

ORDER SHEET
IN THE HIGH COURT OF SINDH, KARACHI

Constitutional Petition No. D-4800 of 2025
(Muhammad Furqan Khalid versus Federation of Pakistan & others)

Date	Order with signature of Judge
	Mr. Justice Adnan-ul-Karim Memon Mr. Justice Zulfiqar Ali Sangi

Date of hearing and order: 03.2.2026

Mr. Muhammad Jibran Nasir advocate for the petitioner
Ms. Mehreen Ibrahim, DAG
Mr. Khalid Mehmood Rajper advocate for respondent No.5
Mr. Amin Ahmed, Assistant Director, Passport
Mr. Jahanzeb Shaikh, Deputy Assistant Director, Passport

ORDER

Adnan-ul-Karim Memon, J. – Petitioner has filed this Constitutional Petition under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, with the following prayer: -

- A. Declare that the act of off loading the Petitioner from Flight EK601 on 28.08.2024 and affixing such a stamp on the Petitioner's passport without serving any written speaking and reasoned notice, decision and/or order on the Petitioner was an arbitrary and colorful exercise of power being violative of the fundamental rights of the Petitioner and thus illegal, without lawful authority and void ab initio.*
- B. Declare that the placing of the name of the Petitioner, whether on the Exit Control List or the Passport Control List, without any specific decision of the Federal Cabinet in relation to the Petitioner, is illegal, without lawful authority, and void ab initio.*
- C. Declare that placing the name of the Petitioner, whether on the Exit Control List or the Passport Control List, without first issuing a show cause notice to the Petitioner and affording him an opportunity of hearing, is an incurable defect and an arbitrary exercise of power and renders such restriction illegal, without lawful authority and void ab initio.*
- D. Declare that mere registration of FIR against the Petitioner and pendency of the case is not a just ground for placing travel restrictions on the Petitioner.*
- E. Declare that placing the name of the Petitioner on either the ECL or PCL by the Respondent without making any effort for arrest or having any evidence of the Petitioner's intention of abscond was an arbitrary and colorful exercise of power rendering such placement illegal, without lawful authority, and void ab initio.*
- F. Declare that if the name of the Petitioner was placed on PNIL either against FIR 10/2023 or FIR 42/2025 or otherwise, the same was without lawful authority, as the Petitioner is not accused of any Heinous Crime as listed under Annexure A of Standing Order 02/2018.*

G. Declare that if the name of the Petitioner was placed on the PNIL, the same would stand deleted upon expiry of 30 days from the date of entry of his name on the PNIL.

H. Declare that there exists no lawful restriction on the International Travel of the Petitioner from any port and/or exit points of Pakistan, whether by air, sea, or road.

I. Consequent to the declarations sought above, the Respondents be permanently and the pendency of this Petition be restrained from causing any hindrance or obstruction to the Petitioner's international travel.

2. The Petitioner claims to be the proprietor of *M/s Ermi Fresh*, engaged in the import and export of vegetables, fruits, and solar panels. It is his case that he holds a valid Pakistani passport and has regularly travelled abroad for legitimate business purposes, contributing to the national economy and exchequer. However, on 28.08.2025, he was scheduled to travel to London via Dubai on Emirates Flight EK-601. After issuance of the boarding pass and affixation of the exit stamp on his passport, he was detained at Jinnah International Airport by officials of the Respondents, offloaded from the flight, and an “Off Loaded” stamp was affixed on his passport. However, no written order, show cause notice, or reasoned decision was provided to him, causing humiliation, financial loss, and damage to his reputation. Upon inquiry, he was verbally informed that his name had been placed on the Passport Control List due to FIR No. 42/2025 registered under the Anti-Money Laundering Act, 2010. He averred that he immediately surrendered before the competent court and was granted ad-interim pre-arrest bail. It is pertinent that this FIR arises from the same transaction, documents, and facts already subject to FIR No. 10/2023, in which he is also on bail and regularly attending proceedings. He added that, additionally, adjudication proceedings under Section 32A of the Customs Act, 1969, are pending on the same set of facts, and he has duly participated and submitted replies. He asserts that he is not an absconder, has never violated bail conditions, and has travelled abroad multiple times while facing criminal proceedings, demonstrating no intention to evade justice. He submitted that the allegations against him are mala fide, grossly exaggerated, and factually misconceived, particularly where the alleged remittance figures bear no nexus with the assessed import values. He emphasized that despite this, the Respondents have imposed travel restrictions through undisclosed mechanisms such as “watch lists” or “stop lists,” which have no lawful sanction. As no show cause notice, speaking order, or formal communication has ever been served upon him regarding placement of his name on ECL, PCL, or PNIL, nor has any decision of the Federal Cabinet been disclosed, as mandatorily required by law, he asserted.

