

غول محمد

- 1 -

BEFORE THE PESHAWAR HIGH COURT PESHAWAR

In Ref to

W.P No. _____/2023



1. Gul Mohammad
Son of Sahar Gul
Resident of Gulbahar No. 3, Faqir Sarai, Peshawar

2. Shahid Gul
Son of Gul Mohammad
Resident of Gulbahar No. 3, Peshawar

.....Petitioners

VERSUS

1. Federation of Pakistan,
Through the Ministry of Interior Affairs,
Office Address: Fourth floor, R-Block, Pak-Secretariat, Constitution Ave, Red
Zone, Islamabad

2. Ministry of Interior,
Through the Secretary of Interior,
Office Address: Fourth floor, R-Block, Pak-Secretariat, Constitution Ave, Red
Zone, Islamabad, ICT.

3. National Data Base and Registration Authority,
Through its Chairman,
Office Address: Sahara Kashmir Rd, near G 10 Markaz, G-10 Mauve Area G 10
Markaz G-10, Islamabad

4. National Data Base and Registration Authority,
Through its head office, Regional,
Office Address: Phase 5 Hayatabad, Peshawar, Khyber Pakhtunkhwa

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14 FEB 2023

.....Respondents

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Peshawar High Court

WRIT PETITION UNDER ARTICLE 199 OF THE
CONSTITUTION OF ISLAMIC REPUBLIC OF
PAKISTAN, 1973

Respectfully Sheweth:

1. That the petitioners are law-abiding citizens of Pakistan and bonafide residents of Peshawar, KPK.
2. That the petitioners have not approached the Honorable Peshawar High Court for the first time, but the second time. Earlier in writ petition No. 2075-P of 2021 and this time being denied of their constitutional as well as fundamental right yet again.
3. That brief facts giving rise to this instant petition are that after the expiry of the Old Identity Card, petitioner No. 1 and Petitioner No. 2 applied for their computerized National Identity Cards (CNIC) which were issued in 2002 bearing CNIC No. 17301-1420241-9 and CNIC No. 17301-1420238-3 respectively. On the expiry of petitioner No. 1 and petitioner No 2 CNICs, when the petitioners approached Respondent No. 4 office for renewal of CNIC, as per law and routine, but instead of facilitating them and resolving their issue Respondent No 4 kept dodging the petitioners on one pretext or another by requiring additional and unnecessary formalities. After a long time, Respondent No.4 officially revealed that the CNICs of the petitioners are blocked without issuing any prior notice as required by law. The petitioners were then burdened with visiting Respondent No.4 office for unnecessary authentications and processes with no result. Hence both the Petitioners filed a writ petition No. 2075-P of 2021 at Peshawar High Court against Respondent No.4 illegal and unconstitutional actions. The judgment announced 01.06.2021 is reproduced hereunder for reference:

3. At the very outset, the latter stated that grievance of the petitioners will be redressed if they (petitioners) appear before the DLC, Peshawar to which, the former readily agreed.

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4. *In view of the above, we dispose of this petition by directing the petitioners to appear in person before the DLC, Peshawar on 03.06.2021(Thursday), So that their issue and grievance be resolved in line with law, rules and policy on the subject."*

Copy of Writ Petition No 2075-P of 2021 and Judgment dated 01-06-2021 both are attached as Annexure A.

4. That obeying the order of this Honorable Court; the Deputy Commissioner, Peshawar declared both the Petitioners as Pakistani Citizens.

For reference the para is reproduced here:

"Ref by NADRA:

The applicants appeared before DLC held on 15-07-2021 and was marked to ISI for ground

Verification/Spot Check:

Now rep of ISI furnished his report vide letter No.1601/CNIC-3 dated: 01-02-2022 and declared the applicant as Pakistani National."

