JUDGMENT SHEET

IN THE ISLAMABAD HIGH COURT, ISLAMABAD

WRIT PETITION NO. 3680 OF 2024

SAEED ZAHIR ZADA
VS
THE FEDERATION OF PAKISTAN AND ANOTHER

Petitioner by	**:**	**Hafiz Shoaib Muhammad Advocate.**
Respondents by	**:**	**Raja Zamir ud Din, AAG.** **Mr. Taimur Janjua, State counsel.** **Malik Muhammad Khalid Advocate, on behalf of NADRA.**
Assisted by	**:**	**Ms. Amna Danial Khawaja, Law Clerk.**
Date of hearing	**:**	**18.03.2025**

MUHAMMAD AZAM KHAN, J.

1. Through the instant writ petition, Saeed Zahir Zada **("Petitioner")** seeks direction to NADRA to unblock his CNIC No.42501-1429824-7.

2. The brief facts of the case in hand as per memo are that the Petitioner holds a Computerized National Identity Card No.42501-1429824-7. About six months ago, he came to know that his CNIC had been blocked. He frequently visited the office of Respondent No.2 and inquired regarding blocking of his CNIC, but to no avail. He also sent application to the Chairman of Respondent No.2, however, no response was given to him on the said application. Hence, the present petition.

3. The learned counsel for the Petitioner argued that blocking of CNIC by Respondent No.2 is illegal and without any lawful justification whatsoever; that it has been provided under Section 18 of National Database & Registration Authority Ordinance, 2000 that Respondent No.2 can only block one's CNIC under the circumstances given in the said section; that none of the said circumstances are attracted to the Petitioner; that blockage of CNIC of the Petitioner is in violation of his fundamental rights; that Petitioner has no alternative remedy except invoking this Court's jurisdiction

under Article 199 of the Constitution. The counsel prays for immediate unblocking of the CNIC of the Petitioner.

4. On behalf of the Respondents, it is submitted that the Petitioner has not come to the court with clean hands; that Petitioner has already filed Writ Petition No.2735/2024 with same cause/nature which is pending before Honorable Bench-VII of this court; that Petitioner has obtained CNIC by unfair means, committing fraud and concealing the facts at the time of processing of his CNIC by posing himself as citizen of Pakistan; that the CNIC No.42501-1429824-7 of the Petitioner was initially digitally impounded on basis of court order dated 05.10.2021; that on 12.04.2023, Regional Head Office Karachi reported the Petitioner and his family as Alien (non-national) through letter No.NADRA/M&E/Veri-12/2023/28727; that on basis of this report, show cause notice was issued to the Petitioner to appear before Regional Verification Board along with supporting documents prior to 1979 as per Ministry of Interior Notification for clearance of their national status, however, the Petitioner and his family did not appear before the NADRA Verification Board within stipulated time due to which, their CNICs were digitally impounded in Alien category; that Petitioner may kindly be directed to avail an alternate remedy to appear before NADRA Zonal Verification Board alongwith supporting documents prior to 1979 as per MOI notification. That the instant petition is not maintainable and liable to be dismissed.

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

6. The admitted facts are that the Petitioner was duly registered by the Authority under the National Database & Registration Authority Ordinance, 2000, after he had applied for issuance of his respective CNIC in accordance with the prescribed procedure and fulfillment of the mandatory requirements. The registration was followed by the issuance of his CNIC, which duly acknowledged the crucial fact that the Petitioner was citizen of Pakistan. The CNIC of the Petitioner was initially blocked on the basis of Court order dated 05.10.2021 in case F.I.R No.2/20 of P.S Kohsar, Islamabad. Furthermore, the show cause notice under Section 18 of NADRA

Ordinance, 2000 was also served on 11.10.2021. The learned Judicial Magistrate Islamabad vide order dated 24.09.2024 unblocked the CNIC of the Petitioner in the said F.I.R, and the same was provided by the latter in response to the abovementioned show cause notice. On 12.04.2023, Regional Head Office Karachi Reported that the Petitioner and his family are alien (non-national) through letter No.NADRA/M&E/Veri-12/2023/28727 and on basis of this report, show cause notice dated 03.05.2023 was issued to the Petitioner for appearance before the Regional Verification Board along with supporting documents prior to 1979 as per Ministry of Interior Notification dated 19 April, 2017. The Petitioner and his family failed to appear before the NADRA Verification Board within the stipulated time and due to their non-appearance, CNICs were digitally impounded in alien category.

