

**IN THE SUPREME APPELLATE COURT GILGIT-BALTISTAN  
C.P.L.A NO. 20/2010**

Before: Mr. Justice Muhammad Nawaz Abbasi, Chief Judge  
Mr. Justice Syed Jaffar Shah, Judge.  
Mr. Justice Muhammad Yaqoob, Judge.

1. Provincial Government of Gilgit-Baltistan  
Through Chief Secretary G.B. Gilgit
2. Secretary Education Gilgit-Baltistan Gilgit
3. Director Education Gilgit-Baltistan, Gilgit
4. Deputy Director Education, Gilgit
5. Head Mistress, Govt. High School Kashrote Gilgit

Petitioners

**Versus**

- Tahira Begum w/o Khan Bahadur r/o Konodas, Gilgit
- Saima Ilyas d/o Ilyas r/o Konodas, Gilgit
- Nadeema Ilyas d/o Ilyas r/o Konodas, Gilgit

Respondents

**PETITION FOR LEA VE TO APPEAL UNDER ARTICLE 60 OF GILGIT-BALTISTAN  
(IMPOWERMENT AND SELF GOVERNANCE) ORDER AGAINST THE  
JUDGMENT/ORDER DATED 25-05-2010 PASSED BY CHIEF COURT.**

Advocate General Gilgit-Baltistan

**Date of heariang 28-09-2010**

**JUDGMENT**

**Mr. Justice Muhammad Nawaz Abbasi, C.J.:** The Provincial Government of Gilgit-Baltistan has preferred this petition against the judgment dated 25-5-2010 passed by the Chief Court in a Writ Petition filed by the respondent (School Teachers) wherein they challenged the order of their transfer from Gilgit City to the different places outside Gilgit. The Chief Court declared the order of their transfer illegal and Provincial Government has questioned the legality of the order of Chief Court with the assertion that the order was direct interference in the internal affairs of the education department which may also disturb the education policy and administrative function of the Government.

The learned Advocate General has argued that the respondents were initially appointed against the vacant posts at different places in rural areas of District Gilgit and they after joining the service by use of the political influence managed their posting

against the vacant posts of teachers in Gilgit City, with the result that student of the School of rural areas, in which respondent were appointed for non-availability of teachers are deprived of the basic right of education.

The above ground taken by the learned Advocate General in his arguments was not raised before the Chief Court and also has not been taken in the ground of this petition, so much so the same was also not the consideration for the transfer of the respondents, from their present place of posting, rather the transfer order was passed on the basis of an order of Secretary Education by virtue of which the teaching staff posted against the ex-cadre posts in education department was directed to be repatriated. The respondents while posted in school in the Urban Areas were not occupying ex-cadre posts to be covered by the said order.

The posting and transfer of a Civil Servant is an administrative function of Government and a Civil Servant cannot claim posting at a particular place or post unless he has a claim of posting against such a post or at a particular place as of right under terms and condition of his service. The Chief Court in the normal cases may not interfere in the administrative affairs and Policy decision of Government in Writ Jurisdiction, but in a case of infringement of a legal right of a person, the Court may not hesitate to interfere for the protection of such right in the interest of Justice and rule of law. The administrative order which are directly or indirectly contain the element of victimization or discrimination in dealing with such matters are always subject to the Judicial review of the Courts. The Provincial Government instead of making fresh appointment against the vacant posts, transferred the respondents who were quite satisfactorily discharging their functions at the present place of posting on the basis of an order which has no nexus with the reason of transfer of respondents. The shifting of low paid teachers from one place to another place without a valid reason may not be in proper exercise of power which may not only against the Education Policy and public interest but may also be the result of victimization. Be that as it may, the competent authority in the

education department in the light of Education Policy may make general or individual transfer of the teachers as per requirement of their service in the public interest.

In the present case the Chief Court having considered the order of transfer of respondents not in consonance with the education policy in good faith, declared the same illegal and we would not like to interfere in the order of Chief Court passed in discretionary jurisdiction.

In the light of forgoing reason, and with the above observations, we without disturbing the Judgment of Chief Court dispose of this petition.

**Chief Judge**

**Judge**

**Judge**