

Order Sheet

IN THE HIGH COURT OF SINDH AT KARACHI

Present:

Mr. Justice Muhammad Shafi Siddiqui, CJ
Mr. Justice Jawad Akbar Sarwana.

C.P No.D-2270 of 2021

Petitioner: Latifa W/o Saeed
through Mr. Usman Farooq, Advocate

C.P No.D-3280 of 2018

Petitioner: Syed Muhammad Nur-ul-Haq
through Mr. Abdul Irfan, Advocate

C.P No.D-7067 of 2022

Petitioner: Jabir Mukhtar Ahmed
through Mr. Amir Saleem, Advocate

C.P No.D-4509 of 2023

Petitioner: Muhammad Qasim
through Mr. M. Iqbal Bhatti, Advocate

C.P No.D-4537 of 2023

Petitioner: Wasi-ur-Rehman
through Mr. Usman Farooq, Advocate

Versus

Respondents: Federation of Pakistan and others
through Ms. Wajiha Mahdi, D.A.G.
Mr. Jawad Dero, Addl. Advocate General

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21.10.2024

Muhammad Shafi Siddiqui, CJ: All these petitions concern petitioners, based in the Kingdom of Saudi Arabia, claiming Pakistan passport from the Consulate General of the Islamic Republic of Pakistan at Jeddah, Kingdom of Saudi Arabia, as other than Ex-Burmese Muslims. As all the petitions involve a common issue therefore we intend to dispose of these petitions with this common order.

2. The Federal Government has filed their respective comments in the several petitions submitting that due to persecution a large number of Burmese Muslims had been illegally migrating to East Pakistan and

some of them shifted to West Pakistan. Further, at some point Saudi Arabia granted special permission to Burmese Muslims for settlement through the facility of Iqama (residential permit) mentioning their nationality as “Burmese”, with option to apply for Saudi Nationality on completion of 14 years stay. Meanwhile they were advised to procure passport of any country to facilitate their stay and travel. To facilitate the Burmese Muslims, the Federation, as a stop-gap measure, initially issued Pakistan passports to Burmese Muslims residing in Saudi Arabia. However, it is alleged that many Burmese Muslims illegally managed to secure Pakistani passports leading ultimately to the decision of the Cabinet Meeting dated 22.08.1994, and constitution of a Committee which concluded as of 05.10.1994 in the following terms:-

a. In view of the Saudi threat to deport Burmese Muslims to Pakistan in case they did not possess valid passports, the Government has no option but to continue extending the facility of Pakistani passport to these Burmese Muslims residing in Saudi Arabia.

b. These renewals may be done on a special basis for a period of one year each time and at the enhanced fee of SR 500/- per annum. An observation should also be made on each passport that the individual is a Burmese National by origin and is not entitled to the citizenship of Pakistan.

c. The Government will be willing to give Pakistani nationality to these individuals against payment. A figure would be indicate shortly (around US\$ 100,000/-).

d. The Foreign Office and the Ministry of Interior should work out a system of making some distinctive entries or affixing stamps so that they do not become de jure citizens of Pakistan unless specifically allowed by the Government. This will have to be done in a suitable manner so that their status with the Saudi authorities is not jeopardized.

e. High level contact should be utilized to persuade the Saudis to grant them Saudi resident or citizen status. The avenue could be explored further and an initiative taken as an opportune time.”

3. The Directorate-General Immigration & Passports (Headquarters) issued letter dated 16.12.2016 concerning the stop-gap measure of Pakistan passports issued to Ex-Burmese Muslims residing in Saudi Arabia reproduced as under:-

“To (1) All Passport issuing Authorities at Home & Abroad
(2) All Zonal Head,
Immigration & Passports,
Lahore/Karachi/Peshawar/Quetta/Rawalpindi/
Islamabad.

Subject:- NON-ISSUANCE OF PASSPORT TO BURMESE MUSLIMS HOLDING BM SERIES PASSPORTS.

I am directed to refer to the subject mentioned above and to say that as per the Cabinet decision dated 22nd Aug 1994 regarding issuance of special Passports to Burmese Muslims residing in Saudi Arabia, fifty thousand (50000) Special Passports bearing Serial No.BM-000001 to 050000 were printed and dispatched to Parep, Riyadh and Jeddah with the following instructions:-

- (i) The Passports of Burmese Muslims/Nationals in Saudi Arabia, will be issued for a period of two years.
- (ii) The following observation printed at page 7 of the Passport, will be signed by the Issuing authority affixing by name stamp duly endorsed.

“Holder of this Passport is supposed to acquire Pakistan Citizenship within the validity of passport”.

- (iii) A fee of 500 (Five Hundred) Saudi Riyals, for each Passport will be charged.
- (iv) The Mission while issuing Special Passports will ensure that the same are issued only to Burmese Muslims in Saudi Arabia and no other foreign national may succeed in obtaining this Special Passport under any circumstance.
- (v) The Mission will furnish monthly data regarding issuance of Passport to Burmese Muslims to the Ministry of Interior as well as to this Directorate General.

However, no such information has ever been provided by Parep Riyadh & Jeddah.