3. The learned counsel for the petitioner submitted that under the Exit from Pakistan (Control) Ordinance, 1981, the Passport Act, 1974, and Passport Rules, 2021, restrictions on travel can only be imposed after due process, including issuance of notice, opportunity of hearing, and a reasoned order. He argued that mere registration of an FIR or pendency of a criminal case, particularly where the accused is on bail, does not justify curtailment of the fundamental right to travel. He submitted that the Petitioner is neither accused of any heinous offence warranting inclusion on PNIL under Standing Order 02/2018, nor can his name lawfully remain on such a list beyond the prescribed statutory period. He added that any secretive or prolonged inclusion is illegal and unconstitutional. He also argued that the impugned actions violate Articles 4, 9, 10-A, 14, 15, 18, and 25 of the Constitution, settled judicial precedents, and Pakistan's international obligations. He next argued that the right to travel abroad is a fundamental right which can only be curtailed strictly in accordance with law, through transparent and proportionate measures. He pointed out that the Petitioner has also suffered reputational harm by being prevented from participating in an official trade delegation abroad, despite holding a valid invitation and visa, further highlighting the arbitrariness of the Respondents' conduct. In these circumstances, the Petitioner's counsel submits that the off-loading, placement of his name on any control list, and restraint on his international travel are illegal, without lawful authority, void ab initio, and liable to be set aside by this Court. He relied upon the judgment dated 23.12.2025 and argued that the rule 23 of the Rules 2021 have been declared ultra-vires. An excerpt of the same is reproduced as under:-

“ Evidently, power to inactivate the passport is not provided for in Section 8 *ibid*. There is no explanation that when conditions exist why action is not taken in terms of Section 8 of the Act 1974, which *inter alia* extends power to cancel, impound and confiscate the passport. And preference was extended to inactivate the passport-informal action wrapped in obscurity. There is no apparent reason for effecting inactivation of passport and recording factum thereof in integrated Border Management System (IBMS), except avoidance of procedural requirements and due-process necessity, otherwise envisaged under Section 8 of Act 1974 since inactivation of passport is not covered under Section 8 of the Act 1974 therefore requirement of notice/procedure of intimation was not followed, often. Failure to follow the mandate of section 8 of the Act 1974 has, in recent time, resulted in placing travelers in unexpected, unprepared and awkward position, especially those, who gained first-hand knowledge of surreptitiously effected inactivation of passport, at the airport causing humiliation bringing social disgrace and extreme indignity when unfortunate travellers were disallowed to travel despite having passport and valid visa. Resort to informal action under rule 23 of the Rules, 2021, upon surreptitious inactivation of the passport encourages arbitrariness and is a *prima source* of embarrassment for the citizens, in wake of element of sheer surprise. Informal actions, alike inactivation, are often preferred to obscure cause of action with an intent to discourage triggering of judicial review action. Informal actions enable the executive to evade procedural safeguards and achieve results without legal compliances. This informality of action by inactivation of passport is intended to curtail rights of the citizens forcing them from running pillar to post. Act of inactivation of passport manifest denial of right to travel, in covert manner, not envisaged by Section 8 of Act of 1974. Conversely, procedure provided under section 8 of the Act 1974 encourages following of due-process, openness, brings transparency of action and extends facilitation to the citizens to be aware of adverse action against them, prior in time. Rule 23 of the Rules 2021 apparently conflicts the scheme of parent act. It is evident that Executive, upon adopting practice of inactivation under rule 23 of Rules, 2021, travels beyond the scope of parent act. Delegated action

fails in law where it disregards statutory method expressly provided, introduces substantive measures in shape of restrictions not authorized/permitted under parent act, and especially where it replaces legislative judgment with executive preference. When asked, there is no explanation for not adopting the options provided in section 8 of the parent act. Hence, mere inactivation of passport without conclusive actions contemplated under section 8 of the parent act, acknowledged by law, manifest disregard of law and tramping of rights of the citizens. Evidently, what legislature choose to do directly by providing section 8 of the parent act, executive/delegate had altered, expanded or substituted for mere aggrandizement of authority, alas, at the expense of curtailing rights of citizen. Inactivation of passport can be stop-gap arrangement but no permeance could be extended to such action, outside the scope of Section 8 of act, 1974.

