

HIGH COURT OF AZAD JAMMU AND KASHMIR

Writ petition No.820/2020;
Date of Institution. 20.06.2020.
Date of decision. 09.02.2026

Muhammad Rafique Son of Gulzaman R/o Upper
Plate Ward No. 09, Gulshan Peer All-ud-Din Tehsil
and District Muzaffarabad.

..... Petitioner

VERSUS

1. Department of Anti Corruption through its Director General having his office old Secretariat, District Head Quarter Complex, Muzaffarabad;
2. Director General Anti Corruption having his office at Old Secretariat District Complex, Muzaffarabad.
3. Muhammad Saleem Son of Muhammad Yousaf R/o Upper Plate Muzaffarabad;
4. Muhammad Rafique S/o Khanizaman R/o Gotha Tehsil and District Muzaffarabad.

Respondents

WRIT PETITION

Before: *Justice Syed Shahid Bahar,*

Judge

In the presence of :

Kh. Imtiaz Ahmed, Advocate for the petitioner.

Mr. Haroon Riaz Mughal, Advocate for respondents No. 3 and 4.

AAG for the Azad Govt.

JUDGMENT:

The doctrine of ripeness¹; let the inquiry be completed first, is in essence a matter of self-restraint by which a writ court remains slow to intervene where a

¹ The doctrine of ripeness has been elucidated by Justice Jawad Hassan of the Lahore High Court in Messrs Sadiq Poultry (Pvt.) Ltd. V. Federation of Pakistan (2025 CLD 90).

challenge is made to show cause notices, charge sheets or pending departmental inquiries.

2. Above doctrine postulates that such matters should not be terminated at the threshold or interlocutory stage, but such inquiry proceedings should be allowed to reach its logical conclusion. As it is a fact finding mechanism not a final determination of rights. Rationale behind the doctrine is prematurity, alternate remedies, separation of powers, administration of discipline and judicial economy (means avoiding fragmented litigation). However, exception of this doctrine is lack of jurisdiction, mala-fide and contra jus-proceedings.

3. Under Article 44 of Azad Jammu and Kashmir Interim Constitution, 1974, the petitioner seeks the relief set out below:-

“It is therefore, most humbly prayed on behalf of petitioner that in view of above stated submission by accepting the instant writ petition, appropriate writs may kindly be issued in favour of petitioner against the non-petitioner/respondents in the following manner:-

- i. That the act of respondent/non-petitioners regarding initiating inquiry against the petitioner about issuance of the State Subject Certificate annexure P/2 may kindly be declared

as illegal unlawful against the provisions contained in the AJK State Subject Act 1980 and the rules made thereunder called as AJK State Subject Rules 1980 particularly against the Section 4 and & and rule 4,6 and 10 of the above mentioned act and rules respectively.

- ii. That the inquiry and proceedings initiated by the respondents against the petitioner regarding the state subject certificate may kindly be declared illegal, unlawful, null and void and without lawful authority and quash the same.
- iii. That the respondents/non-petitioners be restrained from taking any action or initiated any inquiry against the petitioner regarding his state subject certificate. For which they are not permitted under the above mentioned act and rules."

4. Facts of the case are that the petitioner is 1st Class State Subject of the State of Azad Jammu and Kashmir, hails from Village Gotha, Tehsil and District Muzaffarabad. It is submitted that petitioner's father was born in village Gotha in the year 1937 and petitioner's grandfather named Abdullah died in 1938 buried in village Gotha. It is further submitted that he was appointed as an Assistant Lineman B-03 by the competent authority vide order dated 09.09.1981 and the petitioner remained under training for a period of one year. It is alleged that the official respondents initiated

an inquiry against the petitioner regarding the issuance of the State Subject Certificate in his favour.

5. The writ petition was admitted for regular hearing vide order dated 12.08.2020 and the respondents were directed to file written statement. Written statement has been filed on behalf of respondent No. 4, wherein, it is stated that the petitioner has written the name of his grandfather as Abdullah instead of Abdul Karim and in connivance with the officials of revenue Department; made wrong entries in revenue record and fake and bogus State Subject was prepared. It is further submitted that the father of petitioner was not resident of Village Gotha, however, he was refugee and on the basis of fake and bogus State Subject Certificate the petitioner got entered in Government service. It is contended that the Anti Corruption Department initiated inquiry against the petitioner regarding fake and bogus State Subject Certificate.

