JUDGMENT SHEET

IN THE ISLAMABAD HIGH COURT
ISLAMABAD

JUDICIAL DEPARTMENT

Writ Petition No. 1054 of 2025

Wajeeya Habib and another
versus
Directorate General of Immigration & Passports, etc.

Date of hearing: **17.11.2025**

Petitioner by: **Mr. Luqman Ali, Advocate for the petitioner.**

Respondent by: **Mr. Arshid Mahmood Kiani Deputy Attorney General.**

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JUDGEMENT

SARDAR MUHAMMAD SARFRAZ DOGAR CJ:- This writ petition under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973 (the "Constitution") has been filed by the Petitioner No.1 Mst. Wajeeya Habibi, seeking direction(s) to the respondents to grant her Pakistani citizenship and related relief, and to set aside letters dated 07.02.2024, 11.09.2024 and 19.11.2024 issued by the respondents.

2. Brief facts of the case are that petitioner No.1 is an Afghan national. She contracted marriage with petitioner No.2 Farooq Ali, on 12.04.2008, and from this wedlock four children were born, all of whom hold Pakistani birth records. Petitioner No.1 applied for Pakistani citizenship in 2015, her case was processed through the usual mechanism of security verifications and after nearly ten years of correspondence, scrutiny, and clearance, her case was approved and she was granted an assurance letter for citizenship dated 07.02.2024 subject

to submission of a Renunciation Certificate of Afghan Citizenship issued by the competent Afghan authority in Kabul.

3. Learned counsel contended that the petitioner approached the Embassy of Afghanistan multiple times but she was categorically informed that renunciation certificates are not issued at the Embassy level, and such request must be made to the Ministry of Foreign Affairs in Kabul. The petitioner asserted that she cannot travel to Afghanistan because doing so would leave her stateless and unable to re-enter Pakistan. Learned counsel further contended that the requirement of a renunciation certificate is unreasonable, disproportionate, and contrary to law. Learned counsel relied upon Articles 9 & 25 of the Constitution, Pakistan's obligations under the UDHR, and the judgment of "*Sharifan v. Federation of Pakistan"* **(PLD 1998 Lahore 59)**. Therefore, the letters dated 07.02.2024, 11.09.2024, and 19.11.2024 requiring submission of the renunciation certificate are unlawful.

4. On the other hand, learned Deputy Attorney General, opposed the petition, resisting his case firmly on the mandatory nature of the *statute*. He submitted that the requirement for renunciation is a condition precedent unequivocally contained in Section 14 of the Pakistan Citizenship Act, 1951 and Rule 19 of the Pakistan Citizenship Rules, 1952. He also maintained that the Ministry of Foreign Affairs (Pakistan) has verified that the Afghan authorities only process renunciation in Kabul, but confirmed that this factual difficulty, however regrettable, cannot empower the Executive or the Judiciary to waive a requirement enacted by the Parliament. Furthermore, multiple communications were sent to the Afghan Embassy and Ministry of Foreign Affairs (Pakistan) requesting cooperation, but the Afghan Embassy expressly stated that renunciation certificate can only be issued by the Ministry of Foreign Affairs in Kabul.

5. Arguments heard. Record perused.

6. The fundamental principle governing for the grant of Pakistani citizenship is enshrined in Section 14(1) of the Pakistan Citizenship Act, 1951. This provision clearly stipulates that a person who is a

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citizen of Pakistan and a citizen of any other country **shall** cease to be a Pakistani citizen unless they make a declaration "according to the laws of that other country renouncing his status as citizen or national thereof." The Petitioner's counsel argues that Section 14 only applies to existing Pakistani citizens, instead, this is a narrow and untenable interpretation. The assurance letter of 07.02.2024 did not confer the final citizenship rather it was a conditional approval and in order to receive the final Certificate of Citizenship, the applicant must demonstrate compliance with the renunciation requirement. Moreover, as per Rule 19 of the Pakistan Citizenship Rules, 1952, an applicant 'shall produce *satisfactory evidence* that he has made for such a declaration'. The term ***"satisfactory evidence"*** in Rule 19 must be read in conjunction with Section 14(1), which requires the renunciation declaration to be made *"according to the laws of that other country."* The evidence must prove the completion of the foreign state's legal process. Respondent's Report furnishes the clear Note Verbale dated 31.10.2024, from the Ministry of Foreign Affairs, by stating that the renunciation requires the petitioner to visit the Ministry of Foreign Affairs in Afghanistan. This Note Verbale also defines the lawful procedure under Afghan law. An affidavit or a mere newspaper advertisement, while demonstrating *intent*, cannot legally constitute proof of effective renunciation as per the laws of Afghanistan. To hold otherwise would allow the Petitioner to circumvent the mandatory statutory requirement through an unauthorized procedure. The Petitioner highlights the extreme difficulty and potential risk of travel, the 10-year delay, and the principle of '*Actus curiae neminem gravabit* (no one should suffer due to the delay in procedure). While the Court acknowledges the Petitioner's prolonged suffering and hardship, the writ jurisdiction under Article 199 cannot be used to bypass a mandatory requirement of substantive law based on the doctrine of impossibility or hardship. The remedy for the petitioner lies in fulfilling the statutory condition. The delay in the security clearance process has been cured by the

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issuance of the Assurance Letter. The remaining delay is now attributable to the Petitioner's inability to comply with the condition imposed by law, not a fault of the Department. This Court cannot compel the Respondents to issue a Certificate of Citizenship in clear disregard of the mandatory precondition set out in the governing statute (Section 14(1) of the Pakistan Citizenship Act, 1951). Doing so would be equivalent to directing the executive to act *ultra vires* its powers and would amount to judicial overreach into the legislative domain.

7. In light of the statutory provisions, particularly Section 14(1) of the Pakistan Citizenship Act, 1951, which makes renunciation of foreign nationality according to the laws of that country a mandatory pre-requisite, the Court finds no legal infirmity in the conditional approval letters dated 07.02.2024, 11.09.2024, and 19.11.2024. Therefore, the instant petitioner is ***dismissed accordingly*.**

(CHIEF JUSTICE)

A.R.SHAH

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