

**ORDER SHEET**  
**IN THE HIGH COURT OF SINDH, KARACHI**  
**C. P. No. D-5060 of 2021**  
(Mst. Shaista Khan and another v Federation of Pakistan & others)

---

Date	Order with signature of Judge
------	-------------------------------

---

Before:-

Mr. Justice Adnan-ul-Karim Memon

Mr. Justice Zulfiqar Ali Sangi

**Date of hearing and order:-22.04.2026.**

Mr. Saadi Sardar advocate for the petitioners.

Ms. Wajiha Mehdi, Assitant Attorney General

Mr. Abdul Samad Memon advocate for the Respondent.

---

**ORDER**

**Adnan-ul-Karim Memon, J** Petitioners have filed this petition under Article 199 of the Constitution with following prayer(s):-

- i) *Declare that the petitioners are entitled to be treated in accordance with law;*
- ii) *Declare that the petitioner No.2 is entitled to grant of Pakistan Origin Card (POC) under the rules, 2002;*
- iii) *Writ of Mandamus, thereby directing the respondents to issue Pakistan Origin Card (POC) to the petitioner No.02*
- iv) *Any other relief this Hon'ble Court may deem fit in circumstances of the case and in the interest of justice.*

2. The case of the petitioners, as per pleadings, is that the petitioners, being husband and wife, submit that Petitioner No.1 is a Pakistani citizen while Petitioner No.2 is a US national of Afghan origin. Their marriage was lawfully solemnized in Karachi and duly registered. On the basis of this marital relationship, Petitioner No.2 applied for issuance of a Pakistan Origin Card (POC) under the National Database and Registration Authority Ordinance, 2000 and the POC Rules, 2002, being eligible as a foreign spouse of a Pakistani citizen. It is contended by the learned counsel for the petitioners that despite submission of complete documents, payment of fee, and undergoing extensive scrutiny and verification by the authorities, the application was declined without assigning any lawful reason, merely stating that the required NOC from the Ministry of Interior was not granted. The petitioners's counsel argued that such refusal is arbitrary, unlawful, and violative of the governing law and rules, particularly when Petitioner No.2 does not fall within any disqualifying category. The petitioners further submit that the denial of POC has caused serious hardship, including difficulties in travel, financial arrangements, and future family matters. It is argued that they were not afforded an opportunity of hearing and have been condemned unheard. Reliance is placed on relevant statutory provisions and judicial precedent to assert that issuance of POC is a legal right where eligibility

criteria are fulfilled. The petitioners, therefore, seek directions for issuance of POC to Petitioner No.2.

3. The Ministry of Interior through learned AAG submits that as per policy dated 02.04.2013, POC cases of certain categories of foreign nationals, including Afghans, are subject to mandatory security clearance from relevant agencies. The case of Petitioner No.2 was accordingly referred for such vetting; however, one of the security agencies did not support the issuance of POC. On this basis, the request could not be processed further. It is further submitted that the matter of recommendations by intelligence agencies falls outside the administrative control of the Ministry of Interior, particularly where input from agencies like ISI is involved. The Ministry states that it is pursuing the matter with the concerned authorities and will submit further information once received.

4. NADRA's counsel adopts the stance of the Ministry of Interior and submits that the case of Petitioner No.2 was processed in accordance with applicable rules and referred to the Ministry for approval. Based on the report received, which includes adverse recommendations by intelligence agencies, the issuance of POC was not supported. It is further submitted that Petitioner No.2 may approach the Ministry of Interior for redressal or reconsideration of his case in accordance with the relevant policy and rules.

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

6. It appears that Petitioner No.2 is a foreign national married to a Pakistani citizen and their marriage is valid, subsisting, and duly registered. In terms of Rule 4(5) of the POC Rules, 2002, such a person squarely falls within the definition of an "eligible foreigner of Pakistan origin," unless hit by any of the disqualifying conditions, which admittedly is not the case here.

7. The principal objection raised by the respondents is based on an adverse security report and the policy requiring security clearance. The supreme Court has already observed that seeking security clearance is within the lawful domain of the respondents, particularly in view of Rules 9 and 13 of the POC Rules, 2002, which empower the Authority to conduct inquiry and refuse issuance of a POC on grounds of security or public interest. Therefore, the requirement of security vetting, in itself, cannot be declared illegal. However, the manner in which the petitioner's case has been dealt with does not meet the threshold of legality and fairness. The refusal of POC has been communicated without disclosing any reasons, merely on the basis that the case was "not supported" by an agency. Such a cryptic refusal, without assigning reasons, is not sustainable in law. It is now a settled principle that even where discretion is vested in an authority, the same must be exercised judiciously, transparently, and in accordance with due process.

It is well settled that conditions or actions not backed by statutory rules are ultra vires and liable to be struck down.

8. Furthermore, the denial of an opportunity of hearing to the petitioners is in clear violation of the principles of natural justice. The petitioners have been condemned unheard, despite the fact that Rule 9 of the POC Rules contemplates inquiry and verification, which inherently includes fair opportunity to explain or remove any deficiency. It is well settled that administrative decisions affecting rights must conform to due process and fairness, as guaranteed under Article 4 of the Constitution of the Islamic Republic of Pakistan, 1973.

9. This Court is also mindful of the constitutional mandate under Article 35, which obligates the State to protect the institution of family. The refusal of POC in the present case has the effect of causing undue hardship to the petitioners, impacting their marital life, movement, financial affairs, and future family arrangements. Such consequences cannot be allowed to flow from arbitrary or non-speaking orders. The right to family life has also been recognized in international human rights instruments, which may be read into domestic law where not inconsistent.

10. At the same time, this Court cannot substitute its own opinion in place of that of the competent authority on matters involving national security. If there exists credible material justifying refusal on security grounds, the respondents are well within their authority to decline issuance of POC. However, such decision must be based on lawful consideration, supported by reasons even if briefly recorded, and must be communicated to the affected party to enable appropriate recourse.

11. In view of the above, the petition is liable to be disposed of with directions to the competent authority to reconsider the case of Petitioner No.2 for issuance of POC strictly in accordance with law. The petitioners shall be afforded an opportunity of hearing and to submit any required material. The respondents may obtain security clearance; however, any adverse decision shall be reasoned and communicated through a speaking order. The exercise shall be completed preferably within sixty (60) days.

12. With these observations and directions, the petition along with pending application(s) stands disposed of.

**JUDGE**

**JUDGE**