7. Before delving deeper into the legal facets of the matter, it is pertinent to determine herein whether the intelligence agencies are competent to report the factum of citizenship to the Authority, especially keeping in view that the Petitioner was duly issued his respective CNIC, thereby acknowledging his citizenship of Pakistan. Citizenship is a basic fundamental human right, as it grants access to all other rights. Without it, a person becomes stateless, stripped of his dignity and recognition, left without protection or belonging in the society. Pursuant to the report received by the Authority from the agency, the CNIC of the Petitioner was digitally impounded on the basis of mere suspicion and doubt; nothing in the said report could establish the alleged fraud and misrepresentation on the part of the Petitioner. Therefore, when a right gets accrued upon any person, the same cannot be taken back, withheld, and/or stripped away without adhering to due process of law; such right cannot be taken away on mere suspicious or feeble grounds. In this regard, reliance is placed on ***Fatima versus National Database and Registration Authority through Director General***, **PLD 2022 Balochistan 73** wherein it has been held that: -

> *"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."*

Moreover, the CNIC of the Petitioner was digitally impounded on the solitary report of the agency, wherein it was alleged that the Petitioner had obtained his CNIC by unfair means, committing fraud and concealing the facts by posing himself as citizen of Pakistan at the time of processing of his CNIC. Such stance taken by Respondent No. 2 holds no veracity as neither NADRA nor any intelligence agency is competent under the law to determine the citizenship of a person. In the case of ***Hafiz Hamdullah Saboor versus Government of Pakistan through Secretary Ministry of Interior, Islamabad***, **PLD 2021 Islamabad 305**, the Honorable Islamabad High Court appropriately held that: -

> *"As would be discussed later in more detail, the Authority nor the intelligence agencies are competent to determine the question of citizenship of a person…This Court has consistently observed that the Authority was bereft of jurisdiction to adjudicate upon a question which involves the determination of the status of a person as a citizen of Pakistan and that too, on the basis of reports received from intelligence agencies which are under the control of the Government."*

Shedding light on the mechanism, arbitrarily adopted by the Authority, of relying upon the reports rendered by the intelligence agencies, the Honorable Islamabad High Court further stated the following: -

> *"The respective agencies had reported that the petitioners were not citizens of Pakistan. The Authority issued notices. Perusal of the notices shows that particulars of the petitioners were filled in a pre-published standard form. Without disclosing the material to the petitioners and denying them the right of response on the touchstone of the principles of due process, the Authority either blocked or in some cases cancelled the CNICs of the petitioners. In a perfunctory manner the petitioners were deprived of being citizens of Pakistan merely because an intelligence agency had reported so. Despite the devastating impact of rendering the petitioners stateless, no reasoned order was passed by the Authority. The sole ground for blocking or*

cancellation of the CNICs of the petitioners was that they had falsely declared themselves as citizens of Pakistan."

8. The record ostensibly shows that the show-cause notices dated 11.10.2021 and 03.05.2023 were issued by Respondent No. 2 under Section 18 (2)(a) of National Database and Registration Authority, Ordinance 2000. With a view to determining the legality of the aforementioned show-cause notices, the two relevant statutes required to be examined are; the **Pakistan Citizenship Act, 1951** (hereinafter referred to as the **'Citizenship Act'**) and the **National Database & Registration Authority Ordinance, 2000** (hereinafter referred to as **'Ordinance 2000'**). The survey of the two aforementioned statutes palpably shows that all matters relating to or in connection with the citizenship of a person are covered and dealt with under the Citizenship Act solely, whereas the Ordinance 2000 provides for the registration of all persons and for the establishment and maintenance of a multipurpose database, data warehouses, etc. For ready reference, **Section 18** of **National Database & Registration Authority Ordinance, 2000** is reproduced as under: -

*"**Power to cancel, impound or confiscate cards**. — (1) A card issued under this Ordinance shall be the property of the Federal Government and may, by an order in writing under the seal of the Authority or an officer authorised by it in this behalf, be required to be returned and shall also be liable to be cancelled, impounded or confiscated by a like order:*

Provided that no order shall be made unless such person has been given notice in writing calling upon him to show cause why the order should not be made.

(2) An order under sub-section (1) cancelling, impounding or confiscating a card may be made only if there is reason to believe that-

(a) the card has been obtained by a person who is not eligible to hold such card, by posing himself as eligible;

(b) more than one cards have been obtained by the same person on the same eligibility criteria;

(c) the particulars shown on the card have been obliterated or tampered with; or

(d) the card is forged.

(3) Any person in respect of whose card an order under sub-section (1) has been made may, within thirty days of the order, appeal to the Federal Government against the order and the decision of the Federal Government in appeal shall be final:

Provided that no order on such appeal shall be passed unless the appellant has been given an opportunity of being heard".