6. In view of the above, I hold that power to inactivate passport under rule 23 of the Rules 2021 is beyond the scope of Section 8 of the Act 1974 and same is declared ultra vires only the power to inactivate is declared invalid and powers to cancel, impound or confiscate are intact and exercisable subject to the existence of conditions and fulfillment of requirements prescribed for enforcing the powers prescribed.”

He also relied upon the cases of *Farooq Saleh Chohan and others v Government of Pakistan Ministry of interior Islamabad & others* **PLD 2010 Karachi 394**, *Saleem Akhtar v Federation of Pakistan & others* **PLD 1999 Karachi 177**, *Dr. Joseph Wilson v Federation of Pakistan & others* **2017 P Cr. L.J 1569**, *Collector Sahiwal and others v Muhammad Akhtar* **1971 SCMR 681**, *Syed Ali Abbas and others v Vishan Singh & others* **PLD 1967 SC 294**, *Messrs Mustafa Impex Karachi & others v The Government of Pakistan & others* **PLD 2016 SC 808**, *Pakistan Electronic Media Regulatory authority (PEMRA), Islamabad v Pakistan Broadcaster Association and another* **2023 SCMR 1043** and *Gen. (Retd). Pervez Musharraf v Government of Pakistan & others* **PLD 2014 Sindh 389**. He lastly prayed to allow this Petition.

4. Learned DAG, assisted by counsel for FBR, stated that the petitioner, proprietor of M/s Ermi Fresh, is allegedly part of a cartel of importing firms involved in trade-based money laundering through illegal clearance of solar panels, misuse of exemptions, green channel facilities, and remittance of illicit funds abroad. FIR No. 42/2025 has been registered, an interim challan has been submitted, and the case is presently pending trial. Learned DAG also submitted that according to the report dated 07.10.2025 issued by the Assistant Director (Analysis & Stop List), FIA Integrated Border Management System, Islamabad, the name of the petitioner, Mr. Muhammad Furqan Khalid, was found active on the Black List/Passport Control List (PCL) under the category of Stop List/Watch List. The reason for such placement is the petitioner’s nomination as an accused/suspect in FIR No. 42/2025 dated 02.05.2025, registered under the Anti-Money Laundering Act, 2010, involving alleged illicit fund transfers amounting to approximately Rs. 1.07 billion. She emphasized that the recommendation for placing the petitioner on the PCL was forwarded by the Directorate of Intelligence & Investigation, Customs, Karachi. It was further submitted that the sole authority to place or remove any name from the Passport Control List vests with the Directorate General of Immigration and Passports, Islamabad, under Rules 21 and 22 of the Passport Rules, 2021. She argued that FIA’s Integrated Border Management System is merely an integrated platform for real-time

implementation at immigration checkpoints. Accordingly, the role of FIA is limited to execution and implementation, whereas the grievance of the petitioner primarily lies against the Directorate General of Immigration and Passports and the Directorate of Intelligence & Investigation Customs.

5. The learned counsel for the FBR contended that the petitioner has an adequate and efficacious alternate statutory remedy available under Rule 22(3)(b) of the Passport Rules, 2021, before the Review Committee for Category ‘B’ cases. Bypassing this remedy and directly invoking constitutional jurisdiction under Article 199 is impermissible, particularly in matters involving fiscal fraud, money laundering, and economic offences. It was also argued that the petition is not maintainable as the petitioner has approached this Court with unclean hands by suppressing material facts, including his nomination as an accused in FIR No. 42/2025, pendency of trial before the Special Judge (Customs, Taxation & Anti-Smuggling), and his alleged role in an organized cartel involved in trade-based money laundering, customs fraud, illicit financial flows, and misuse of financial instruments. He added that the placement of his name on the PCL is strictly in accordance with the Passport Act, 1974, read with the Passport Rules, 2021. The Respondents' counsel further submitted that the petition raises disputed questions of fact relating to the petitioner's association with the principal accused and other members of the cartel, which cannot be adjudicated in constitutional jurisdiction and require evidence and determination by the competent trial court. In view of the gravity of allegations, magnitude of the alleged financial crime, pendency of criminal proceedings, and overriding public interest, learned DAG prayed that the constitutional petition is liable to be dismissed.

