Form No.HCJD/C-1-121

JUDGMENT SHEET

IN THE ISLAMABAD HIGH COURT, ISLAMABAD

(JUDICIAL DEPARTMENT)

Writ Petition No. 947 of 2025

Mastan Wali Khan

Versus

Prime Minister of Pakistan/Chairman, Gilgit-Baltistan Council through its Principal Secretary PM Secretariat, etc

Petitioner by :	In Person.
Respondents by:	Hafiz Ehsan Ahmed Khokhar, Advocate for Respondent No.4, Ms. Zainab Samantash, Advocate for Respondent No.1, 2 and 3. Mr. Rashid Hafeez, Additional Attorney General for Pakistan and Mr. Azmat Bashir Tarar, Assistant Attorney General. Ms. Asma Siddique, Section officer (Legal), Gilgit-Baltistan Council, Islamabad.
Date of hearing:	03.06.2025

KHADIM HUSSAIN SOOMRO, J.:- Through this writ petition, the petitioner has called into question the legality of the re-appointment of Respondent No.4 as the Chief Election Commissioner (CEC) of Gilgit-Baltistan, primarily on the ground that it was made by a caretaker federal government without following the procedure of meaningful consultation, thus infringing constitutional principles governing the independence and impartiality of election commissions. The petitioner seeks issuance of writs in the nature of quo warranto and certiorari to declare the appointment void ab initio and to direct initiation of a fresh appointment process.

2. The brief facts necessary for determination of this petition are that under Section 5 of the Gilgit-Baltistan Chief Election Commissioner (Terms and Conditions) Order, 2014, the tenure of Respondent No. 4 as Chief Election Commissioner Gilgit-Baltistan was to expire on 30.07.2022. However, despite the lapse of his statutory term, Respondent No. 4 continued to hold office until 30.07.2024 and again took a fresh oath on 31.07.2024. This re-appointment was made by Respondent No. 1 on the advice of Respondent No. 3, without any

consultation with the Chief Minister or Leader of the Opposition in the Gilgit-Baltistan Assembly.

3. The petitioner contends that the criteria for appointment of the Chief Election Commissioner Gilgit-Baltistan under various Executive Orders, including the Gilgit-Baltistan Governance Reforms 2019, are inconsistent with the constitutional principles set out in Articles 213 and 218 of the Constitution of the Islamic Republic of Pakistan, 1973, and Article 50 of the Azad Jammu and Kashmir Interim Constitution, 1974; that these provisions require meaningful consultation between the Prime Minister and the Leader of the Opposition to ensure the appointment of an impartial and independent Chief Election Commissioner; that such meaningful consultation was not made. It is further contended that Respondent No. 4 did not fulfil the prescribed criteria for appointment as Chief Election Commissioner Gilgit-Baltistan. He never served in the judicial service of Gilgit-Baltistan through a regular appointment or through the Public Service Commission, but had been serving as a District Attorney in BPS-18 prior to his contract appointment as an ATC Judge. His appointment, therefore, did not meet the standards set out under the applicable rules; that the petitioner further submits that the re-appointment of Respondent No. 4 was made in deviation from the principle of neutrality and impartiality essential for free and fair elections. Such appointment, made without consultation with the Chief Minister and Leader of Opposition of Gilgit-Baltistan Assembly, cannot be sustained in law. The role of a caretaker government is confined to day-to-day matters, and it cannot make appointments of such magnitude and permanence. In support of his submissions, Learned counsel/petitioner in person relied upon reported judgments of the Supreme Court of Pakistan cited as Khawaja Muhammad Asif Vs. Federation of Pakistan, etc (2013 SCMR 1205), Rasheed Ahmed Vs. Federation of Pakistan (PLD 2017 SC 121), Officer incharge, Army Housing Directorate, Karachi, Vs. Federation of Pakistan, etc (PLD 2024 SC 576)

Al-Jehad Trust, etc Vs. Federation of Pakistan, etc (1990 SCMR 1379) and observations made in different orders passed by the Apex Court in CMA No. 2415/2020 in 2944/2019 and C.M.A. 2944/2019 in Const.P. 50/2018 titled Civil Aviation Authority Vs. Supreme Appellate Court Gilgit Baltistan, etc., Constitution Petitions No. 35, 36, 37 of 2022 and C.M.As No. 11480 of 2024 and C.M.As No. 3985 of 2024 & 1564 of 2025 in Const. P. No. 35 of 2022 titled Khalid Khursheed Khan, etc, Vs. Federation of Pakistan, etc.

4. Conversely, Learned Additional Attorney General, as well as the learned counsel appearing on behalf of Respondents No. 1 to 3, raised a preliminary objection to the maintainability of the instant petition on the ground of territorial jurisdiction. It was submitted that the office of the Chief Election Commissioner, Gilgit-Baltistan, is situated within the territory of Gilgit-Baltistan, performs functions exclusively concerning the affairs of Gilgit-Baltistan, and is appointed on the advice of the Governor of Gilgit-Baltistan by the Prime Minister of Pakistan under the provisions of the Government of Gilgit-Baltistan Order, 2018, and the rules and regulations framed thereunder. It was further contended that the Islamabad High Court does not possess territorial jurisdiction to adjudicate upon the legality of the impugned appointment. In support of this argument, reliance was placed upon the judgments reported as PLD 2024 Supreme Court 610, 2022 SCMR 2058, and PLD 2025 Lahore 200.

