JUDGEMENT SHEET

IN THE ISLAMABAD HIGH COURT, ISLAMABAD

JUDICIAL DEPARTMENT

Civil Revision No. 26 of 2024

Deputy Assistant Director (Policy) Regional Passport Office, Islamabad

VERSUS

Mehmood s/o Muhammad Suleman

PETITIONER BY:	Mr. Moazzam Habib, Advocate
RESPONDENT BY:	M/s Muhammad Ibrahim Khan, Faiz Muhammad Mahar, and Fida Muhammad, Advocates
DATE OF HEARING:	29.09.2026

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AYYAZ SHAUKAT, J:- Through the instant civil revision petition preferred under Section 115 of the Code of Civil Procedure, 1908 (the **"CPC"**), the petitioner has impugned the judgment and decree dated 15.11.2023, rendered by the learned Additional District Judge (West), Islamabad (the **"Appellate Court"**), whereby the appeal of the respondent was allowed, the judgment and decree dated 17.07.2023 of the learned Civil Judge 1st Class (West), Islamabad (the **"Trial Court"**) were set aside, and the suit of the respondent was decreed to the extent that he, being a citizen of Pakistan, is entitled to the issuance of a passport, subject to the fulfilment of all codal formalities.

2. The relevant facts, briefly stated, are that the respondent instituted a suit for declaration and mandatory injunction on 09.09.2017 against the Ministry of Interior, the National Database and Registration Authority (**"NADRA"**) and the petitioner. He claimed that he was born at Karachi on 11.07.1982, that his father is a Pakistani national, and that he had been issued a Form-B, a domicile certificate and a national identity card, followed by CNIC No. 90403-0229532-9. His passport was renewed in 2005. When

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he applied for a fresh passport in 2015, he was informed that his CNIC stood blocked. NADRA, upon verification dated 20.08.2015, raised no objection. The petitioner, however, vide letter dated 03.09.2015, declined to issue him a passport on the ground that holders of BM series passports are not entitled to normal passports. The respondent, therefore, sought a declaration that he is a Pakistani national by birth and that his CNIC was lawfully issued, along with a mandatory injunction for the restoration of his CNIC and the issuance of his passport.

3. The suit was decreed *ex parte* on 10.07.2019. Upon the petitioner's application, the *ex parte* decree was set aside on 21.06.2022 to the extent of the petitioner only, and it remained intact against the Ministry of Interior and NADRA. The petitioner contested the suit on the ground that the respondent is a Burmese Muslim who was issued BM series manual passports by the Consulate General of Pakistan, Jeddah, which carried the observation that the holder "is supposed to acquire Pakistani citizenship within the validity of the passport", and that he obtained his CNIC and other documents through misrepresentation. After recording evidence, the Trial Court dismissed the suit insofar as it sought the mandatory injunction against the petitioner. The Appellate Court reversed that finding and decreed the suit as noted above. Hence, the present civil revision.

4. The learned counsel for the petitioner contends that the impugned judgment is founded upon misreading and non-reading of the record. He argues that the respondent is not a *bona fide* citizen of Pakistan, that he resides in Saudi Arabia, and that he holds BM series passports which were meant only for Burmese Muslims. It is further submitted that the name of the respondent appears in the manual register of the Consulate General of Pakistan, Jeddah, as confirmed by its letters dated 02.02.2023 and 08.02.2023, and under the policy in vogue, holders of BM series passports

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cannot be issued normal passports. He further argues that NADRA declared the father of the respondent to be a non-national and that his passport was blocked, and that in appeal only the petitioner was impleaded as a respondent. He accordingly prays that the judgment and decree of the Trial Court be restored.

5. Conversely, the learned counsel for the respondent supports the impugned judgment. He contends that the respondent holds a valid CNIC, Form-B, domicile certificate and earlier passports, all issued by the State, and that no proceedings were ever initiated to deprive him of his citizenship. He submits that the declaration of his citizenship against the Ministry of Interior and NADRA has never been challenged. He has also referred to the letter dated 13.02.2024 of the Deputy Commissioner, Islamabad, in his capacity as President of the District Level Committee for blocked CNICs, recommending the clearance of the CNICs and passports of the respondent and his father. He has relied upon the judgments of this Court in W.P. No. 2978 of 2025 and W.P. No. 1285 of 2026, and prays that the revision be dismissed.

