a discriminatory manner which is offending against the fundamental rights of equal treatment provided by the AJ&K Interim Constitution, 1974.

10. **Facility of purchasing the vehicle (already in his use) by the Vice Chancellor at the eve of his retirement is provided in the University Statute/Calendar and certain rights have been created in favour of the petitioner, who by following the requisite procedure also deposited the amount/price of the vehicle, but instead of delivering the vehicle the respondents through a policy Circular not only reversed the decision taken in favour of the petitioner but imposed complete ban qua availing such statutory facility without amending the statutes.**

11. Trite that no policy notification or any circular can be issued which runs counter to the parent law/statute, in case of a little bit conflict between any administrative instrument/notification, circular and statute, the offending instrument not only

¹. M. Muneer Raja vs. Chairman AJK Council [2018 SCR 48],
Govt. of Punjab vs. Messers United Sugar Mills [2008 SCMR 1148].

have to give way to the statute, but liable to be erased from the field. Statue must have to prevail. Executive order/instrument cannot be allowed to override the say of legislature, as it is against the will of people and negation of the concept of trichotomy of powers.

(Underlining is for emphasis)

12. The petitioner has successfully made out his case for interference, this Court is burdened with heavy duty to enforce the constitutionally fundamental rights of the aggrieved people who knock the door of the Court, vigilantly keeping in mind the Standard Operating Procedures (SOPs') which are sine qua non for invoking extraordinary jurisdiction of High Court. High Court is zealous to rescue the aggrieved one from such like situation and redress his/her grievance.

13. Nub of the above is that the writ petition is accepted as prayed for and respondents are directed to redress the grievance of the petitioner within one month.

Muzaffarabad,
07.11.2025.*

JUDGE

Note: Judgment is written and duly signed. Office is directed to transmit this file to Circuit Rawalakot, forthwith. Deputy Registrar, Circuit Rawalakot, is directed to announce the judgment in presence of the counsel for the parties.

JUDGE

Approved for reporting

JUDGE