JUDGMENT SHEET

IN THE ISLAMABAD HIGH COURT, ISLAMABAD

W.P. NO. 2978 OF 2025

MUHAMMAD SHAREEF MIAN

VS

MINISTRY OF INTERIOR THROUGH ITS SECRETARY, ETC.

Petitioner by	**:**	**Mr. Muhammad Ibrahim Khan and Mr. Fida Muhammad, Advocates.**
Respondents by	**:**	**Raja Zamir-ud-Din Ahmed, A.A.G.**
Date of hearing	**:**	**08.09.2025**

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 has prayed for the following: -

(i) To direct the Respondents, particularly the DGIP, to process and issue Machine Readable Passports (MRPs) to the Petitioner's siblings, and their families within seven days;

(ii) To restrain the Consulate General of Pakistan, Jeddah from imposing any unlawful or extra-legal requirements not stipulated under the law;

(iii) To declare that no separate or explicit authorization from DGIP is required where a valid NICOP has been issued to a Pakistani citizen; and

(iv) To order for an inquiry into the actions of the Respondents and impose penalties for administrative misconduct and deliberate obstruction of constitutional rights.

2. The brief facts of the case giving rise to the filing of the instant Petition are that the brother of the Petitioner, namely Abdul Jabbar, and his sister, namely Khadija, were denied the issuance of Machine Readable Passports

(MRPs) by the Director General of Immigration and Passports (DGIP) without any legal justification.

3. The learned counsel for the Petitioner submits that the Petitioner was issued a Family Registration Certificate (FRC) by NADRA, which confirms that he has five children; that the Petitioner and all his immediate family members are holders of valid Machine Readable Passports (MRPs), several of which are issued in the year 2025; that the father and mother of the Petitioner (since deceased), were also issued Passports mentioned in the Petition and were having valid CNICs; that the Petitioner and his brother, Abdul Jabbar, purchased immovable property in the year 2005 from their uncle, Anno Mian; that the Petitioner's sister, Khadija, was married to Wasi-Ur-Rehman on 07.07.1986 and she was issued an FRC on 05.10.2023 showing a total of seven family members and they also carry a valid NICOP with an expiry date of 2033; that the Petitioner's sister, Khadija, was issued normal Passports in 1990 and 2005 and was issued a BM series Passport in 2007 and 2009; that the Petitioner's brother, Abdul Jabbar, was issued Passports in the years 1991, 1999, 2001, and 2012, and his wife, Asma, in the years 1998, 2005, and 2014; that despite being documented Pakistani citizens holding CNICs and having fulfilled all legal and procedural requirements, both Abdul Jabbar and Khadija, along with their respective family members, are arbitrarily denied the issuance of Machine Readable Passports (MRPs) by the Director General of Immigration and Passports (DGIP) without any lawful justification; that the actions of Respondents violate the Pakistan Citizenship Act, 1951, particularly Sections 3 and 5, which grant citizenship by birth and descent, respectively; that the Respondents have violated the Passport Act, 1974, and the Passport Rules, 2021 **("Passport Rules")**, by failing to provide written notice for the cancellation of Passports (Section 8(2)) and by refusing to issue Passports without valid legal grounds (Rule 21(k)); that the judicial precedents, including 2000 MLD 551, establish that the right to a Passport and CNIC is fundamental and legal, and any denial of these rights must be based on substantive legal grounds.

4. On behalf of Respondents No.1 and 2, it is submitted that in 1986, a Presidential directive instructed the Pakistan Mission to issue Pakistani Passports to Burmese Muslims. On 22.08.1994, the Federal Cabinet authorized

the Pakistani Ambassador in Saudi Arabia to renew such Passports on a case-to-case basis for one year only. The following measures were adopted, i.e., (i) the manual Passport booklets for these Burmese Muslims were given special serial numbers as these will be special/restricted Passports; (ii) In the column of nationality, the following was stamped: "Burmese Muslims"; (iii) An observation stamp was affixed on the appropriate page so that the holder of the Passport may not claim citizenship of Pakistan. The Petitioner was issued Machine Readable Passport No. CN5129511 in lieu of BM026145. His mother, Ms. Hajra Khatoon, received Passport No. BN4176011 (in lieu of BM026124). His siblings were issued: Khadija – BM031871, Rabia – BM026146, Abdul Jabbar – BM040444, and his brother-in-law, Wasi Ur Rehman – BM008317. BM series Passports included an observation on page 07 that "Holder of this Passport is supposed to acquire Pakistani Citizenship within the validity of the Passport." However, the Petitioner and his family failed to do so. A confirmation letter was sent to PAREP, Jeddah, regarding the BM series Passports issued to them. The Directorate General, via letter No. 6/194/94-Policy (Pt-II) dated 16-12-2016, instructed not to extend Passport facilities to BM series holders. It is further stated that the Petitioner and his family acquired CNIC/NICOP and other documents through misrepresentation. Possession of these documents does not confer citizenship, which is determined under the Pakistan Citizenship Act, 1951. Therefore, they are not entitled to Pakistani Passports as they are non-nationals.