Copy of report of Deputy Commissioner, Peshawar is attached as Annexure B

4. That being declared as Pakistani Nationals by Competent Authority Respondent No. 4 is still not issuing the CNICs of both the petitioners without any reason. Both petitioners have visited Respondent No.4 office several times but with no result. Petitioners also severed a legal notice to Respondent No.4 but paid no heed. It is pertinent to mention here that a person, whose citizenship is revoked/CNIC blocked, loses the right to employment, access to his or her bank accounts, and the right to engage in trade, business or profession. Moreover, access to education, health, etc., is denied and the family members are also equally affected.
5. That the petitioners being from a modest family are very busy in their day-to-day activities and hence to earn bread and butter for their families are restricted by

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Respondent No. 4 unlawful and illegal actions. As both, the petitioners' time is of the essence and value to their families, which was wasted owing to Respondent No.4 imprudent and careless conduct. The petitioners are deprived of being citizens of Pakistan.

6. That the petitioners feel gravely dissatisfied and aggrieved of the actions and inaction of Respondent No.4 being treated illegally and having no efficacious alternate remedy available seek the indulgence of this Honorable court on the following grounds:

GR OUNDS:

- a) Because valuable rights of the Petitioner as enshrined under Articles 4 & 9, 25 of the Constitution are being violated.
- b) Because Blocking a CNIC would be tantamount to suspending the citizenship of a registered citizen and exposing the latter to the horrendous consequences that follow.
- c) Because NADRA is bereft of jurisdiction or power to directly or indirectly determine or adjudicate upon the status and eligibility of a person citizenship; who has already been registered as a citizen.
- d) Because the authority [NADRA] is bereft of the power to block, suspend, impound or confiscate a CNIC on the ground of eligibility relating to citizenship unless an order passed by the competent authority under subsection 6 of section 16 of the Citizenship Act has attained finality.
- e) Because NADRA can do this only, if it has been informed that the competent authority has either confirmed renunciation of citizenship under section 14 A or its loss under section 16 A, as the case may be.
- f) Because citizenship is the most valuable basic right of a human and all other rights, whether social or political, cannot be enjoyed if a person does not have a bond of citizenship with a state.

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Peshawar High Court

- g) Because the fundamental rights guaranteed under the Constitution of Pakistan under Article 14 are rendered meaningless if a person is stripped of citizenship. It has a devastating impact on human lives.
- h) Because a person once registered as a citizen cannot be deprived of citizenship otherwise than as is provided under the law.
- i) Because Article 15 of the 1948 Universal Declaration of Human Rights, states that everyone has the right to a nationality. No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.
- j) Because citizenship is the sole and effective bond between a state and a human which enables the latter to enjoy all the rights guaranteed under the Constitution. It entitles the individual to the protection of the State and to enjoy civil and political rights.
- k) Because a state cannot adopt policies which will have the effect of even inadvertently rendering a person stateless. The Citizenship Act and the Citizenship Rules and the statutory safeguards prescribed therein are consistent with the mandate of the Constitution and the international obligations.
- l) Because of **Hafiz Hamdullah's citizenship** the Islamabad High Court while restoring the CNICs of all the petitioners including Hafiz Hamdullah, noted that NADRA had exposed itself to be sued for a claim of damages for the devastating consequences and unimaginable mental agony suffered by the petitioners.
- m) Because the superior Courts have also held in a plethora of judgments that the State and government have to be forthright, meaningful protective and loyal to their citizens whereas the promises and commitments made by the state and government are always meaningful serious, credible, responsible solemn and somber which correspondingly are So received by its citizens in

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Peshawar High Court

particular and the citizens in general. Such cannot be perpetual meaningless, non-serious, fraudulent or purposeless.

- n) Because without prejudice to the above but in addition thereto, the Petitioners have been deprived of their cardinal right of being heard and the impugned action and inaction of the Respondent No.4 has affected the vested rights of the Petitioners thus, overlooking the Principle of Natural Justice.
- o) Because Petitioners crave for leave to add further grounds at the time of their oral arguments before this Honorable Court highlighting further contraventions of the provisions of the Constitution which adversely affected the Petitioners.

