

ORDER SHEET
IN THE HIGH COURT OF SINDH AT KARACHI

C.P. No. D-6370 of 2024

[Saeed Ahmed 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: 13.05.2026

Mr. Ali Tahir, Advocate for the Petitioner.

Mr. Shah Hussain, Assistant Attorney General

ORDER

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

- i. Declare the conclusive inclusion of the petitioner's name in the PNIL as unlawful, unconstitutional, and devoid of any legal basis;*
- ii. An immediate direction to the relevant authorities to the Respondent No.2 to remove the petitioner's name from the PNIL and to ensure that such unlawful actions are not repeated in the future and;*
- iii. Any other relief(s) this Hon'ble Court may deem fit in the given circumstances and in the great interest of justice.*

2. The petitioner has approached this Court challenging the continued inclusion of his name in the Provisional National Identification List (PNIL), terming it unlawful, unconstitutional, and violative of his fundamental rights, particularly the right to freedom of movement guaranteed under Article 16 of the Constitution.

3. It is contended by the counsel for the petitioner that the petitioner's name has been unlawfully retained in the PNIL beyond the statutory period of 30 days prescribed under the Exit from Pakistan (Control) Rules and Standing Order No. 2/2018 issued by FIA. The petitioner's counsel submits that the issue had earlier been agitated before this Court in CPD-2155 of 2024, where the learned Deputy Attorney General had categorically stated that any name placed on the PNIL cannot remain beyond 30 days and assured the Court that the petitioner's name would no longer continue on the list. Relying upon this assurance, the petitioner did not pursue the earlier petition, believing the matter to have been resolved. However, the petitioner later discovered that his name continues to exist in the PNIL, contrary to the said assurance. This, according to the petitioner, reflects non-compliance with the law as well as misrepresentation before the

Court, resulting in violation of due process and fundamental rights. The petitioner's counsel further alleges that repeated attempts to seek redress through contempt, restoration, and interim relief applications were unsuccessful, although the Court observed that the continued presence of the petitioner's name constituted a fresh cause of action. On merits, the petitioner's counsel argues that under Standing Order No. 2/2018, PNIL entries are strictly time-bound (30 days) and are intended only for fugitives involved in heinous offences or matters affecting national security. It is pleaded that no such grounds exist in the petitioner's case, and the inclusion is actuated by mala fide intent and political victimization due to his affiliation with a political party. He prayed to allow this petition.

4. In response, learned AAG contends that the matter pertains exclusively to the Federal Investigation Agency (FIA), which is the competent authority responsible for placement and removal of names from the PNIL under Standing Order No. 2/2018. However, he asserts that the Ministry has no direct role in the maintenance or operation of the PNIL and is, therefore, a pro forma respondent.

5. It appears that FIA is reluctant to file comments for reasons best known to them. DG FIA shall take notice of the officials of the FIA and take prompt action in accordance with law against the delinquent officials.

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

7. The record further reflects Standing Order No. 2/2018, which establishes the PNIL mechanism as a 30-day provisional stop-list maintained by FIA to prevent the escape of fugitives involved in heinous crimes. It provides that entries automatically lapse after 30 days unless extended through proper procedure or linked to proceedings for placement on the Exit Control List (ECL), and prescribes a detailed mechanism for placement, renewal, and removal of names. However, nothing has been placed on record to suggest that the case of the petitioner falls within the ambit of the Standing Order No. 2/2018 or his involvement in any of the cases of a serious nature preventing him from leaving the country.

8. The controversy essentially relates to the continued placement of the petitioner's name in the Provisional National Identification List (PNIL), which admittedly operates as a travel restriction mechanism having the effect of curtailing the fundamental right of movement guaranteed under Article 16 of the Constitution of the Islamic Republic of Pakistan, 1973.

9. It is an established principle of constitutional jurisprudence that any restriction on fundamental rights must not only be traceable to law but must also

strictly comply with the conditions, procedure, and limitations prescribed therein. The Hon'ble Supreme Court has consistently held that any executive action affecting fundamental rights without lawful authority or in excess of statutory mandate is void ab initio. It has been held by the Supreme Court that administrative measures affecting liberty must be backed by clear statutory authority and due process.

10. In the present case, Standing Order No. 2/2018 issued by the FIA, which governs the PNIL mechanism, clearly provides that Placement on PNIL is strictly temporary in nature. The maximum permissible duration is 30 days, unless properly extended or converted into proceedings for the Exit Control List (ECL). The list is meant only for persons involved in heinous offences or cases having serious security implications. Automatic lapse of entry occurs upon expiry of the prescribed period if not lawfully extended.

11. The record before this Court does not disclose any material indicating that the petitioner's case falls within the ambit of heinous offences, national security concerns, or any other category contemplated under the Standing Order. More importantly, no lawful extension, renewal, or conversion into ECL proceedings has been shown by the respondents, nor any contemporaneous justification for continued retention of the petitioner's name beyond the statutory period.

12. The plea of the petitioner that his inclusion is politically motivated and mala fide, though not conclusively established at this stage, gains prima facie strength from the absence of any lawful justification on record. It is settled law that where administrative action lacks transparency, statutory backing, or recorded reasons, mala fides may be inferred from circumstances. Further, the contention of the learned AAG that the Ministry of Interior has no direct role and FIA is the competent authority, while legally correct in terms of Standing Order No. 2/2018, does not absolve the State from its constitutional obligation. The Federation remains responsible for ensuring that its agencies act strictly within the bounds of law and do not infringe fundamental rights through arbitrary or continued administrative restrictions.

13. The assertion that FIA has failed to file a proper response also cannot be overlooked. Non-appearance or non-compliance by a statutory authority in constitutional litigation gives rise to an adverse inference, particularly where fundamental rights are involved, and the record remains unexplained.

14. In light of the above legal and factual position, the Court finds that the continued retention of the petitioner's name in PNIL beyond the prescribed 30 days is without lawful authority. It is in clear violation of Standing Order No. 2/2018, which has statutory effect as it implements directions of the Hon'ble

Supreme Court. It amounts to an unreasonable restriction on the petitioner's fundamental right of movement under Article 16, which is not supported by any lawful justification. The action of the respondents suffers from a lack of due process, the absence of recorded reasons, and administrative arbitrariness, which is impermissible under constitutional law. Accordingly, this Court holds that the petitioner has made out a good case for interference under Article 199 of the Constitution, as the impugned action is without lawful authority and of no legal effect.

15. The petition is therefore allowed in the terms that the continued inclusion of the petitioner's name in the PNIL is declared to be illegal, without lawful authority, and of no legal effect. Respondent No. 2/FIA is directed to forthwith remove the petitioner's name from the PNIL, if not already removed. The respondents are directed to ensure strict compliance with Standing Order No. 2/2018 in future, and no person shall be retained in PNIL beyond the prescribed period without lawful extension or due process. In case of any future placement affecting fundamental rights, the respondents shall ensure recorded reasons, lawful authority, and adherence to due process requirements. All pending application(s) stand disposed of in the aforesaid terms.

The office shall communicate this order to DG FIA for compliance and necessary administrative action.

JUDGE

JUDGE

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