

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

**Before:-**

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

**Mr. Justice Javed Iqbal, Judge.**

**Mr. Justice Shahbaz Khan, Judge.**

**Civil Appeal No. 65/2016**

**In**

**CPLA No. 39/2015.**

1. Muhammad Naseem son of Muhammad Ghulam & 08 others.  
**Petitioners.**

**Versus**

1. Provincial Government through Chief Secretary Gilgit-Baltistan & 04 Others.

**Respondents.**

**PRESENT:-**

1. Mr. Malik Shafqat Wali senior Advocate for the petitioners.

2. The Advocate General Gilgit-Baltistan on behalf of the respondents.

**DATE OF HEARING: - 20.09.2016.**

**JUDGMENT.**

**Dr. Rana Muhammad Shamim, CJ.....** This petition has been directed against the impugned judgment dated 14.04.2015 in Writ Petition No. 40/2015 passed by the learned Gilgit-Baltistan Chief Court, whereby the Writ Petition filed by the petitioners was dismissed in limini observing that the case was of Civil nature. The petitioners being aggrieved by and dissatisfied with filed this petition for leave to appeal. This court vide order dated 18.04.2016 issued notices to the respondents. The case was finally heard today.

2. Briefly the facts of the case are that the petitioners are professional and registered contractors of the food Department Gilgit-Baltistan who have been awarded contract of transportation

of wheat from Bulk Depot Juglote to Gilgit, Gahkuch and various others Districts and Tehsils of Gilgit-Baltistan as per agreed terms of contract dated 01.07.2008 with the respondent No. 03 & 04. The respondents have paid the escalation amount for the year 2008-2009 in line with the aforementioned agreement but the petitioners have not been paid the escalation amount for the year 2009 to 2010 and onward. The petitioners being aggrieved filed Writ Petition No. 40/2015 in the learned Gilgit-Baltistan Chief Court which was dismissed holding that the petitioners should have filed a Civil Suit for claiming escalation amount instead of Writ Petition.

3. The learned counsel for the petitioners submits that the petitioners have completed the contract of transportation of wheat to the various Districts and Tehsils of Gilgit-Baltistan from Bulk Depot Juglote as per agreed terms of agreement. He further submits that the respondents were bound to pay the escalation amount to the petitioners as per Clause 4 of the agreement. They, however, have paid the partial amount on account of escalation for the year 2008-2010 whereafter the respondents illegally denied to pay the said amount. He also submits that the respondents are paying the escalation amount regularly to the NATCO for transportation of the wheat from Islamabad to Bulk Depot Juglote. He further submits that the petitioners being aggrieved filed Writ Petition before the learned Gilgit-Baltistan Chief Court which was dismissed in limini vide order dated 14.04.2015 being not maintainable. He finally submits that the learned Gilgit-Baltistan Chief Court has failed to

apply its judicial mind while passing the impugned order, therefore, the same is not tenable and liable to be set aside. While saying so he relied upon case law reported as 1998 SCMR 2268.

4. On the other hand, the learned Advocate General supports the impugned order passed by the learned Gilgit-Baltistan Chief Court. He contends that the learned Gilgit-Baltistan Chief Court has rightly dismissed the Writ Petition of the petitioners as factual controversies were involved which have to be resolved after recording of evidence of the respective parties. He reiterates that the adequate, efficacious and alternate remedy was available to the petitioners by filing Civil Suit in the competent court of law which has not been availed. He concludes that the impugned order dated 14.04.2015 in Writ Petition No. 40/2015 passed by the learned Gilgit-Baltistan Chief Court is well reasoned and well founded which is sustainable and no interference is warranted thereto.

5. We have heard the learned counsels for the respective parties at length, perused the record of the case file and gone through the impugned order dated 14.04.2015 in Writ Petition No. 40/2015 passed by the learned Gilgit-Baltistan Chief Court. We are in agreement with the learned Advocate General that the Writ does not lie where alternate remedy is available to the petitioners. Secondly, in a cases where factual controversy is involved the jurisdiction of Writ cannot be invoked.

6. In view of the above discussions, we convert this petition into an appeal and the same is dismissed. Consequently, the

impugned order dated 14.04.2015 in Writ Petition No. 40/2015 passed by the learned Gilgit-Baltistan Chief Court is maintained. The petitioners, however, would be at liberty to seek alternate remedy available to them in accordance with law before the competent court of jurisdiction, if they so advised.

7. The petition is dismissed in above terms.

**Chief Judge.**

**Judge.**

**Judge.**

**Whether the case is fit to be reported or not?**