JUDGMENT SHEET

IN THE ISLAMABAD HIGH COURT,
ISLAMABAD

W.P. NO. 1321 OF 2025

SHARIFA E SHEREEN SHARIFI

VS

FEDERATION OF PAKISTAN THROUGH SECRETARY, MINISTRY OF INTERIOR, PAKISTAN SECRETARIAT, ISLAMABAD, ETC.

Petitioner by	**:**	**Ch. Nisar Ahmed Gujjar, Advocate.**
Respondents by	**:**	**Raja Zamir ud Din Ahmed, AAG.** **Malik Muhammad Khalid, Advocate for NADRA.**
Date of hearing	**:**	**07.05.2025**

MUHAMMAD AZAM KHAN, J.

1. Through the instant Writ Petition under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973 (hereinafter referred to as the **"Constitution"**), the Petitioner [Sharifa e Shereen Sharifi] seeks a declaration to the effect that the act of Respondents denying the grant of POC (Pakistan Origin Card) to her husband is arbitrary, illegal, unlawful, and without any lawful jurisdiction. The Petitioner also seeks direction to the Respondents to grant the POC to her husband on the basis of his direct relation with her, as their marriage is intact, and the Petitioner as well as her children are Pakistani Nationals.

2. The brief facts of the case as per the Memo of Petition are that the Petitioner is a Pakistani citizen who has been duly registered and issued a CNIC by Respondent No.2, having CNIC No. 37405-1876407-4. The marriage of the Petitioner was solemnized with one Ahmad Farugh Sharifi on 01-03-1990 in accordance with the Injunctions of Islam, who is a Swiss National having a Swiss Passport. Out of the said wedlock, two daughters namely (1) Nadia Sharifi, having CNIC No. 37405-1981121-6, aged about 24 years, and (2) Vanessa Sharifi, having CNIC No. 37405-4915683-4, aged about 25 years, were blessed by the Almighty Allah to the couple. The Petitioner is presently residing in Switzerland along with her family, while her sisters and brothers are residing in Pakistan, being Pakistani Nationals. The parents of the Petitioner have passed

away in Pakistan and are buried here. The Petitioner, along with her daughters, has already made frequent visits to Pakistan in order to meet with her other family members, and the daughters of the Petitioner have already obtained their Computerized National Identity Cards after attaining the age of majority. The Petitioner's husband, namely Ahmad Farugh Sharifi, made several visits to Pakistan after getting a visa from the Pakistan Embassy. Now, the Petitioner's husband wants to obtain a POC for visa-free entry to meet with the family of his in-laws, upon which the Petitioner applied for his POC before the department of Respondents No.2 & 3 after fulfilling all legal requirements. However, on 11-11-2024, an email was received by the Petitioner from the office of Respondent No.2, i.e., NADRA, wherein it was mentioned that *"respected applicant, it is to inform you that your application has been closed on the basis of verification report by competent authority. So kindly apply for your refund poc fees by online."*

3. The learned counsel for the Petitioner contended that the rejection of the POC application for the Petitioner's husband is unlawful and without justification. He argued that when one of the spouses is a Pakistani citizen, the other is entitled to the grant of Pakistan Origin Card under Section 11 of the National Database and Registration Authority Ordinance, 2002. That the Petitioner's husband has fulfilled the eligibility criteria for grant of POC as provided in Rule 4, which states that a foreigner should be married to a Pakistani citizen and such marriage should be intact on the date of issuance of the POC, and that such foreigner should not be a citizen of India or a state not recognized by Pakistan or an enemy country. The Petitioner's husband meets all these criteria, has no criminal record, and resides in Switzerland after migrating from Afghanistan. The denial of the POC is arbitrary, discriminatory, and violates Articles 4, 9, 25, and 35 of the Constitution, as well as Section 10 of the Pakistan Citizenship Act, 1951. The Petitioner thus seeks relief through the Constitutional jurisdiction of this Court due to the lack of an alternative remedy.

4. On behalf of the Respondents, i.e., NADRA, it is argued that the instant Writ Petition is not maintainable and entertainable, and that the Petitioner has no *locus standi* to file the instant petition. It is also contended that it is an admitted fact that the husband of the Petitioner, namely Ahmad Farugh Sharifi, is of Afghan origin. That the Petitioner has not approached the Court with clean hands and has concealed material facts. In fact, the husband of the Petitioner applied for issuance of POC vide TID No. 78000244285. The matter was referred to the

Ministry of Interior for verification as per policy. That, as per letter of the Ministry of Interior dated 04-11-2024, it was informed that the security agency did not clear Mr. Ahmad Farugh Sharifi (husband of the Petitioner) for issuance of POC. Due to non-clearance from the security agency, the application for issuance of POC was closed under Rule 13 of the Pakistan Origin Card Rules, 2002, which empowers the authority to refuse registration/issuance of POC if, in its opinion, such issuance is prejudicial to the sovereignty, integrity, security, or defense of Pakistan, or against public interest. It was also informed to the husband of the Petitioner to apply for a refund of the POC processing fee. The husband of the Petitioner is therefore not entitled to issuance of the POC, nor can he claim the benefit of Section 10 of the Citizenship Act, 1951. Lastly, learned counsel prayed for dismissal of the instant petition with costs.