6. We have heard the learned counsel for the parties at length and have carefully examined the record and case law cited at the bar.

7. The controversy essentially revolves around the legality of placing the petitioner's name on the Passport Control List (PCL), his off-loading from an international flight, and the maintainability of the constitutional petition in view of alleged alternate remedies and pendency of criminal proceedings.

8. It is now well settled that the right to travel abroad is a fundamental right, forming part of the liberties guaranteed under Articles 4, 9, 14, and 15 of the Constitution, though such right is not absolute and may be regulated strictly in accordance with law and through a transparent, proportionate, and fair procedure. The Supreme Court in *PLD 2016 SC 570* and *PLD 2007 SC 642* has categorically held that restrictions on movement must have lawful authority and cannot be imposed arbitrarily or secretly.

9. In the present case, it is not disputed that the petitioner was off-loaded after issuance of boarding pass and affixation of exit stamp, without being served with any show-cause notice, speaking order, or prior intimation. The respondents have also not placed on record any material to show that such restriction was communicated to the petitioner contemporaneously or that any opportunity of hearing was afforded to him prior to the impugned action. The law is settled that any order curtailing a fundamental right must be communicated, as secrecy in such matters amounts to arbitrariness.

10. The contention of the respondents that the petitioner is nominated in FIR No. 42/2025 and that a criminal trial is pending does not, by itself, justify restraint on international travel. Judicial precedent consistently holds that mere registration of an FIR or pendency of criminal proceedings, particularly where the accused is on bail and regularly attending court, is not sufficient ground to curtail the right to travel. Prima facie, no material has been produced to show that the petitioner has violated bail conditions or attempted to abscond.

11. As regards the objection relating to availability of an alternate remedy under Rule 22(3)(b) of the Passport Rules, 2021, it is a settled principle that existence of an alternate remedy does not bar constitutional jurisdiction where fundamental rights are allegedly infringed, or where the impugned action is prima facie without lawful authority. It is well settled that constitutional jurisdiction may be invoked notwithstanding alternate remedies where the action complained of is arbitrary, illegal, or violative of due process. Furthermore, while Rules 21 and 22 of the Passport Rules, 2021 empower the Directorate General of Immigration and Passports to regulate the PCL, such powers are not unfettered and must be exercised in consonance with constitutional guarantees and principles of natural justice. Any restriction imposed without compliance with due process requirements is rendered legally vulnerable. The reliance placed by the respondents on internal recommendations or inter-departmental correspondence cannot substitute a lawful, reasoned, and communicated decision.

12. The plea that disputed questions of fact are involved is also misconceived, as the present petition does not call for adjudication on the merits of the criminal allegations. Rather, the limited question before this Court concerns the legality of the procedure adopted to restrict the petitioner's fundamental right to travel, which squarely falls within constitutional jurisdiction.

13. While the seriousness of the allegations and public interest involved in combating money laundering cannot be understated, it is equally settled that constitutional safeguards cannot be sacrificed at the altar of administrative

convenience. The State must act strictly within the four corners of law, even while pursuing legitimate enforcement objectives.

14. In view of the foregoing discussion, this Court is persuaded to hold that the off-loading of the petitioner and the restraint on his international travel, without issuance of a show-cause notice, opportunity of hearing, and a speaking order, suffer from procedural illegality and arbitrariness. Such action is not sustainable in law.

15. For the above reasons, the petition is allowed to the extent indicated, with the direction that the competent authority of respondents shall not restrain the petitioner from international travel except in accordance with law, after due compliance with statutory requirements and principles of natural justice. However, this judgment/order shall not prejudice the pending criminal proceedings, which shall continue strictly in accordance with the law.

JUDGE

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