

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

Before:-

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

Civil Appeal No. 58/2017

In

CPLA No. 134/2016.

Syed Konain & others

Petitioners.

Versus

Provincial Government & others

Respondents.

PRESENT:-

1. Mr. Amjad Hussain Advocate alongwith Mr. Ali Nazar Khan Advocate-on-Record for the petitioners.
2. The Advocate General Gilgit-Baltistan on behalf of the respondents.
3. Mr. Johar Ali Advocate/Legal Adviser Education Department Gilgit-Baltistan.

DATE OF HEARING: - 27.09.2017.

JUDGMENT.

Dr. Rana Muhammad Shamim, CJ..... This Civil Petition has arisen out of the impugned order dated 05.10.2016 passed by the learned Chief Court whereby the Writ Petition No. 139/2014 filed by the petitioners was dismissed, hence, this petition for leave to appeal. This court vide order dated 23.11.2016 issued notices to the respondents and the case is heard today.

2. The brief facts of the case are that the petitioners were appointed as regular teachers in Education Department Gilgit-Baltistan in the year 2010-13 through various appointment orders. Consequently, they have been paid their salaries from their appointments up to 2013. Later on, in July, 2013 the respondents stopped/discontinued the payment of the salaries of the petitioners

on the grounds that the posts of the incumbents have not been included in the NIS. The petitioners being aggrieved by and dissatisfied with filed Writ Petition No. 139/2014 in the learned Chief Court praying therein that the respondents be directed to include the posts of the petitioners in the NIS of the Finance Department Gilgit-Baltistan by declaring the petitioners to be entitled to appear before the committee constituted by the then Chief Minister Gilgit-Baltistan in order to prove their qualification as done with other 461 teachers of Education, Department Gilgit-Baltistan. Upon hearing, the learned Chief Court dismissed the said Writ Petition.

3. The learned counsel for the petitioners submits that three (03) committee were constituted by the respondents in order to check the suitability and the qualification of the teachers who were appointed alongwith the petitioners. He submits that the petitioners have not been given opportunity to be presented before such committee as such the petitioners have been discriminated and not treated equally amongst equals. Per learned counsel, the petitioners were appointed by the competent authorities and they were performing their duties to the entire satisfaction to their seniors but their services have been terminated illegally and without giving any reasons. He further submits that the petitioners were constrained to file Writ Petition in the learned Chief Court which upon hearing has wrongly been dismissed vide impugned order. Per learned counsel, the said impugned judgment is not

sustainable and liable to be set aside by allowing this petition for leave to appeal.

4. On the other hand, the learned Advocate General supports the impugned order passed by the learned Chief Court. He contends that the facts of the case are different from the case of those 461 teachers who have been called for verification of their qualification by the various departmental committees. Per learned Advocate General, since, the petitioners have been appointed illegally and unlawfully by the unauthorized authorities without fulfilling the codal formalities of the service rules, therefore, they are no more employees of Education Department. He further contends that the learned Chief Court has rightly dismissed the Writ Petition of the petitioners as the same was not maintainable. He prays that the impugned order may graciously be maintained.

5. We have heard the learned counsels for the respective parties at length, perused the material on record and gone through the impugned order. Admittedly, the petitioners were appointed illegally, unlawfully and without fulfilling the requisite codal formalities by the respondents, therefore, they can not be considered as the employees of Education Department. In our considered view, the impugned order is well founded as no infirmity has been pointed out by the learned counsel for the petitioners.

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

impugned order dated 15.10.2016 passed by the learned Chief Court is affirmed.

7. The appeal is dismissed in above terms.

Chief Judge.

Judge.

Whether the case is Fit to be reported or Not?