2. It has come to the notice of the Directorate General that holders of BM series manual passports have obtained CNICs/NICOPs from NADRA and subsequently MRPs.

3. All passport issuing authorities are advised to extend passport facility to the Burmese Muslims holding BM series manual passports. Extra vigilance may also be exercised while renewing MRPs of those individuals, who were initially holding BM Serial passports. Anyone found involved in issuing passports contrary to the above instructions would expose himself/herself to severe disciplinary action under the relevant rules.

4. This issues with the approval of Directorate General Immigration & Passports.

Sd/-
(Fiaz Hussain)
Director (HQs)”

A. C.P. No.D-2270/2021 – Latifa Saeed

The petitioner Latifa w/o Saeed Abdullah (d/o Saleh Ahmed Noor Uddin) claimed to have obtained a passport from the Consulate General Pakistan, Jeddah. She claimed to be born in Saudi Arabia and her parents travelled on some documents which are also available. The petitioner is also in possession of BM series passport, one bearing no. BM010302 issued on 28.03.2007 and her father (Saleh Ahmed),

mother (Mavia Khatoon) and brothers (Abdul Karim and Abdul Rahim) all of them obtained BM series passports.

B. C.P. D-3280/2018 – Muhammad Syed Muhammad Nur Ul Haq

The record reflects that the petitioner, Muhammad Syed Muhammad Nur Ul Haq s/o Syed Muhammad Nur Ul Haq, was issued a passport which is BM series bearing Passport No.BM-035783 in April, 2010 from Consulate General of Pakistan, Jeddah (available on page 19 of the petition). It was issued to him in terms of BM series Passport No.BM-013869 issued by the Consulate in September, 2007. So for all time the petitioner was enjoying the passport of BM series, while his brother Anwar-ul-Haq obtained BM series passport bearing No.BM-035782.

C. C.P. D-7067/2022 – Jabir Mukhtar Ahmed

It appears that the petitioner, Jabir Mukhtar Ahmed s/o Mukhtar Ahmed voluntarily declared himself a Burmese Muslim by obtaining a Special Passport meant for Burmese Muslims settled in Saudia Arabia (Passport No.BM033803) from the Pakistan Consulate, Jeddah in January 2012 (available on page 55 of the petition).

D. C.P. D-4509/2023 – Muhammad Qasim

The record reflects that the petitioner, Muhammad Qasim s/o Fazal Ur Rehman, was issued a passport which is BM series bearing Passport No.BM-041871 in March, 2013 from Consulate General of Pakistan, Jeddah (available on pages 95-97 of the petition). It was issued to him in terms of BM series Passport bearing No.BM-018799 issued by the Consulate in May, 2008.

E. C.P. D-4537/2023 – Wasi Ur Rehman

It seems that the case of the petitioner, Wasi Ur Rehman s/o Habib Ur Rehman, has been flagged by the Federal Government as a case of Ex-Burmese Muslim issued Pakistan passport by the Consulate General of Pakistan in January 2010, and falls within the policy of the Federal Government reproduced hereinabove and he failed to apply within the requisite time as framed thereunder.

4. The petitions mentioned from (A) to (E) involve a factual inquiry as to the Pakistan nationality of the petitioners other than Ex-Burmese Muslims and neither this Constitutional Court is the proper forum for adjudication nor any writ is maintainable under Article-199 of the Constitution of Pakistan for such fact-finding mission. At this point in time there is nothing for us to intervene to resolve such questions of facts which are disputed by way of filing this petition.

5. Notwithstanding the above, in all the petitions, the petitioners did not apply to the Federal Government for Pakistan passport within the timeframe provided to them as being Ex-Burmese Muslims; hence they have failed to avail the facilities provided to them by virtue of the cabinet meeting and the policy framed by the committee at the relevant time. The petitioners also contended that as they were not in Pakistan, hence they failed to apply. The Consulate General Jeddah may also not be in a position to minutely scrutinize the claim of the petitioner as being Pakistan national that is other than Ex-Burmese Muslim.

6. Be that as it may, although the time has also lapsed, but we queried if the Federal Government may consider their pleas, they may do so. The learned D.A.G concedes to some mechanism, so that the grievance of the petitioner may be redressed after proper consideration by the competent authority. Therefore as agreed by the learned D.A.G

in case the petitioner does not claim him or herself to be an Ex-Burmese Muslim, s/he will be subject to strict proof thereof and may apply for the issuance of his or her passport/travel documents, as the case may be, in accordance with law, which shall be dealt with strictly in terms of the policy framed subject to the proof of the petitioner as not being an Ex-Burmese Muslim. The petitioner may file proper representation along with copies of relevant documents to decide his or her fate. Let the petitioner apply to the Directorate-General of Immigration & Passport (Respondent No.1) through the Consulate General Pakistan, Jeddah, in accordance with law and after filing of such application, the Respondent No.1, Ministry of Interior, shall decide the same within 45 days, and subject to its outcome, the Respondent No.2 may act accordingly.

7. With this understanding, the petitions stand disposed of in the above terms.

CHIEF JUSTICE

JUDGE

Ayaz Gul