

ORDER SHEET
IN THE HIGH COURT OF SINDH AT Karachi

C.P. No. D-795 of 2026

[Mustafa Fuzail and another v. Federation of Pakistan and others]

Date	Order with signature of Judge(s)
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Before:

Mr. Justice Adnan-ul-Karim Memon
Mr. Justice Zulfiqar Ali Sangi

Date of hearing and Order: 11.03.2026

M/s. Abubakar Khalil and Shahid Iqbal Rana advocates for the petitioners
Ms. Wajiha Mehdi, Assistant Attorney General

ORDER

Adnan-ul-Karim Memon, J. – Petitioners have filed this Constitution Petition under Article 199 of the Constitution of the Islamic Republic of Pakistan 1973, seeking the following relief:-

- i) *To issue a declaration that the acts of Respondents Nos.2 to 5 in repeatedly obstructing petitioner No.2's international travel, based on mala fide intentions and at the behest of father of petitioner No.1, are illegal, unconstitutional, and in violation of Articles 9, 14, 15, 18 and 19-A of the Constitution;*
- ii) *To issue a declaration that the alleged placement of petitioner No.2's name on the Exit Control List (ECL) and/or the Human Trafficking Watch list is unlawful, based on extraneous considerations, and without any legal justification or evidence;*
- iii) *Direct Respondents Nos. 1 to 3 to immediately remove the name of petitioner No.2, Mariyam Ejaz Merchant, from the Exit Control List and the Human Trafficking Watch List, if placed thereon, and to issue a written clearance to this effect;*
- iv) *Direct Respondents Nos. 1 to 5, their officers, subordinates and agents, to permanently cease and desist from harassing, intimidating or obstructing the petitioners, and particularly petitioner No.2 at any immigration point in Pakistan;*
- v) *Direct Respondent Nos. 1 to 3 to initiate a transparent inquiry against Respondents Nos. 4 & 5 for misconduct, corruption, extortion, and violation of fundamental rights and to take strict disciplinary and legal action against them.*

2. It is the case of the petitioner No.1 that he is presently working in Saudi Arabia and petitioner No.2 is his lawfully wedded wife. It was contended that the petition concerns continuous violation of the petitioners' fundamental rights relating to the validity of their marriage, their dignity and freedom of movement,

purportedly instigated by the father of petitioner No.1 and executed through certain state functionaries. However, when the petitioner No.2 returned to Pakistan in April 2025, she faced unlawful obstruction in the renewal and use of her passport by the official respondents who off-loaded her from Saudi-bound flights despite her possessing a valid Umrah visa and travel documents, which is apathy on their part.

3. Learned counsel for the petitioner submitted that petitioner No.1 contracted marriage with petitioner No.2 on 11.05.2017 which was duly registered. However, due to family pressure from petitioner No.1's father and the family of his first wife, petitioner No.1 was compelled on 26.01.2019 to sign a blank divorce deed under threats. According to the petitioners' counsel, the said document was later misused by petitioner No.1's father to fraudulently obtain a divorce registration certificate from NADRA dated 22.01.2020 without the knowledge or consent of petitioner No.1. It was argued that such divorce, having been obtained under coercion, is void under Islamic law. In support thereof, petitioner No.1 also obtained Fatwas from scholars of Jamia Darul Uloom Karachi affirming that the marriage subsists. He added that as a measure of precaution, petitioner No.1 subsequently contracted a renewed marriage (Tajdeed-e-Nikah) with petitioner No.2 on 16.05.2022 and obtained a fresh marriage registration certificate. Learned counsel further submitted that the question regarding the documentary status of the marriage is already sub judice in Suit No.587/2024 pending before the learned XI-Senior Civil Judge, South Karachi. It was further contended that despite the subsistence of the marital relationship, petitioner No.1's father allegedly initiated a campaign of harassment against the petitioners, including lodging a false FIR and implicating the father of petitioner No.2 in criminal proceedings. It was submitted that when the petitioners returned to Pakistan in April 2025, petitioner No.2 faced unlawful obstruction in the renewal and use of her passport. Learned counsel submitted that on 06.07.2025 and again on 16.07.2025, officials of FIA Immigration at Jinnah International Airport Karachi off-loaded petitioner No.2 from Saudi-bound flights despite her possessing a valid Umrah visa and travel documents. It was alleged that shifting and contradictory reasons were provided by the officials, including allegations that her name was on the Exit Control List or on a human trafficking watch list. Learned counsel further contended that the officials also made defamatory allegations regarding the character of petitioner No.2 on the assumption that her marriage was invalid. According to the petitioners' counsel, such actions constitute mala fide exercise of authority and violation of their fundamental rights guaranteed under the Constitution. He prayed to allow the petition.