Keeping in view the above submissions, the Honorable court on acceptance of this writ petition may graciously be pleased to:

- i. **Direct**, Respondent No. 4 to provide CNIC to both the petitioners.
- ii. **Declare**, that in-action of Respondent No.4 not to issue CNICs is thus, illegal, unlawful and hence, of no legal effect.
- iii. Any other relief in the circumstances not specially asked for may also be granted.

Through

Muhammad Muazzam Butt
Advocate, Supreme Court

MUJAZZAM LAW FIRM
Muazzam Law Firm

Office Address: 6-A Nasir
Mansion, 2-Railway Road,
Shuba Bazar, Peshawar
Cell No: 0332-580782

Petitioner

Nazish Muzafar
Advocate High Court

Zesh Law Chamber
Advocates & Corporate
Consultants

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INTERIM RELIEF:-

It is further requested for interim relief from this Honorable court that Respondent No.4 may also be directed, not to take any adverse action or inaction violating the petitioner's fundamental rights.

MUZZAM LAW FIRM
ADVOCATE

CERTIFICATE:

Certified on instructions of my client that petitioner has not previously moved to this Honorable Court under Article 199 of the Constitution of Islamic Republic of Pakistan, 1973 regarding the instant matter. Further stated that being Writ Petition on the score that since there is no adequate and alternate legal remedy is available, thus this case may be fixed before the Worthy Division Bench (D.B) of this Honorable Court.

MUZZAM LAW FIRM
ADVOCATE

LIST OF BOOKS:

1. Constitution of Islamic Republic of Pakistan, 1973
2. Any other law books according to need

MUZZAM LAW FIRM
ADVOCATE

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Peshawar High Court

IN THE PESHAWAR HIGH COURT, PESHAWAR

W.P No. _____/2022

**Gul Muhammad S/o Sehar Gul
R/o presently residing at Gulbahar No. 3
Tehsil & District Peshawar**

.....**Petitioner**

VERSUS

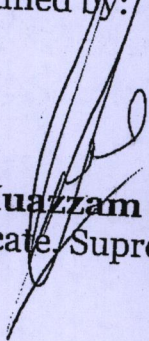
Chairman NADRA & others

.....**Respondents**

AFFIDAVIT

I, Munir Khan S/o mehrab Gul R/o F-105 Mohallah Faqir Sarai Gulbahar Colony Tehsil & District Peshawar, do hereby solemnly affirm and declare on oath that the contents of the accompanying Application are true and correct to the best of my knowledge and belief and nothing has been concealed from this Hon'ble Court. *(Special attorney holder)*

Identified by:



M. Muazzam Butt
Advocate Supreme Court

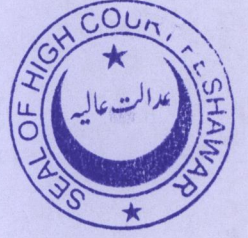
مونس خان
DEPONENT
CNIC: 17301-2932003-3 ✓
Cell No. *0310-9502258*

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14 FEB 2023

27088
I certify that the above was verified on solemnly affirmed before me in which this *27* day of *Dec* *Munir Khan* s/o *Mehrab Gul* Peshawar who was identified by *M. Muazzam Butt/Adv* Who is personally *known* to me.
Oath Commissioner
Peshawar High Court, Peshawar
27/12/2022

CERTIFIED TO BE TRUE COPY
EXAMINER
Peshawar High Court, Peshawar
Authorized Under Article 8, 7 of
the Qanoon-e-Shahadat Act 1984
26 SEP 2023

Judgment Sheet
PESHAWAR HIGH COURT, PESHAWAR
(Judicial Department)



WP 599-P/2023 with IR

Gul Muhammad and another

Versus

Federation of Pakistan and 3 others

JUDGMENT

Date of hearing 22.9.2023
Petitioners by Mr. Bassam Siddiqui, Advocate
Respondents by Mr. Shahid Imran Gigyani, Law Officer

ABDUL SHAKOOR, J: - Through the instant writ petition, the petitioners have prayed for issuance of direction to the respondent-NADRA to provide them CNICs that were blocked despite the fact that both of them appeared before the DLC, Peshawar and declared as Pakistan nationals by the competent authority.

