

JUDGMENT SHEET
ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

Writ Petition No. 1523 of 2026

Moin Ud Din
Versus
Federation of Pakistan and others

Petitioner by: Mr. Usman Ahmed Hunjra, Advocate.
Respondents by: Mr. Rashid Hafeez, learned Additional Attorney-General, and Mian Muhammad Faisal Irfan, learned Deputy Attorney-General.
Assisted by: Muhammad Fahad, Research Intern.
Date of Hearing: **23.07.2026**

INAAM AMEEN MINHAS, J:- Through the instant writ petition, the petitioner has assailed the order No.2/194/2024-PCL, dated 26.01.2026 (“**Impugned Order**”), passed by respondent No.2, whereby his request for removal of his name from the Passport Control List (“**PCL**”) was declined, and has further sought a declaration that Rule 22(2)(b) of the Passports Rules, 2021 (“**Passport Rules**”), to the extent that it permits an unguided and disproportionate restraint upon the right to travel, is ultra vires the Passports Act, 1974 (“**Act of 1974**”) and the Constitution of the Islamic Republic of Pakistan, 1973 (“**the Constitution**”).

2. Brief facts are that the petitioner, a citizen of Pakistan holding a valid passport, was off-loaded at the Islamabad International Airport on 18.12.2025 while proceeding to the Kingdom of Saudi Arabia for the performance of Umrah, notwithstanding that he was in possession of a valid visa issued upon the said passport and a confirmed air ticket, and no reason for the said action was communicated to him at the relevant time; that being aggrieved thereof, he approached this Court through Writ Petition No.162 of 2026, which was disposed of vide order dated 15.01.2026 with a direction to respondents No.1 and 2 to decide his pending applications, after affording him an opportunity of hearing, by a speaking and well-reasoned order within one week; that a

personal hearing was afforded to him on 23.01.2026, however, no order was communicated to him within the stipulated period, constraining him to file Criminal Original No.50 of 2026 on 01.02.2026 for initiation of contempt proceedings, whereafter, upon issuance of notice therein, the respondents placed on record the Impugned Order; that from the Impugned Order as well as the report filed on behalf of respondents No.1 and 2 it transpires that the name of the petitioner was placed on the PCL on 24.12.2024 on the recommendation of the Director/Deputy Head, NCB-INTERPOL conveyed vide letter No.EA/01(Mic-GB) NCB/2024/13688 dated 29.11.2024 and forwarded by the Assistant Director (Immigration Wing), Federal Investigation Agency vide letter dated 02.12.2024, on account of his deportation from the United Kingdom following his conviction for causing death by dangerous driving when under the influence of drink, and a sentence of three years' imprisonment, the placement being stated to have been made under Rules 21(l), 22(2)(b), 22(2)(c), 22(4) and 23(2) of the Passport Rules; that the Impugned Order proceeds upon the reasoning that the conduct of the petitioner adversely impacts Pakistan's International reputation and that the names of such individuals are placed on the PCL in order to create deterrence, and upon that reasoning his request was regretted as being devoid of merit; and that the petitioner, having served his sentence in full and stood deported, there being no criminal case, inquiry or investigation pending against him in Pakistan, he being neither a proclaimed offender nor the subject of any request for extradition by any foreign jurisdiction, and his passport having never been impounded, confiscated or cancelled, has invoked the constitutional jurisdiction of this Court by way of the instant petition.

3. The learned counsel for the petitioner contended that the Impugned Order is illegal, arbitrary and without lawful authority, and offends Articles 4, 9, 10A, 13 and 15 of the Constitution; that Section 8 of the Act of 1974 authorises adverse action in relation to a passport, and it contemplates only cancellation, impounding or confiscation, that too after affording an opportunity of showing cause, and confers no power whatsoever to bar the travel of a citizen by placement of his name upon a list; that the petitioner does not attract the exception carved out by sub-section (3) of Section 8, being in no manner engaged in subversive activity or in activity prejudicial to the interest of

Pakistan or to Pakistan's relations with any foreign country, and the respondents have carefully refrained from so alleging; that the reliance placed upon Rule 23 of the Passport Rules is wholly misconceived inasmuch as the passport of the petitioner has neither been impounded nor cancelled thereunder and remains valid and in his possession; and that the grounds actually assigned in the Impugned Order, that are image of Pakistan and deterrence, find no mention in the Act of 1974 or in the Passport Rules and are therefore extraneous to the statute.

