

**IN THE SUPREME APPELLATE COURT GILGIT-BALTISTAN,
GILGIT.**

Before:-

**Mr. Justice Dr. Rana Muhammad Shamim, Chief Judge.
Mr. Justice Javed Iqbal, Judge.**

SMC No. 05/2017.

**APPLICATION OF MALIK KIFAYAT-UR-REHMAN REGARDING
ENROLLMENT COMMITTEE).**

PRESENT:-

1. Mr. Malik Kifayat-ur-Rehman Advocate (Petitioner) is present in person.
2. The Deputy Attorney General for Pakistan at Gilgit.
3. The Advocate General Gilgit-Baltistan alongwith Mr. Saeed Iqbal Deputy Advocate General Gilgit-Baltistan.
4. Nemo for Gilgit-Baltistan Bar Counsel.
5. Nemo for Supreme Appellate Court Bar Association.

DATE OF HEARING: - 19.10.2017.

ORDER.

Dr. Rana Muhammad Shamim, CJ..... Mr. Malik

Kifayat-ur-Rehman Advocate (petitioner) is present in court today has filed petition dated 30.03.2017 which is reproduced as under:-

“Quote”

To,
The Honorable Chief Justice
Supreme Appellate Court Gilgit-Baltistan
Gilgit.

Honorable Sir,

It has come to my notice that an illegality is being done in the enrollment of advocates process of Supreme Appellate Court Gilgit-Baltistan.

It is submitted that the composition and constitution of enrollment committee in Pakistan and Gilgit-Baltistan are totally different as the chairman of Gilgit-Baltistan bar council is advocate General of Gilgit-Baltistan who is a Provincial portfolio holder while chairman of Pakistan is the attorney General of Pakistan.

The enrollment process of Supreme Court of Pakistan is made by the Pakistan bar council according to the rules of Supreme Court of Pakistan and the applicants have to address their application to the chairman Pakistan bar council who is the attorney

general of Pakistan while in the Gilgit-Baltistan the law and the process for enrollment of advocates in the Supreme Appellate Court is totally different.

The constitution of the present Supreme Appellate Court advocates enrollment committee, the proceedings conducted by the enrollment committee and the applications for enrollments of advocates received and processed by the committee are all in sheer violation, derogation and contravention the rules and procedure provided by the legal practitioners and Bar councils Act/order 2000 adapted to Northern Areas Gilgit-Baltistan and the Supreme Appellate Court rules framed there under.

The Gilgit-Baltistan bar council is a Provincial bar council and is not a substitute or parallel body to the Pakistan bar council and its domain and extent of powers and functions are restricted to chief court and to maintain the list and enroll advocates in and for the chief court Gilgit-Baltistan only accordingly to bar council and legal practitioners act/order Gilgit-Baltistan.

The Gilgit-Baltistan bar council could not under the rules and laws prevalent in the Gilgit-Baltistan function in two/dual capacities of provincial and central body at one and the same time in violation of chapter 4 of the Supreme Appellate Court rules as framed and sanctioned by the Supreme Appellate Court. The same time in violation of chapter 4 of the Supreme Appellate Court rules as framed and sanctioned by the Supreme Appellate Court.

The legal practitioners and Bar councils Act/order 2000 adapted by the Gilgit-Baltistan government is specifically applicable to the chief court Northern Areas and the Gilgit-Baltistan.

Bar council has no domain/powers under the said law to issue license and maintain the roll of advocates of Supreme Appellate Court Gilgit-Baltistan unless any amendments are made in the Supreme Appellate Court rules, Bar council rules and the governance order Gilgit-Baltistan 2009.

I have on 19.11.2016 gone through the process conducted for enrollment of advocates of Supreme Appellate Court Gilgit-Baltistan very closely. The process was all against and adverse to the settled norms, procedure and rules which provide for enrollment of advocates in Supreme Appellate Court in as much as the applications filed by the advocates with the Supreme Appellate Court for enrollment as Supreme Appellate Court advocates were very surprisingly not entertained by the enrollment committee with

the objection that they are not filed with the bar council Gilgit-Baltistan.

Further the cases of candidates who are interviewed were ineligible in as much as the applications/files of non of the candidates were complete under the Bar Council rules or under the Supreme Appellate Court rules and one candidate in the interview even has no fitness and proper certificate from the chief judge chief court in his favour. The certificates and the photographs of the candidates were also not attached by the president or secretary of HCBA Gilgit-Baltistan which is also a mandatory requirement according to the Pakistan bar council rules for enrollment of an advocate of Supreme Court of Pakistan/Supreme Appellate Court Gilgit-Baltistan.

Keeping the illegalities and irregularities above in view it is prayed that the constitution and composition of the present enrollment committee being illegal and the proceeding taken by the said committee also being void and repugnant to the laws and rules, may be recalled and declared void and the enrollment of advocates in the Supreme Appellate Court may be ordered a fresh as per rules applicable in Gilgit-Baltistan according to past practice in the public and general interest

Dated: - 30.03.2017.