6. I have heard the learned counsel for the parties and have perused the available record with their able assistance.

7. At the outset, it must be borne in mind that the jurisdiction of this Court under Section 115 of the CPC is limited. This Court does not sit in revision as a court of appeal, and it does not re-appraise the evidence merely because another view is possible. Interference is warranted only where the court below has exercised a jurisdiction not vested in it, has failed to exercise a jurisdiction so vested, or has, in the exercise of its jurisdiction, acted illegally or with material irregularity. Material misreading or non-reading of evidence may warrant interference where it vitiates the decision within these limits. The Hon'ble Supreme Court has held in ***Rashid Ahmad***

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v. Said Ahmad **(2007 SCMR 926)** that findings on questions of fact or law, however erroneous, recorded by a court of competent jurisdiction cannot be interfered with by the Hig Court, in exercise of revisional jurisdiction under Section 115 of the CPC, unless they suffer from a jurisdictional defect, illegality or material irregularity (see also *Anwar Zaman v. Bahadur Sher (2000 SCMR 431*)). The Appellate Court is the final court of facts, and where its findings are at variance with those of the Trial Court, its findings ordinarily prevail, provided they are supported by the evidence and address the reasons given by the Trial Court. In the context of second appeal, this principle was enunciated by the Hon'ble Supreme Court in ***Madan Gopal v. Maran Bepari*** **(PLD 1969 SC 617**) in the following terms:

> *"If the finding of fact reached by the first appellate Court is at variance with that of the trial Court, the former will ordinarily prevail, although it would not possess the same value or sanctity as a concurrent finding. Such a finding by the lower appellate Court will be immune from interference in second appeal only if it is found to be substantiated by evidence on the record and is supported by logical reasoning, duly taking note of the reasons adduced by the first Court which have been disfavoured in the contrary finding."*

8. The Hon'ble Supreme Court explained the preference ordinarily accorded to the findings of the Appellate Court in ***Muhammad Hafeez v. District Judge, Karachi East*** **(2008 SCMR 398)**, where the judgments of the courts below were in conflict, and held:

> *"7. It is well-settled that in the event of conflict of judgments finding of Appellate Court are to be preferred and respected unless it is shown from the record that such findings are not supported by evidence; that the conclusions drawn are against the material on record; that the judgment of the Appellate Court suffers from*

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misreading or non-reading of evidence or that the reasons recorded for reversal of judgment are arbitrary, fanciful and perverse."

9. The procedural effect of the *ex-parte* decree requires consideration at the outset. The respondent had sought two distinct reliefs. The first was a declaration that he is a Pakistani national by birth and that his CNIC was lawfully issued. The second was a mandatory injunction for the restoration of his CNIC and the issuance of his passport. The *ex-parte* decree dated 10.07.2019 granted both. It was set aside only to the extent of the petitioner, and it remains intact against the Ministry of Interior and NADRA. The Trial Court itself recorded this position in paragraph 13 of its judgment, and observed that the only prayer remaining for adjudication was the mandatory injunction for the issuance of a passport. Nothing has been placed on record to show that the Ministry of Interior or NADRA ever assailed that decree. It has, therefore, attained finality against those defendants.

10. The consequence of this position is significant. Under Section 43 of the Specific Relief Act, 1877, a declaration binds the parties and persons claiming through them to the extent provided by that section. A declaratory decree passed by a court of competent jurisdiction, which has attained finality, cannot be disregarded by the parties bound by it merely on the ground that it is erroneous. This was expounded by the Sindh High Court in ***Jamia Industries Ltd. v. Karachi Municipal Corporation*** **(PLD 1975 Karachi 26)** in the following terms:

"Therefore, the declaratory decree became final and binding. It also had that effect under section 43 of the Specific Relief Act, 1877 which makes a declaration binding on the parties to the suit and persons claiming through them. ... But the correctness of a decree passed by a Court of competent jurisdiction is not a relevant consideration to its finality and operation. An erroneous decree which has become

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final is conclusive between the parties and may be set up as an estoppel by res judicata."

11. The declaration that the respondent is a Pakistani national, and that his CNIC was lawfully issued, therefore binds the Ministry of Interior. The petitioner is an office of the Directorate General of Immigration and Passports, which functions under that very Ministry. However, the decree was expressly set aside against the petitioner. Its continued operation against the Ministry and NADRA does not, without examining the scope of the order dated 21.06.2022 and the capacity in which the petitioner was sued, conclusively resolve the petitioner's defence. The departmental relationship alone is insufficient to dispose of that question. It is unnecessary to rest the present decision exclusively on the binding effect of the declaration upon the petitioner, as the challenge to the appellate decree must also be examined on the evidence within the limits of Section 115 of the CPC.