4. In amplification of the above, the learned counsel for the petitioner submitted that Rule 22(2)(b) of the Passport Rules, insofar as it permits the placement of a name upon the PCL on the bare recommendation of a government agency or department, without prescribing any authority competent to place the name, without laying down any objective standard, and without providing for notice, hearing or reasons, confers an unstructured and unguided discretion and is to that extent ultra vires the Act of 1974. It was further submitted that a restraint upon the movement of a citizen must bear a live and proximate nexus with a present necessity, and that the petitioner having served his sentence and there being no proceedings of any nature pending against him, the continued restraint operates purely as a punishment for a completed foreign conviction.

5. Conversely, the learned Additional Attorney-General, assisted by the learned Deputy Attorney-General, supported the Impugned Order and contended that the petitioner stood convicted abroad of a serious offence occasioning the loss of a human life; that his deportation was duly communicated through INTERPOL channels and was acted upon by the competent authorities; that the respondents were well within their authority under Rules 21 and 22 of the Passport Rules to place his name upon the PCL; and that the freedom guaranteed by Article 15 of the Constitution is neither absolute nor unqualified, being subject to reasonable restriction imposed by law in the public interest, the restraint in question serving the legitimate object of regulating the departure of citizens whose conduct abroad has occasioned adverse consequences for the State. It was accordingly prayed that the instant petition, being devoid of merit, be dismissed.

6. I have given anxious consideration to the submissions advanced by the learned counsel for the parties and perused the record with their able assistance.

7. Tersely, the petitioner impugns the placement of his name upon the PCL and the Impugned Order by which his request for its removal was declined. It is manifest from the record, and indeed is not controverted by the respondents, that the petitioner holds a valid passport, that the said passport has at no stage been impounded, confiscated, cancelled or inactivated, that its issuance or renewal has never been refused to him, and that he was in fact permitted to obtain a foreign visa upon it and to proceed to the airport, but offloaded at the Islamabad International Airport. The controversy, therefore, does not relate to the entitlement of the petitioner to a travel document at all; it relates to the existence of lawful authority in the respondents to restrain him from travelling upon a document lawfully held by him. While considering this background, the grounds raised by the parties and the precedents cited, the following questions need adjudication by this Court:-

i) Whether Rule 22(2)(b) of the Passports Rules, 2021 confers upon respondent No.2, or upon a recommending agency or department, the lawful authority to place the name of a citizen upon the Passport Control List in mechanical manner?

ii) Whether the second limb of Rule 22(2)(b) of the Passports Rules, 2021, which permits placement upon the recommendation of government agencies or departments, is ultra vires the Passports Act, 1974 and the Constitution?

8. Before advertng to the questions so framed, it would be relevant to set out the statutory scheme. The Act of 1974 was enacted to regulate departure from and entry into Pakistan and visits to foreign countries by the citizens of Pakistan. Section 8 thereof, being the primary provision of the parent statute which deals with adverse action against a passport holder, is reproduced as under:-

“8. Power to cancel, impound or confiscate passport.—(1) A passport issued by or on behalf of the Federal Government shall be

the property of the Federal Government and may, by an order under the hand of a Secretary to the Government of Pakistan, [or an officer authorised by the Federal Government in this behalf] be required to be returned and shall also be liable to be cancelled, impounded or confiscated by a like order.

(2) Subject to sub-section (3), before making an order under sub-section (1) in respect of the passport issued to any person, the Federal Government shall give such person notice in writing calling upon him to show cause why the order should not made:

[Provided that no such notice need be given in the case of an order impounding a Passport if it is necessary in the opinion of the Secretary or such other officer to take immediate action, but an opportunity to show cause against the making of the order shall be afforded to the person to whom the order relates, within two weeks from the making of the order.]

(3) If the Federal Government has reason to believe that the person in respect of whose passport it is proposed to make an order under sub-section (1) is, or has been, engaged in subversive activities or in activities which are prejudicial to the interest of Pakistan or to Pakistan's relations with any foreign power, it shall not be necessary to give to such person the notice provided for in sub-section (2) or to afford him an opportunity of being heard.

(4) Any person in respect of whose passport an order under sub-section (1) has been made in the circumstances referred to in sub-section (3) may, within thirty days of the date of the order, apply to the Federal Government for a review of the order; and the decision of the Federal Government in review shall be final."

(5) ...

9. Section 13 of the Act of 1974 confers upon the Federal Government the power to make rules for carrying out the purposes of the Act, sub-section (2) whereof enumerates, without prejudice to the generality of that power, the particular matters for which such rules may provide, namely the conditions to which a passport shall be subject, including conditions as to the ports or places at or from which alone a holder shall depart from or enter Pakistan, and the persons, other than the applicants, by whom and the manner in which applications for the issue of passports may be submitted. It is in exercise of that power, read with Section 3 of the Foreigners Act, 1946, that the Passport Rules were framed and notified vide S.R.O. 245(I)/2022 dated 13.02.2022. Rule 21 enumerates the grounds upon which a citizen of Pakistan may be refused

issuance of passport for the time being, clause (l) which relates to a person previously deported from abroad on account of undesirable activities or illegal entry or criminal charges. Rule 22, so far as is relevant for the present controversy, provides as under:-

“22. Passport control list.—(1) Federal Government is vested with the powers to regulate the departure from and entry into Pakistan and also visit to foreign countries of its citizens under the Act.

