JUDGMENT SHEET
IN THE ISLAMABAD HIGH COURT,
ISLAMABAD

WRIT PETITION. NO. 1548 OF 2025

BASHIRAN BIBI

VS

MUHAMMAD ZIA-UR-REHMAN, ETC.

Petitioner by	**:**	**Mr. Sajjad Haider Malik, Advocate.**
Respondents by	**:**	**Ch. Naseer Ahmed Gujjar, Advocate for Respondent No.2.** **Raja Zamir-ud-Din and Ms. Asia Batool, AAGs.** **Mr. Tasawar Iqbal, State counsel.** **Mr. Sajid Cheema, DSP Legal, Mr. Ashraf, DSP, Mr. Hakim Khan S.H.O, Mr. Munawar, SI P.S Khanna.**
Date of hearing	**:**	**06.05.2025**

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 **"Constitution"**), the Petitioner seeks directions to the respondents to produce the detenue/her grandson namely Mohamin Usnam son of Muhammad Zia-ur-Rehman. The Petitioner also prayed that custody of above-named minor may kindly be handed over to her.

2. The brief facts of the case as per the memo of petition are that the Petitioner's daughter, namely Mst. Shagufta Hussain, was married to Respondent No.1 in 2015. The detenue, namely Mohamin Usnam, was born in 2018, and the daughter of the Petitioner died in 2019. After the death of Mst. Shagufta Hussain, the Petitioner raised the minor up till January 2020, being the maternal grandmother of the minor. In January 2020, Respondent No.1 forcibly took the minor from the Petitioner and handed him over to his brother and sister, i.e., Respondents No.2 & 3. Thereafter, the Petitioner approached the Guardian Court by filing a guardian petition and, vide order dated 07.06.2023, she was appointed guardian of the minor Mohamin Usnam. The Respondent filed an appeal before the District Courts, East (Islamabad), whereby the learned ADJ directed the Respondent to produce the minor, but the Respondent failed to comply with the

court order. Hence, the said appeal was dismissed due to non-compliance, vide order dated 02.09.2023. The Petitioner filed an execution petition before the learned Executing Court; coercive measures, i.e., warrants, were issued and the CNIC of Respondent No.1 was blocked, but Respondent No.1 never produced the minor before the Court.

3. The Petitioner's counsel contended that the Petitioner is not aware of the life and health of the minor and that his detention in the custody of the Respondents No. 1 to 3 can ruin the minor/detenue's life and career; that Respondents No.1 to 3 are playing hide and seek, and the minor is detained by them; that the Respondents No. 1 to 3 are not ready to comply with the court orders and hand over custody of the minor to the Petitioner, who is a legally declared guardian by the competent court; that whenever the Petitioner contacted Respondents No.2 & 3 regarding the minor/detenue, they stated that Respondent No.1 has fled abroad and they have no knowledge about the minor, whereas in fact, all three are jointly playing fraud with the Petitioner and the Courts and creating havoc for the life of the minor/detenue; that the detenue may kindly be recovered from the illegal custody of the Respondents No. 1 to 3 and handed over to the Petitioner in the best interest/welfare of the minor as the Petitioner has been declared guardian by the competent Court; that Respondents No.4 & 5 are duty-bound to proceed as per law and to assist in the production of the minor, but at present, they have refused to proceed. Lastly, learned counsel prayed for acceptance of the instant petition, production of the minor before the Court, and handing over custody of the minor to the Petitioner.

4. Learned counsel appearing on behalf of Respondent No.2 opposed the instant petition and prayed for its dismissal on the ground that the minor is not in her custody and that she is not in contact with either Respondent No.1 or 3.

5. On behalf of Respondent No.5/FIA, it is contended that as per the latest Stoplist/Travel History of Respondent No.1, Mr. Muhammad Zia-ur-Rehman, holder of CNIC No. 38201-9453900-1, there is no record found against the given CNIC.

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

7. The perusal of the record reveals that the Petitioner is the maternal grandmother of the minor and was declared the lawful guardian of the child by the

competent Guardian Court. After the death of the mother of the detenue, namely Shagufta Hussain, he remained in the custody of the Petitioner, and she brought him up till January 2020. Respondent No.1 suddenly visited the house of the Petitioner and took the minor/detenue along and reportedly handed him over to the remaining Respondents No. 2 and 3, i.e., his brother and sister. The Petitioner took the matter to the court of law for her appointment as guardian, and the concerned Court accordingly accepted her petition and appointed her as guardian of the minor/detenue. Being aggrieved of the same, the Respondents preferred an appeal before the learned District Judge, Islamabad-East, but the said appeal was dismissed. The order passed by the learned Guardian Judge qua the appointment of the Petitioner as guardian of the minor/detenue has attained finality after dismissal of the appeal. The conduct of the Respondents No. 1 to 3 in defying court orders, withholding the minor, and not revealing his whereabouts constitutes a clear case of illegal custody. The Respondents' conduct undermines the authority of the Courts and violates the fundamental rights of the Petitioner and the minor child.

8. In view of the above circumstances, the instant Petition is hereby **allowed**. The Respondent No. 4/Inspector General of Police, Islamabad, is directed to:

- Immediately take all necessary steps to recover the minor Mohamin Usnam, son of Muhammad Zia-ur-Rehman, from the illegal custody of Respondents No.1 to 3, and produce him before the concerned Guardian Court;

- Hand over the custody of the minor to the Petitioner in compliance with the order dated 07.06.2023 passed by the Guardian Court;

- Proceed in accordance with law under the relevant provisions of the Pakistan Penal Code, 1860 (PPC) and Criminal Procedure Code, 1868 (Cr.P.C) against those obstructing or failing to comply with lawful court orders.

(MUHAMMAD AZAM KHAN)
JUDGE

Sajid