5. I have given my anxious consideration to the arguments advanced by learned counsel for the parties, examined the record with care, and gone through the relevant law.

6. There is no cavil to the proposition that citizenship is a basic fundamental right as it grants access to all other rights. Without it, a person becomes stateless, and without dignity or recognition, thereby left without the protection or belonging in any society. Therefore, when a right is accrued upon any person, the same cannot be withheld, stripped, and/or taken away without due process of law; and such right cannot be taken away on mere suspicion or flimsy 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."

7. The contention of the Respondents that the Petitioner and his family members have acquired CNICs, NICOPs, and other documents through misrepresentation or concealment of facts is wholly misconceived and unsustainable. Equally untenable is the further assertion that the acquisition of CNIC, NICOP or Passport does not by itself confer the right of citizenship. It is a settled principle that once citizenship is conferred under the Pakistan Citizenship Act, 1951, the same can only be revoked or cancelled through a lawful process of inquiry and in strict adherence to due process of law.

8. The record placed before this Court demonstrates that the CNICs and NICOPs of the Petitioner and his family members were duly issued by NADRA, the statutory body entrusted with maintaining the national database and regulating the issuance of identity documents under the NADRA Ordinance, 2000. There is nothing on record to indicate that these documents were obtained by fraud or misrepresentation on the part of the Petitioner or his family members. Mere bald assertions by the Respondents, without any supporting material, cannot suffice to dislodge the presumption of correctness attached to official documents duly issued by a competent authority.

9. The particulars of the Petitioner and his family members further corroborate this position, which have been reproduced hereunder:-

Sr. No.	NAMES	RELATION	NATIONALITY	CNIC ISSUED	CNIC EXPIRED	PASSPORT VALIDITY
1	**Muhammad Shareef**	Petitioner Himself	Pakistani	06.01.2025	06.01.2035	28.12.2026
2	**Gora Mian** (Deceased 23.05.1986)	Petitioner's Father	Pakistani			30.12.1985
3	**Hajra Khatoon** (Deceased 24.02.2024)	Petitioner's Mother	Pakistani	09.04.2018	09.04.2028	10.06.2029

4	**Abdul Jabbar**	Petitioner's brother	Pakistani	16.04.2018	16.04.2028	19.12.2012
5	**Khadija**	Petitioner's sister	Pakistani	07.02.2023	07.02.2033	17.10.2009

The Petitioner, Muhammad Shareef, is a holder of a valid CNIC and Passport duly issued by the competent authorities. His parents were also recognized as Pakistani citizens, having been issued CNICs and Passports during their lifetime. Likewise, the Petitioner's brother, Abdul Jabbar, and sister, Khadija, were also issued CNICs, Passports, and NICOPs in accordance with law. The record, therefore, clearly establishes that the Petitioner and his family members have consistently been acknowledged by the State as citizens of Pakistan through the identity documents sanctioned and maintained by NADRA and Directorate General of Immigration and Passports (DGIP). Once such recognition has been formally granted by NADRA and Passports have been issued by the competent authority, the Respondents cannot be permitted to disown their own official acts at this belated stage, especially when no lawful cancellation proceedings were commenced or show-cause notices issued to the Petitioner or his family members. Mere refusal to process their applications, without adopting the prescribed legal procedure, is arbitrary and violative of due process guaranteed under Article 10-A of the Constitution. It is pertinent to mention herein that no proceedings under Section 18 of the NADRA Ordinance, 2000, Section 16 of the Pakistan Citizenship Act, 1951, or under Section 8(2) of the Passport Act, 1974 have been initiated for cancellation of the CNICs or Passports earlier issued to the Petitioner's siblings or other family members.

10. It is an admitted position on record that the parents of Abdul Jabbar and Khadija (Petitioner's brother and sister) were recognized by the State of Pakistan as Pakistani citizens, as evidenced by their CNICs duly issued to them by NADRA during their lifetime. These documents carry a presumption of correctness under the law unless shown to have been obtained by fraud, which has not been established by the Respondents through any cogent evidence in the instant matter. Once the parents were recognized as Pakistani citizens by the State, the children, being their legal heirs, fall within the ambit of Section 5 of the Pakistan Citizenship Act, 1951, which confers citizenship by descent.