6. Kh. Imtiaz Ahmed, learned counsel for the petitioner filed written arguments, wherein, he stated that the official respondents initiated inquiry against the petitioner on fake application. It has been mentioned that

the State Subject Certificate was issued on 22.06.1982 in accordance with law. It has further been mentioned that the petitioner made State Subject Certificate of his children according to record of Mouzia Gotha even then his brother also made their children's State Subject Certificate on the same record. He further mentioned that no tampering was found in the revenue record, and noted that the petitioner served as a Head Lineman in AJ&K Electricity Department, so, the application has been filed against him on the basis of political pressure and mala-fide intention. Learned counsel further mentioned that no allegation has been proved against the petitioner and he was not involved in any tampering. The application was lodged only to harass the petitioner.

7. On the other hand, Mr. Haroon Riaz Mughal, learned counsel for respondents No. 3 and 4 mentioned that the petitioner maneuvered fake State Subject Certificate in connivance with the revenue officials. The learned counsel further submitted that the petitioner has tampered revenue record and changed his grandfather's name in the record. He mentioned that the Anti Corruption Department initiated

inquiry against the petitioner and the petitioner has an alternate remedy to appear before investigation agency.

8. I have examined the written arguments filed on behalf of parties and gone through the record of the case with utmost care.

Legal Anthology of State Subject Law:-

A. Background

9. The term "State Subject" was coined and defined by the princely State's Dogra ruler i.e. Maharaja Hari Singh through a notification i.e. I-L/84 dated April 20, 1927, enumerating four categories of State Subjects, known as Class I, II, III and IV. State Subjects of **Class-I** are heirs of all those persons who were born within the State before the reign of Maharaja Gulab Singh and were settled therein **before 1885 A.D** and started residing there permanently. State Subject of **Class-II** are heirs of all those persons who settled in the State **before the close of 1911 A.D** and resident permanently, on acquisition of immovable property while heirs of all those persons who acquired immovable property under a "**rayatnama**" or "**ijazatnama**" and resided in the state continuously are state subjects of **Class III. Class**

IV pertains to companies incorporated in the State. Simply put, it is the de-facto citizenship certificate of the people residing in or belonging to the State of Jammu and Kashmir, currently divided between Pakistan and India.

B. Purpose

10. The primary purpose of bringing forth State Subject laws was to ensure that the resources of the State remain in the hands of its Subjects i.e. restricting land ownership merely to the State Subjects. This law acted as a socio-economic shield that prevented the State from being economically overwhelmed by the vast capital and population of British India.

C. State Subject: Constitutional Definition:

11. The term "State Subject" emanates from Article 2 of the Azad Jammu and Kashmir Interim Constitution, 1974 in a following manner.

" A person for the time being residing in Azad Jammu and Kashmir or Pakistan who is a State Subject, as defined in the late Government of State Jammu and Kashmir Notification No. I-L/84, dated the 20th April, 1927 as amended from time to time."

D. Particular Enactment In AJK vis-à-vis State Subjects

12. The specific law elucidating the matters of State Subjects amenable to the jurisdiction of AJK is **Azad Jammu and Kashmir State Subjects Act, 1980** and rules framed thereunder in view of **Section 09** of the Act *ibid* i.e. **Azad Jammu and Kashmir State Subjects Rules, 1980**. **Section 2** of the Act *ibid* defines **State Subject Certificate**. **Section 4** of the Act *ibid* envisages a detailed *modus operandi vis-a-vis deprivation of State Subject Certificate*. **Sub Section (2) of Section 4**, Act *ibid* divulges that the Council may **deprive** any person of his/her State Subject Certificate if it is satisfied that he/she obtained the said certificate or the certificate of domicile by means of fraud, false representation, or the concealment of any material fact. **Sub-section (4) of Section 4**, Act *ibid* envisages that prior to depriving a person of his/her State Subject Certificate, the Council shall give that person **notice in writing** informing him/her of the grounds on which it is proposed to make the order and call upon him to **show cause why it should not be made**. **Sub Section (5) of Section, 04** Act *ibid* caters the situation of a person against whom an order of deprivation of State Subject is

proposed to be made; the Council has to refer the matter to the Inquiry Committee consisting of a Chairman, being a person possessing judicial experience, appointed by the Council and of such other members appointed by the Council as it thinks proper. Sub-Rule (6) of Rule 6, Rules ibid clearly evinces that the Council shall pass such orders on the report of Inquiry Committee or, if a Committee is not appointed, on the application itself as it deems fit. Rule 10 of the Rules ibid states that the Council may at any time entertain any application, appeal, review or revision application and may cancel, suspend, invalidate, extend, revise or any grant a certificate refused by any other authority under these rules or pass any order it may deem necessary or fit. Section 11 of the Act ibid is “ouster clause” which explicitly states that no court shall have or exercise any jurisdiction with respect to anything done or action taken under any of the provisions of this Act. In the presence of clear language employed in the ouster clause vis-à-vis ousting jurisdiction in all circumstances, it has to be given effect.²