12. Turning to the evidence, the question is whether the Appellate Court's conclusion suffers from a defect warranting revisional interference. The respondent produced his old passport No. E964825 issued on 29.10.2000 (Ex.P1), his Form-B (Ex.P2), domicile certificate (Ex.P3), his old national identity card (Ex.P4), his passport (Ex.P5) and his CNIC (Ex.P8). It also came on record that, during the pendency of the suit, NADRA issued him a CNIC valid until 2032. The record further shows that his father was issued a national identity card as an overseas Pakistani in 2004, and a passport in 2008 in which his nationality is recorded as Pakistani. Article 129(e) of the Qanun-e-Shahadat Order, 1984 permits a presumption that official acts have been regularly performed. That rebuttable presumption supports the regularity of their issuance; it does not make every entry conclusive proof of citizenship.

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13. This Court has already expounded the evidentiary value of a CNIC in ***Hafiz Hamdullah Saboor v. Government of Pakistan*** **(PLD 2021 Islamabad 305)**, which was also relied upon by the Appellate Court, in the following terms:

> *"The registration and issuance of a CNIC is a certification or acknowledgment that the person was an eligible citizen of Pakistan. The CNIC is a testament on behalf of the State of Pakistan that its holder is a citizen and thus a presumption of truth is attached to it."*

14. In the same vein, the Balochistan High Court in ***Fatima v. National Database and Registration Authority*** **(PLD 2022 Balochistan 73)** held that once a CNIC has been issued, the burden rests upon the State to prove that its holder is not a citizen, and observed:

> *"The authority/respondent issued CNIC after fulfilling all codal and legal formalities which creates a right to the Petitioner. Such right cannot be taken away on suspicious or flimsy grounds. When a right accrued to any person the same cannot be withheld or taken away without due process of law. Under the law the burden of proof lies on respondent to prove that Petitioner is not citizen of Pakistan. Mere verbal assertion cannot be a ground to deprive a person from his fundamental rights. The right which is guaranteed by the Constitution cannot be taken away by notification.".*

15. Citizenship is governed by the Pakistan Citizenship Act, 1951. Section 16 regulates deprivation of citizenship on the grounds and subject to the safeguards specified therein. Deprivation of an existing citizenship must be distinguished from a dispute as to whether citizenship was acquired under the Act in the first place. The record does not disclose proceedings against the respondent under Section 16 of the Act, under Section 18 of the National Database and Registration Authority Ordinance, 2000, or under the Passports Act, 1974. DW-1 admitted in his cross-examination that the passport of the respondent was blocked, but that no proceedings had been

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initiated against him. He also admitted that a machine readable passport had been issued to the father of the respondent, and stated that it was blocked on the basis of reports of security agencies. Those reports were never produced. In **Hafiz Hamdullah Saboor** (supra), this Court distinguished NADRA's statutory functions from the determination of citizenship under the Pakistan Citizenship Act, 1951. Verification by an agency does not, by itself, constitute a lawful adjudication depriving a person of citizenship. Section 16(6) prescribes notice and an opportunity to show cause before a deprivation order is made; it is not a separate substantive ground for deprivation. The absence of such proceedings is relevant to the continued validity of the respondent's documents, but does not dispense with examination of the petitioner's evidence in the suit. The material relied upon must therefore be assessed to determine whether it displaces the evidentiary value of the documents produced by the respondent.

16. The main ground urged by the petitioner is that the respondent was issued BM series passports by the Consulate General of Pakistan, Jeddah, and that under the policy in vogue such holders cannot be issued normal passports. The issuance of a BM series passport is relevant to the petitioner's objection, but is not, by itself, determinative of the respondent's present national status. The registers produced by DW-1 (Ex.D2 to Ex.D4) and the letters of the Consulate General must be read with the identity documents and other evidence on record. The passport series alone does not conclusively establish that the respondent is not a citizen of Pakistan. The observation on such passports that the holder "is supposed to acquire Pakistani citizenship" is relevant to the basis on which that passport was issued, but is not, by itself, a determination of the respondent's entitlement to citizenship under the Act. As held by this Court in ***Muhammad Shareef***

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Mian v. Ministry of Interior **(W.P. No. 2978 of 2025)**, a policy or circular regarding BM series passports is merely an administrative instruction. It cannot override the Pakistan Citizenship Act, 1951. Citizenship by birth is governed by Section 4, whereas citizenship by descent is governed by Section 5. Accordingly, the respondent's claim must be assessed under the applicable statutory provision and on the evidence, rather than rejected solely by reference to the passport series.