2. Facts in brief are that, the petitioners had earlier filed WP 2075-P/2021 before this Court with the prayer that order of the respondent-NADRA qua blocking of their CNICs be declared as illegal, unlawful and they be directed to unblock and issue the same to them. That petition was disposed on 01.6.2021 with direction to the petitioners to appear before the DLC, Peshawar. The

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petitioners did appear before the said Committee, and were declared as Pakistani citizens. Afterwards they approached the respondent-NADRA several times and also served them with legal notice but of no avail, hence, the instant writ petition.

3. The respondent-NADRA filed Para-wise comments wherein they contended that one of the family members of the petitioner namely Muhammad Shakir is POR card holder while data of two others are digitally impounded for which they were required to appear before Regional Verification Board for further process that's why during process for clearance of data/CNIC of the petitioners, the same was rejected.

4. Heard; record perused.

5. It is an admitted position on the face of the record that both the petitioners have appeared before the DLC for verification of their status and after getting reports from the concerned security agency, they were found Pakistan nationals. According to their old CNICs, both the petitioners are father and son. The date of birth of petitioner Gul Muhammad is 1935 while that of his son Shahid Gul is 1966. The former had got his old national identity card on 26.12.1973 while the latter on 20.5.1986.

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There is no cavil to the proposition that the presumption of truth is attached with the cards already obtained by the petitioners after going through the prescribed procedure and the particulars recorded therein. Indeed, such registration and issuance of the CNICs to the petitioners was a certification or acknowledgment that the petitioners were eligible citizen of Pakistan but, unfortunately their cards were blocked by the respondent-NADRA, and their cases were referred to District Committee, which action was legally not vested in them, ultra vires the Citizenship Act and rules framed thereunder as has been held by the Hon'ble Islamabad High Court, Islamabad in its judgment dated 19.5.2021 rendered in WP 3748/2019. The worthy Court has also emphasized that *"a person once registered as a citizen cannot be deprived of citizenship otherwise than as is provided under the law. Article 15 of the 1948 Universal Declaration of Human Rights declares that 'everyone has the right of nationality. No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality'"*. In such view of the matter, we are of the considered view that the petitioners, despite having the status of Pakistani nationals were indiscriminately treated by the respondent-NADRA, therefore, this Court

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Peshawar High Court

while exercising its jurisdiction under Article 199 of the Constitution of Pakistan, 1973 declare the blocking of CNICs of the petitioners as illegal, unlawful, arbitrary and ultra vires the Citizenship Act and rules framed thereunder. Hence, the instant writ petition is allowed and the respondent-NADRA is directed to restore the CNICs of the petitioners forthwith.

6. So far as, contention of the respondents that other family members of the petitioners have got POR card or data of some digitally impounded is concerned, the respondent-NADRA have already asked them to appear before the Regional Verification Board for further process where their cases shall be taken up and decided as per law but, the petitioners cannot be suffered or dragged unnecessarily in their cases.

Announced:
22.9.2023



JUDGE

Nazir

(SB)

Hon'ble Mr. Justice Abdul Shakoor, J.

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Peshawar High Court, Peshawar
Authorized Under Article 8, 7 of
the Qanoon-e-Shahadat Act 1984

26 SEP 2023

Date of Presentation of Application

10436
26-09-2023

No of Pages

12-P

Copying fee

48-10

Date of Preparation of Copy

26-09-2023

Date of Delivery of Copy

26-09-2023

Date of Filing

19-09-2023

Note: This Case was pleaded by Muazzam Law Firm and the judgement has been delivered by honoured Peshawar High Court.