² Bahawalpur Medical and Dental College V. Pakistan Medical Commission (2022 CLC 775)

13. The petitioner has filed the writ petition to restrain Anti Corruption Department from inquiring into the allegations of preparing a fake State Subject Certificate. The petitioner is an employee of Electricity Department, Government of Azad Jammu and Kashmir. The perusal of record reflects that Muhammad Saleem, the applicant moved an application to the Director Anti Corruption for probing into the matter. The applicant Muhammad Saleem claims that the petitioner has forged a pedigree table and has succeeded in obtaining a fake State Subject Certificate. It is averred in the application that the petitioner and his father deliberately altered the pedigree table, misrepresenting the grandfather's name as Abdullah instead of Abdul Karim. The Anti Corruption Department initiated inquiry against the petitioner. It is settled principle of law that this Court refrains from interfering with Investigative proceedings or hampering the mandate of the agency. As the allegations in the application involve disputed facts, so, the matter can only be resolved through a comprehensive investigation.

14. No cavil to the proposition that a departmental or administrative inquiry cannot be stayed or quashed unless it is evident on the face of the record that it was initiated in violation of law but it is an exception. Normally High Court does not interfere with the ongoing inquiries because inquiry is a fact finding process; person aggrieved by such inquiry has an alternate remedy in shape of making defense, reply and ultimately to approach relevant fora against findings of the inquiry.³

Law reports mentioned in the footnote clearly evince that no writ can be issued to stop inquiry.

15. In the petition at hand, the petitioner voiced his grievance against inquiry proceedings initiated against him by invoking extra ordinary jurisdiction of this court conferred under Article 44 of the Interim Constitution 1974 and sought annulment/stoppage of inquiry.

16. Departmental inquiry is always merely fact finding proceedings unless same is shown to be without

³ Syed Khalid Mehmood Bukhari V. GM (HRO) PTCL [2012 PLC (C.S) 1366],
Syed Ali Irteza Naqvi V. Pakistan Reinsurance Company Ltd [2014 PLC (C.S) 873]
and (2020 SCR 764).

jurisdiction, mala fide or in violation of mandatory statutory provisions. Premature interference hampers discipline and administration. Trite judicial approach in this regard is “let the inquiry conclude first”. Reference in this regard can be placed open PLJ 2022 AJK 50 & 2023 SCR 879.

17. Main reasons upon which inquiry can be stopped at the threshold by the High Court inter alia are (i) where inquiry is barred by law; (ii) inquiry once concluded is repeatedly culminating into double jeopardy; (iii) initiation of inquiry after prescribed period of limitation; (iv) violation of mandatory rules; (v) lack of jurisdiction; and (vi) inquiry initiated by a person not empowered to inquire such matter.

18. In the instant case, the petitioner has failed to establish any jurisdictional defect in the proceedings. Indulgence at this premature stage would amount to short circuiting the lawful process and likely to undermine administrative discipline. Trite that Court should refrain

from interfering ongoing inquiry unless exceptional circumstances are shown⁴.

19. The matter is being investigated by the Investigation Agency and it is well settled now that the Court cannot interfere into the investigation proceedings and cannot stop the investigation. It is for the Investigation agency to conclude the matter in view of oral and documentary evidence and the petitioner has an alternate remedy to appear before Investigation Agency.

20. For the foregoing reasons, the writ petition at hand is dismissed, being devoid of merits, the petitioner may however raise all available pleas before the Inquiry Officer who shall inquire and conclude the matter in accordance with law without being influenced by any observation made hereinabove.

Muzaffarabad:
09.02.2026(A)

Judge

Approved for reporting.

Judge

⁴ Pakistan International Airline Corporation V. Tanweer-ur-Rehman (PLD 2010 SC 676).