17. The Trial Court did not examine the matter in this light. It held that the respondent had failed to produce any passport "without BM series later in time". In doing so, it overlooked the passport issued to the respondent in 2000 (Ex.P1), the CNIC issued and renewed by NADRA, and the passport issued to his father. The entries in the Consulate General's registers required assessment alongside those documents. The discrepancy concerning the respondent's place of birth was material to his claim of citizenship by birth; it could neither be treated as conclusive proof of foreign nationality nor dismissed solely because fraud had not been established. These were material aspects of the evidence which the Trial Court failed to consider. The Appellate Court duly considered them and reached a conclusion which is supported by the documentary evidence discussed above.

18. It is true that the Appellate Court also referred to a verification report regarding the identity cards of the father and grandmother of the respondent which was not produced in evidence. Even if that report is excluded from consideration, the admissible documentary evidence discussed above independently supports the conclusion of the Appellate Court. The objection concerning non-joinder of the Ministry of Interior and NADRA in the appeal must be considered in the light of the relief sought therein. The suit had been dismissed only to the extent of the petitioner,

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while the decree against the Ministry of Interior and NADRA was intact. Insofar as the appeal sought reversal only of the dismissal of the claim against the petitioner, and did not seek alteration of the subsisting decree against the other defendants, their non-joinder does not, by itself, establish a ground for setting aside the appellate decree.

19. The respondent has also placed on record, through a civil miscellaneous application, a letter dated 13.02.2024 of the Deputy Commissioner, Islamabad, in his capacity as President of the District Level Committee for blocked CNICs. It recommends that the CNICs, Form-B and passports of the respondent, his father and their family members be cleared, on the basis of documents showing their residence in Pakistan prior to 1979. He has also placed on record the passport applications of his wife and daughter, processed by the Directorate General of Immigration and Passports at Jeddah on 29.01.2025. These documents were not part of the trial record, and I do not rest this decision on them. No inference in support of the appellate decree is, therefore, drawn from them.

20. It is also important to note that the impugned decree does not direct the petitioner to issue a passport without due scrutiny. It merely declares that the respondent, being a citizen of Pakistan, is entitled to a passport, subject to the fulfilment of the requirements prescribed by law. A citizen's application for a passport must be dealt with under the governing law, and any refusal must have a lawful basis. In ***Government of Pakistan v. Dada Amir Haidar Khan*** **(PLD 1987 SC 504)**, the Hon'ble Supreme Court disapproved the refusal of a passport without reasons, as it then becomes impossible to say whether the discretion was exercised properly or arbitrarily. Their Lordships observed:

> *"Moreover, a citizen's right to travel abroad is an important aspect of the citizen's liberty and is closely related to the rights of free speech and association."*

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21. The Hon'ble Supreme Court has likewise recognised that Article 15 of the Constitution confers upon every citizen the freedom to enter, move freely within and reside in Pakistan, subject only to reasonable restrictions imposed by law (see *Mian Shahbaz Sharif v. Federation of Pakistan (PLD 2004 SC 583* and *Pakistan Muslim League (N) v. Federation of Pakistan (PLD 2007 SC 642)*). Arbitrary restraints upon the citizen's right to travel have likewise been disapproved by the Hon'ble Supreme Court in ***Federal Government v. Ms. Ayyan Ali and others*** **(2017 SCMR 1179).** That right is, however, not absolute and remains subject to regulation by law. The process of issuing a passport is regulated by the Passports Rules, 2021. Rule 8 prescribes citizenship and documentary requirements, including a valid CNIC, NICOP or Smart Card and any previous passport; the CRC or FRC requirement concerns minors. Rule 9 provides for scrutiny of the applicant's national status and antecedents, including referral to the concerned security agency where citizenship is in doubt, with reasons communicated in writing to the Directorate General. Rule 21 enumerates the grounds on which a passport may be refused. The qualification in the impugned decree must be read in the context of these statutory requirements. The petitioner, therefore, must exercise its powers under the Passports Act, 1974 and the Passports Rules, 2021 to process the application of the respondent in accordance with law. Any distinct ground for refusal must be supported by the applicable law and dealt with through the prescribed procedure. The reservation concerning statutory requirements does not authorise the petitioner to defeat the decree by repeating the same BM series objection rejected in these proceedings. Any challenge to the decree itself on the ground of fraud must be brought before the competent court through the remedy provided by law.

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22. For the foregoing reasons, the petitioner has failed to point out any illegality, material irregularity or jurisdictional defect in the impugned judgment and decree dated 15.11.2023, warranting interference under Section 115 of the CPC. The instant civil revision is, accordingly, **dismissed,** and the impugned judgment and decree are upheld. The interim order dated 19.01.2024, whereby the operation of the impugned judgment and decree was suspended, stands recalled.

(AYYAZ SHAUKAT)
JUDGE

Announced in open Court on **12.10.2026.**

JUDGE

Saeed.

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