9. The aforesaid provision makes it clear that the Authority, under section 18(2)(a) of the Ordinance 2000, is empowered to cancel, impound or confiscate a CNIC if there are reasons to believe that the holder was not eligible and/or had obtained the card by falsely posing to be eligible. In the instant petition, the question of eligibility of the Petitioner to hold a valid CNIC is in the context of his citizenship. The question to resolve here is whether the Authority has been vested with the jurisdiction to initiate proceedings qua eligibility of the Petitioner to hold a valid CNIC stemming from his citizenship? The answer is in the negative. In simple terms, the Authority under the Ordinance 2000, does not have the jurisdiction to initiate proceedings, whereby the eligibility of a person to hold CNIC based on his/her citizenship would be interrogated. It is pertinent to mention herein that the determination of eligibility, related to a person's citizenship, falls strictly within the exclusive jurisdiction of the Competent Authority under the Citizenship Act, particularly Section 16 read with the Citizenship Rules, 1952. Therefore, any action under Section 18(2)(a) of the Ordinance, 2000, concerning eligibility linked to citizenship, must be based on a prior determination by the competent authority i.e., the Federal Government under the Citizenship Act and its corresponding Rules. The Authority under Ordinance, 2000 cannot block, suspend, impound, or confiscate a CNIC on citizenship-related grounds unless a prior judicial order or final determination by the Competent Authority has been made under Section 16 of the Citizenship Act. In the judgement mentioned supra**,** the Honorable Court held that: -

"In the petitions in hand the question of eligibility is in the context of citizenship of the petitioners. The Authority, pursuant to receiving information from one of the agencies, had purportedly initiated proceedings by blocking the CNIC or had recklessly adjudicated the status of an already

registered citizen and consequently cancelled, impounded or confiscated the card. In essence the Authority, on mere suspicion or after adjudicating upon the status of a registered citizen, had either blocked or cancelled the cards, as the case may be. Was the Authority vested with jurisdiction to initiate proceedings regarding 'eligibility' stemming from 'citizenship'? The answer is an emphatic NO. It is noted that the question of 'eligibility' having a nexus with 'citizenship' could only have been adjudicated by the competent authority vested with jurisdiction in this regard and that too in the manner provided under the Citizenship Act read with the Citizenship Rules. The procedure adopted by the Authority whereby cases are referred to District Committees has no backing of the law and ultra vires the Citizenship Act and the Citizenship Rules. Once the person was declared as not being a citizen of Pakistan and adjudication under the aforementioned statute had attained finality only then would the Authority have been empowered to exercise its powers under the Ordinance of 2000, particularly under section 18(2)(a) ibid. As discussed above, the Citizenship Act is a complete self-contained statute governing all matters relating to and in connection with the status of a person as a 'citizen'. The legislature has clearly described the various categories of 'citizenship' and has provided statutory safeguards so that no person is deprived of the right of citizenship arbitrarily or in a reckless manner. No person can be deprived of citizenship except in the manner and subject to the conditions provided under section 16 of the Citizenship Act…The course of action adopted by the Authority in order to determine the eligibility of an already registered citizen on the basis of the citizenship of the latter is ultra vires the Citizenship Act read with the Citizenship Rules. The procedure regarding referring the cases to the purported District Committees is also alien to the statutory provisions and safeguards provided under the aforementioned statute. The legislature, in its wisdom, has not vested the Authority with the power to suspend or block a CNIC and as already noted, in order to do so a judicial order by a competent court would be required….It is, therefore, declared that the Authority is bereft of jurisdiction or power to directly or indirectly determine or adjudicate upon the status and eligibility of a person's citizenship who has already been registered as a citizen. It is further declared that the exercise of powers conferred under section 18(2)(a) of the Ordinance of 2000 on the ground of eligibility relating to citizenship are subject to determination or adjudication made by the competent authority and in the manner provided under the Citizenship Act read with the Citizenship Rules. The Authority is bereft of the power to block, suspend, impound or

confiscate a CNIC on the ground of eligibility relating to citizenship unless an order passed by the competent authority under subsection (6) of section 16 of the Citizenship Act has attained finality or the Authority has been informed that the competent authority has either confirmed renunciation of citizenship under section 14A or its loss under section 16A, as the case may be."