-Sd-

Malik Kifayat Ur Rehman
President High Court bar Association
Gilgit-Baltistan.

“Unquote”.

2. He challenged the formation of Gilgit-Baltistan Bar Council and the enrollment committee constituted thereunder. According to him, the enrollment committee is functioning in sheer violation, derogation and contravention of the rules and procedure provided by The Northern Areas Legal Practitioners and Bar Councils Order, 2000 read with The Legal Practitioners and Bar Councils Act, 1973. As per the petitioner, the Gilgit-Baltistan Bar Council is a Provincial Bar which is not a substitute or parallel body to the Pakistan Bar Council and its domain/powers/functions

are restricted to the learned Chief Court only for the enrollment of the advocates. The Gilgit-Baltistan Bar Council can not function in dual capacity i.e. Provincial as well central body at one and the same time. He submits that under what authority the Gilgit-Baltistan Bar Council is functioning and enrolling the advocates in Supreme Appellate Court. He refers the first proviso of The sub-order 2 of Order IV of The Supreme Appellate Court Rules 2008. According to the said order, there shall be kept separately the roll of the advocates of Supreme Appellate Court and persons who are having not less than ten (10) years enrolled experience as an advocate of Chief Court/High Court of any province, may be enrolled as an advocate of this court. The advocate who has no qualification as aforementioned, the Chief Judge and Judges of this court, if satisfied, may enroll him in case he qualifies by knowledge, ability and experience.

3. On the first part of his arguments, the petitioner stressed that the constitution and formation of The Gilgit-Baltistan Bar Council is unlawful and against the spirit of The Adaptation, Enforcement and Applicable laws, hence, the Gilgit-Baltistan Bar Council be directed not to function till amendment(s) is/are made in The Northern Areas Legal Practitioners and Bar Councils Order, 2000. On the second part of his arguments, he submits about his own enrollment as an advocate of this court. He is practicing law in the learned Chief Court for last nine and half years. He claimed that he is regularly appearing and conducting cases of all nature in the

learned Chief Court and prayed that he may be enrolled as an advocate of this court by his knowledge of laws, ability and professional experience. He adds that he was elected as President of High Court Bar Association. The learned Deputy Attorney General for Pakistan at Gilgit and the learned Advocate General Gilgit-Baltistan have not controverted the contentions raised by the petitioner.

4. We have heard the learned petitioner at length, gone through The Legal Practitioners and Bar Councils Act, 1973, The Northern Areas Legal Practitioners and Bar Councils Order, 2000 and The Supreme Appellate Court Rules, 2008. The petitioner has challenged the constitution and formation of The Gilgit-Baltistan Bar Council contending therein that under what authority the same is functioning? He prayed that The Gilgit-Baltistan Bar Council be restrained for illegally functioning and unlawfully exercising the authority in dealing with the affairs of advocates, Bar Associations and enrollment of advocates of this Court.

5. Be it may, the petitioner has to approach first to the learned Chief Court by invoking its extra-ordinary jurisdiction for seeking remedy(ies) and/or for issuance of Writ of Quo-Warranto or otherwise? The petitioner after arguing at length seeks permission to withdraw this petition enabling him to approach the learned Chief Court for filing petition under Article 71 of The Gilgit-Baltistan (Empowerment and Self Governance) Order, 2009 read with the enabling laws/provisions of the Constitution of Islamic

Republic of Pakistan, 1973, for issuance of Writ of Quo-Warranto or otherwise. The permission is granted as prayed for. Consequently, this petition is disposed off accordingly.

6. As regard to the second part of arguments of the petitioner, we have also perused "Enrollment Certificates" of the petitioner for practicing law in District Courts as well as in the learned Chief Court and gone through The Northern Areas Legal Practitioners and Bar Councils Order, 2000, The Legal Practitioners and Bar Councils Act, 1973 and The Supreme Appellate Court Rules, 2008. Since the petitioner has been practicing law since 02.09.2005 in the learned Chief Court i.e. for the last more than nine years and has been competently conducting his cases with legal wisdom, knowledge, ability and experience in all branches of law who, in our considered view, qualifies to be enrolled as an advocate of this court. He was also elected as President of Chief Court Bar Association and enjoys good reputation among the lawyers fraternity, judiciary and general public.

7. In view of the above discussions, we by exercising powers vested under sub-order 2 first Proviso of the Order IV of The Supreme Appellate Court Rules 2008, allow his enrollment as an advocate of this court. The office is directed to issue Enrollment Certificate accordingly.

8. Meanwhile, the enrollment committee constituted by the Gilgit-Baltistan Bar Council is suspended till the necessary amendments are made in The Northern Areas Legal Practitioners

and Bar Councils Order, 2000. The advocates who have already been issued "Fitness Certificates" by the learned Chief Court and their cases are pending before the Enrollment Committee of Gilgit-Baltistan Bar Council, be referred to this court to consider for their enrollment as an advocate(s) of this court or otherwise.

9. The petition is disposed off in above terms.

Chief Judge.

Judge.