4. Conversely, learned Assistant Attorney General appearing for respondent Nos.2 to 5 submitted that, as per the report dated 10.03.2026 of the Assistant

Director (Analysis & Stop List) FIA Integrated Border Management System, FIA Headquarters Islamabad, the name of petitioner No.2, namely Mrs. Mariyam Ejaz, is not active in any category of stop list or watch list. It was stated that petitioner No.2 is free to travel abroad on valid travel documents. Learned AAG, therefore, prayed that since the grievance of the petitioners no longer survives, the instant petition may be disposed of accordingly in the interest of justice.

5. We have heard the learned counsel for the parties and have perused the record with their assistance.

6. The controversy in the present petition primarily relates to the obstruction caused to petitioner No.2 while attempting to travel abroad and the assertion that her name had been placed on the Exit Control List (ECL) or on some watch list without lawful authority.

7. Primarily, the right to travel abroad has been recognized as an integral component of the right to life and liberty and freedom of movement guaranteed under Articles 9 and 15 of the Constitution of the Islamic Republic of Pakistan, 1973, subject only to reasonable restrictions imposed strictly in accordance with law. Likewise, the dignity of a person is inviolable under Article 14 of the Constitution, and any arbitrary or mala fide action on the part of state functionaries which curtails such rights cannot be countenanced by this Court in exercise of its constitutional jurisdiction.

8. It is a settled principle of law that the name of a citizen cannot be placed on the Exit Control List except in accordance with the procedure prescribed under the Exit from Pakistan (Control) Ordinance, 1981 and the rules framed thereunder, and such restriction must be supported by lawful authority and tangible material. The judgments of the Supreme Court in *Benazir Bhutto v. Federation of Pakistan* and *Muhammad Nawaz Sharif v. Federation of Pakistan*, wherein it has been held that the right to travel abroad forms part of the fundamental rights and cannot be curtailed arbitrarily or on the basis of extraneous considerations. Similarly, the superior Courts have consistently held that harassment or unnecessary obstruction by immigration authorities without lawful justification amounts to abuse of authority and is liable to be rectified in constitutional jurisdiction.

9. In the present case, the learned Assistant Attorney General, on instructions and in light of the report dated 10.03.2026 submitted by the Assistant Director (Analysis & Stop List), FIA Integrated Border Management System, FIA Headquarters Islamabad, has categorically stated that the name of petitioner No.2, namely Mrs. Mariyam Ejaz, is not active in any category of stop list or watch list and that she is free to travel abroad on the strength of valid travel documents.

10. In view of this statement, the principal grievance of the petitioners regarding the alleged placement of petitioner No.2 on any stop list appears to have been redressed.

11. Nevertheless, the allegations brought on record regarding repeated off-loading of petitioner No.2 and the harassment caused to her at the immigration counter cannot be lightly ignored. Public officials entrusted with statutory powers are expected to exercise such authority strictly within the bounds of law and with due regard to the dignity of citizens. Any arbitrary or mala fide exercise of authority not only undermines public confidence in state institutions but also infringes the fundamental rights guaranteed under the Constitution.

12. In these circumstances, while taking note of the statement made by the learned Assistant Attorney General that petitioner No.2 is not on any stop list and is free to travel abroad on valid documents, this petition is disposed of with the observation that the petitioners shall not be subjected to any unlawful obstruction in future, provided they fulfill all legal requirements for international travel.

13. Furthermore, the Director General, Federal Investigation Agency (FIA) is directed to conduct a proper inquiry through a competent officer into the allegations raised in the petition regarding the conduct of the concerned immigration officials and, if any misconduct, abuse of authority or harassment of the petitioners is found to have been committed, appropriate disciplinary action shall be taken against the delinquent officials strictly in accordance with law and the applicable service rules.

14. With the above observations and directions, the instant constitutional petition stands disposed of along with any pending application(s).

JUDGE

JUDGE