5. Learned counsel for Respondent No. 4 submitted that the appointment of Respondent No. 4 as Chief Election Commissioner, Gilgit-Baltistan, was made strictly in accordance with Article 97(1) of the Government of Gilgit-Baltistan Order, 2018, read with Section 3 of the Gilgit-Baltistan Chief Election Commissioner (Terms and Conditions) Order, 2014. It was emphasized that the appointment was carried out by the Chairman of the Gilgit-Baltistan Council on the advice of its Vice Chairman through a properly notified order, and that the

appointee duly assumed office upon taking oath before the Chief Judge of the Supreme Appellate Court of Gilgit-Baltistan.

6. The learned counsel further submitted that the Government of Gilgit-Baltistan Order, 2018, remains the governing legal instrument, as reaffirmed by the Supreme Court of Pakistan, and that the said appointment was made during the tenure of a permanent government, not under a caretaker setup. The principle of *expressio unius est exclusio alterius* was invoked to argue that reappointment was not barred under the applicable legal framework and is therefore valid. Reliance was placed on judgments, including 2017 PLC (CS) 645, to support the legality of reappointment in the absence of an express prohibition.

7. The central question before this Court, therefore, is whether the Islamabad High Court has territorial jurisdiction under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, to adjudicate upon matters concerning the appointment and functions of the Chief Election Commissioner of Gilgit-Baltistan, an office established under a special constitutional arrangement confined to that territory.

8. Perusal of record reveals that the entire factual matrix giving rise to the impugned appointment is territorially rooted in Gilgit-Baltistan. The office of the Chief Election Commissioner is established under the Gilgit-Baltistan Chief Election Commissioner (Terms and Conditions) Order, 2014, read with the Government of Gilgit-Baltistan Order, 2018. The appointment in question was effected pursuant to a notification and was followed by the administration of oath by the Chief Justice of the Supreme Appellate Court of Gilgit-Baltistan.

9. The principle of dominant object and the doctrine of localized jurisdiction, as expounded by the Hon'ble Supreme Court in Taufiq Asif v. General (R) Pervez Musharraf (PLD 2024 SC 610) and adopted by this Court in Messrs The Communicators (Pvt) Ltd. vs. PEMRA (W.P. No. 2172 of 2025), mandates that in determining jurisdiction under Article 199, the Court must identify where the

cause of action arose and the true situs of the impugned action. The mere fact that the Prime Minister of Pakistan or the Federal Government may have played a formal or administrative role in the process does not suffice to vest jurisdiction in this Court when the dominant grievance and its execution are confined entirely to a different territory, i.e., Gilgit-Baltistan.

10. It is now settled law that even when actions are undertaken by federal authorities operating across Pakistan, territorial jurisdiction lies with the High Court of the province or territory where the operative acts occur and where the consequential effect of such acts is felt. In the instant case, the primary and direct effect of the impugned appointment lies in the electoral and governance affairs of Gilgit-Baltistan.

11. The Islamabad High Court, being a territorial court of limited jurisdiction, cannot assume advisory or supervisory authority over functionaries and legal frameworks established exclusively for Gilgit-Baltistan. The Hon'ble Supreme Court in PLD 2019 SC 357 has categorically held that matters arising out of the Gilgit-Baltistan Order, 2018 fall outside the purview of provincial High Courts and any adjudication on such questions is vested solely in the Supreme Court of Pakistan under its original jurisdiction.

12. In view of the foregoing, this Court finds that no part of the cause of action has arisen within the territorial limits of Islamabad, nor does the office or the functions of Respondent No.4 bear any connection to this territory. The dominant object of the petition pertains exclusively to executive and quasi-judicial acts performed within Gilgit-Baltistan under its unique constitutional framework. Accordingly, this Court is divested of jurisdiction to entertain the instant writ petition either on territorial or subject-matter grounds.

13. In light of the foregoing discussion, and guided by the binding dicta of the Supreme Court as well as settled principles governing territorial jurisdiction under Article 199 of the Constitution, it is manifest that the cause of action, the

subject matter of the petition, and the impugned appointment are all inextricably linked to the territory of Gilgit-Baltistan. This Court, therefore, lacks both territorial and subject-matter jurisdiction to entertain the present petition. Accordingly, instant writ petition is ***dismissed*** for want of jurisdiction. However, it is clarified that no observation is made on the merits of the case, and the petitioner shall remain at liberty to avail appropriate remedies before the competent forum having jurisdiction in the matter, strictly in accordance with law.

(KHADIM HUSSAIN SOOMRO)
JUDGE

Announced in open court on 29th day of July, 2025

JUDGE

Approved for reporting

S.Hasan