11. Furthermore, in terms of Rule 8 of the Passport Rules, no Passport can be issued to a person who is not a citizen of Pakistan, and an applicant is required to establish his *bona fide* citizenship through valid identity documents such as CNIC, NICOP, FRC, and, where applicable, previous Passports. The record unequivocally demonstrates that the Petitioner and his immediate family members are all holders of valid CNICs, NICOPs, and FRCs duly issued by NADRA, and they have also been issued Machine-Readable Passports (MRPs) on multiple occasions in the past. These documents are conclusive proof of their recognized status as citizens of Pakistan. In the absence of any legal requirement beyond what is enumerated under Rule 8 of the Passport Rules, the issuance of MRPs to the Petitioner and his family members cannot be withheld or denied, as they have fulfilled the mandatory documentary criteria contemplated therein.

12. Rule 9 of the Passport Rules further obligates the Passport officer to satisfy himself regarding the national status and antecedents of an applicant at the time of processing the application and to refer the matter to the concerned security agencies only in case of any doubt regarding citizenship. The Petitioner and his family were, on earlier occasions, duly issued Passports by the competent authorities after their national status had been verified in accordance with Rule 9. There is nothing on record to indicate that any objection, suspicion, or doubt was ever raised regarding their nationality at the time of issuance of these previous Passports. Had there been any such doubt, the Passport authorities were legally bound to record reasons in writing and refer the matter for security verification, which they admittedly did not do. This past conduct of the Passport authorities further reinforces the fact that the Petitioner and his family are acknowledged as Pakistani citizens under the law.

13. Moreover, Rule 21 of the Passport Rules exhaustively enumerates the grounds on which the issuance of a Passport may be refused, while Rule 23 provides for impounding, confiscation, cancellation, or inactivation of a Passport in specific circumstances. The Petitioner and his family members do not fall under any of the disqualifying categories listed in Rule 21, nor have any proceedings been initiated under Rule 23 to impound, cancel, or confiscate their previously issued Passports. In the absence of any adverse order from a

competent authority, or any legal impediment contemplated under these provisions, the refusal to issue MRPs to the Petitioner and his family would be arbitrary, without lawful authority, and contrary to the express scheme of the Passport Rules. Their entitlement to the issuance of Passports thus stands fortified both by the statutory framework and the documentary evidence of their recognized citizenship.

14. The Respondents have primarily relied upon the Circular dated 16.12.2016, wherein it was stated that the "BM series Passports", earlier issued to the Petitioner's siblings, would carry an observation that the holder was "supposed to acquire Pakistani citizenship within the validity of the Passport." This very endorsement works against the stance of the Respondents because it recognizes the possibility of eventual acquisition of citizenship and does not *per se* deny that status. The subsequent issuance of CNICs, NICOPs, FRCs, and MRPs to Abdul Jabbar, Khadija (Petitioner's brother and sister), and other family members is, therefore, in consonance with the stipulation attached to the BM series Passports.

15. Furthermore, the Circular dated 16.12.2016, relied upon by the learned law officer, is only an administrative instruction; such an instruction cannot override the clear provisions of the Pakistan Citizenship Act, 1951, which is a special statute governing citizenship and nationality. The rights conferred under Sections 3 and 5 thereof, granting citizenship by birth and descent, cannot be curtailed by administrative fiat. It is also significant that the circular itself acknowledges that the Pakistani Missions abroad had failed to furnish the required monthly reports with respect to BM series Passports. The omission and negligence of State functionaries cannot be visited upon private citizens who, over a span of decades, have been repeatedly recognized as Pakistani nationals and allowed to enjoy their citizenship.

16. In view of the above, this Court finds that the Respondents have failed to advance any lawful justification for the denial of Machine Readable Passports to Abdul Jabbar, Khadija (Petitioner's brother and sister), and their respective family members. Once the State has itself issued CNICs, NICOPs, and even earlier Passports to them, the Respondents are estopped from disputing their nationality at this belated stage without recourse to due process of law.

Consequently, the instant Petition is **partly allowed** in the above terms. There shall be no order as to costs. The Respondents are directed to process, issue and/or renew Machine Readable Passports to Abdul Jabbar, Khadija (Petitioner's brother and sister), and their family members, subject to completion of codal formalities, within a period of fifteen (15) days from receipt of this order and submit compliance report in this regard immediately thereafter.

(MUHAMMAD AZAM KHAN)
JUDGE

Announced in the open Court on this _____day of September, 2025.

JUDGE

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