10. Hence, the Authority is absolutely not empowered to adjudicate upon the question of citizenship of a person as well as their eligibility, because it has to be exclusively dealt with under the Citizenship Act. The Authority, therefore, does not enjoy the power to initiate proceedings on the basis of reports received from the intelligence agencies regarding the status of citizenship of a person who has already been registered as a citizen in the system. The agencies, at best, can report the case of alleged fraud, misrepresentation or concealment of material facts along with the relevant material, to the Competent Authority empowered under the Citizenship Act. It is noted that the reports of intelligence agencies have to be processed and placed before the competent authority for proper adjudication. Reliance in this regard is placed on **"Abdul Qadir Vs. Federation of Pakistan and Others" (2024 MLD 1774)** wherein it is mentioned that "NADRA has no right under the National Database and Registration Authority Ordinance, 2000 to determine the question of citizenship which can only be adjudicated by the competent authority under the Act and the rules framed thereunder". Furthermore, it is necessary to note here that the right of appeal provided under subsection (2) of section 18 of the Ordinance of 2002 cannot be a substitute to the exercise of powers vested in the Federal Government under the Citizenship Act. The Federal Government has nowhere delegated its powers to any other authority to deprive a citizen of his/her citizenship.

11. Before parting with the final decision, it is essential to glance over the mechanism of cancelling, impounding or confiscating a CNIC on the basis of mere suspicion, whims and fancies of the public functionaries, which indubitably poses a great threat to the existing fundamental rights of the Petitioner, who happens to be a duly registered citizen of Pakistan. The arbitrary action undertaken by the Authority under the Ordinance, 2000 carries serious and far-reaching consequences,

effectively paralyzing the life of the affected individual. As a result, the individual is deprived of his fundamental rights enshrined in the Constitution of the Islamic Republic of Pakistan, 1973. Such action strips a person of access to employment, education, healthcare, and even their own bank accounts, whilst also restricting their ability to conduct trade, business, or professional activities. In effect, the right to life protected under Article 9 stands virtually extinguished. Reliance is placed on "Fatima Vs. National Database and Registration Authority through Director General" **(PLD 2022 Balochistan 73),** "Hafiz Hamdullah Saboor versus Government of Pakistan through Secretary Ministry of Interior, Islamabad" **(PLD 2021 Islamabad 305)** and "Hafiz Awais Zafar Vs. Judge Family Court, Lahore and 2 others" **(PLD 2022 Lahore 756)**.

12. The Citizenship is a fundamental and indispensable right; without it, no social or political rights can be meaningfully exercised. Once a person is registered as a citizen, they cannot be deprived of that status except in accordance with the law. Article 6 of the Universal Declaration of Human Rights (1948) affirms the right to legal recognition, while Article 15 guarantees the right to nationality and prohibits its arbitrary deprivation. Citizenship forms the essential link between an individual and the State, ensuring access to constitutional rights. The Citizenship Act and Rules, consistent with constitutional and international norms, ensure to safeguard due process and prohibit arbitrary or reckless revocation of this vital status.

13. In the light of the above, this Court deems it proper for appropriate proceedings to be initiated by Respondent No. 2 before the Competent Authority i.e., the Federal Government under the Citizenship Act. Respondents are also directed to provide fair opportunity to the Petitioner keeping in view the fundamental rights and international obligations. The Petitioner is hereby also directed to comply with proceedings so that his grievances can be redressed amicably by the Competent Authority. Moreover, if the intelligence agencies have credible information to the effect that ineligible persons have been registered as citizens, then they are required to report the matter along with credible material to the respective administrative Ministry or Division, as the case may be. The latter, if satisfied that a prima facie case is made out, would

then refer the case for determination to the designated Competent Authority under the Citizenship Act read with the Citizenship Rules. The intelligence agencies are bound to adopt the procedure prescribed under the law and also to ensure that the fundamental rights of eligible citizens are protected and that they are not exposed to the consequences of statelessness.

14. Keeping in view the detailed rationale revealed hereinabove, the Petition is **partly allowed**. The Authority under Ordinance, 2000 is directed to restore the CNIC of the Petitioner for the time being till the decision of the Federal Government upon the application of the Petitioner. Moreover, the Petitioner is duty bound to produce relevant documents before the Authority i.e. the Federal Government for consideration of his case. Needless to mention that the Competent Authority, under the Citizenship Act read with the Citizenship Rules, would not be precluded from proceeding in the prescribed manner, in case it is of the opinion that based on credible material, a prima facie case is made out to deprive a person of citizenship or that the latter was not eligible for it.

(MUHAMMAD AZAM KHAN)
JUDGE

Announced in the open court on this 8th day of April 2025.

JUDGE

Approved for Reporting
Blue Slip added.

Sajid..