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

6. It is an admitted position that the husband of the Petitioner is of Afghan origin and currently a citizen of Switzerland. The application submitted by the Petitioner for issuance of POC was processed and referred to the Ministry of Interior and concerned security agencies for clearance, in accordance with applicable rules and procedures. The security agencies did not clear the Petitioner's husband for reasons undisclosed but within their lawful domain. Accordingly, NADRA acted under Rule 13 of the Pakistan Origin Card Rules, 2002, which provides as under:

> **"Rule 13:** *The Authority may refuse registration or issuance of Pakistan Origin Card if in its opinion, the registration or issuance of such card to any person is prejudicial to the sovereignty, integrity, security or defense of Pakistan or to public interest."*

7. The issuance of a POC is not an absolute right but a privilege that is subject to fulfillment of not only formal eligibility criteria but also favorable security clearance. Where such clearance is denied by the competent agency, NADRA has no authority to override that assessment, nor will it be appropriate for this Court to interfere in such executive decisions unless they are found to be *mala fide* or without jurisdiction, which is not the case here. It is significant to mention that CNICs are issued by NADRA in terms of Sections 10 and 11 of the NADRA Ordinance, 2000. It is relevant to reproduce the said provisions hereunder to understand the issue:

*"10. **National Identity Cards**. —(1) The Authority shall issue or renew, or cause to be issued or renewed, in such manner and on terms and conditions, subject to every citizen who has attained the age of eighteen years and got himself registered under section 9, a card to be called National Identity Card in such form, with such period of validity upon payment of such fee in such form and manner as may be prescribed:*

Provided that all cards issued under section 5 of the National Registration Act, 1973, (LVI of 1973) to such citizens as stood registered under section 4 of the said Act immediately before the commencement of this Ordinance shall be deemed to have been issued under this Ordinance and shall, subject to sections 17, 18 and 30 remain valid till such period as the underlying registration of the citizens to whom such cards are issued remains valid in terms of the first proviso to subsection (1) of section 9:

Provided further that before issuing or renewing a card under this section, the Authority may require a person to surrender a National Identity Card earlier issued to him under this Ordinance or the National Registration Act, 1973, (LVI of 1973) or otherwise satisfy the Authority as to the factum of his having totally abandon the use of any such earlier card and, till such time as he surrenders such earlier card or otherwise satisfies the Authority as aforesaid, the Authority may not issue or renew a card.

(2) Notwithstanding anything contained in this Ordinance, all such National Identity Cards as are to be issued to a citizen under this Ordinance by means of a manual or computerized laser printing process (as applicable in the Districts of Islamabad and Rawalpindi) shall not be issued for a period of validity beyond two years after the commencement of this Ordinance, or such longer or shorter period as may be notified by the Federal Government with a view to promoting uniformity, authenticity and technological advancement in the registration for and issuance of National Identity Cards.

***11. Pakistan Origin Card**s. The Authority shall issue or renew, or cause to be issued or renewed, in the prescribed manner and on prescribed criteria, terms and conditions, cards to such prescribed class of foreigners and such prescribed class of citizens with dual nationality who have got themselves registered in the prescribed manner, in such form and with such periods of validity thereof upon payment of such fee in such form and manner as may be prescribed, to be called Pakistan Origin Cards and receive applications for registration therefor in the prescribed form"*

8. There is no denial of the fact that Section 11 of the NADRA Ordinance, 2000 pertains to the issuance of POCs to certain foreigners. Specifically, it

authorizes NADRA to issue or renew cards to a prescribed class of foreigners residing in Pakistan, whether legally or otherwise, who have registered in the prescribed manner. These cards are known as Alien Registration Cards. The section outlines the authority's responsibility to receive applications for registration and to issue or renew these cards in the prescribed manner and on prescribed criteria, terms, and conditions. However, the POC is issued only after security clearance of the applicant. Section 11 ibid does not empower NADRA to issue the POC without such clearance or fulfillment of the conditions under the Rules. Since the security clearance was denied by the concerned agency, therefore, NADRA was well within its rights to refuse issuance of the POC to the Petitioner's husband.

9. The case law cited by the learned counsel for the Petitioner, i.e. *Regional Manager NADRA Hayatabad Peshawer and another Versus Mst. Hajira and another* **(2024 SCMR 197)** and *Mst. Amina and another Vs Federation of Pakistan* **(PLD 2024 Peshawar 87)**, is distinguishable on facts, as in such cases, no issue of adverse security clearance was involved. In the instant matter, the refusal is based on non-clearance by the security agency, a matter entirely within the exclusive domain of the executive, as per law and settled jurisprudence.

10. The Petitioner has not placed on record any material to demonstrate that the adverse decision was actuated by mala fide intent or was without lawful authority. Consequently, this Court is not inclined to exercise its constitutional jurisdiction to substitute its judgment in a matter involving national security assessment.

11. In view of the foregoing, the instant Petition is **dismissed**. No order as to costs.

(MUHAMMAD AZAM KHAN)
JUDGE

Announced in the Open Court on this _____ day of May, 2025.

JUDGE

//Sajid//*