(2) The Division concerned and Directorate General shall prepare and maintain a PCL for placement of names and other record of individuals who have been refused passport facilities under these rules under category ‘A’ and ‘B’ respectively with the following description, namely:-

(a) under category ‘A’, the names of those persons are placed who are involved in anti-state activities or whose visit to foreign countries is considered to be prejudicial to the State interest, or, whose visit abroad is banned from security point of view. The names in this list shall be placed and removed by the Additional Secretary of the Division concerned;

(b) under category ‘B’, the names of those persons are placed who have been refused passport under these rules other than anti-state activities specified in clause (a). The names of persons included in the category under this clause may also be placed on the recommendations of government agencies or departments”

(3) ...

(4) In case a person falls under rule 21, and a passport already exists in his name in the database of Directorate General, such passport shall be inactivated to avoid issuance of subsequent passport and placed on the Integrated Border Management System (IBMS) for refusal of immigration services. Immigration officer shall impound passport of such individual and forward it to the Directorate General till delisting from the IBMS category.

...

10. This Court shall first address the question of authority, for jurisdiction is not a mere technicality but the very foundation upon which the legality of executive action rests. Rule 21 is, by its very terms, a provision dealing with the refusal of a passport. It regulates the threshold question whether a travel document shall be issued to a citizen; it says nothing whatsoever concerning the restraint of a citizen who is already in possession of one. The refusal of a

passport and the prohibition of travel are two separate exercises of power, resting upon different footings and attended by different consequences. To conflate the two is to assume that a power to withhold a document carries within it a power to arrest movement, the law admits of no such assumption. It is also by now well settled that a statutory functionary is a creature of the statute and may exercise only such powers as the law has conferred upon him expressly or by necessary intendment, and that where the consequence of the exercise is an interference with the liberty of a citizen, the source of the power must be clear, specific and unambiguous, and cannot be supplied by implication, departmental practice or administrative convenience. In ***Government of Pakistan vs. Dada Amir Haider Khan (PLD 1987 SC 504)***, the Hon'ble Supreme Court approved the following enunciation of Kaikaus, J.:-

“... no discretion vested in an executive officer is an absolute and arbitrary discretion. The discretion is vested in him for a public purpose and must be exercised for the attainment of that purpose. Even though there be no express words in the relevant legal provision to that effect, the discretion is always circumscribed by the scope and object of the law that creates it and has at the same time to be exercised justly, fairly and reasonably...”

11. Even otherwise Rule 21 of the Passport Rules, was never invoked against the petitioner at all and no order refusing him a passport has been passed by any authority, and none has been produced before this Court. The respondents did not decline to issue him a travel document; on the contrary, they permitted him to hold one, and the petitioner obtained a valid visa of the Kingdom of Saudi Arabia for Umrah on the same passport, and thereafter stopped him at the immigration counter without assigning any reason. A situation where the grounds for refusal of issuance of passport mentioned in Rule 21 are applicable to a person who is already holding the passport, is addressed in Rule 22(4) which provides that passport shall be inactivated to avoid issuance of subsequent passport and placed on the IBMS for refusal of immigration services. The reliance placed upon Rule 21(1) in the report submitted by respondents No.1 and 2 does not advance the case of the respondents, the deportation of the petitioner from the United Kingdom on account of criminal charges may answer the description contained in clause (1) is of no

consequence. A ground which would have entitled the competent authority to to impound, cancel or confiscate his passport, had it chosen to proceed after notice and hearing, cannot justify a restraint of a wholly different character which that authority never imposed under that Rule.

12. A bare perusal of sub-rule (2) of Rule 22 reveals that the function entrusted to the Division concerned and to the Directorate General is to prepare and maintain the PCL. The expression prepare and maintain is one of custody and record-keeping. It describes a function of a purely administrative character, consequent upon a decision taken elsewhere; it does not, and cannot, constitute an independent source of jurisdiction. Sub-rule (1), significantly, recites that it is the Federal Government which stands vested with the power to regulate departure from and entry into Pakistan. Where the rule-making authority has in the same breath identified the repository of the substantive power and separately described the custodial function, the two cannot be collapsed into one. The keeper of a register does not, by reason of keeping it, acquire the power to decide what shall be entered upon it and on whom recommendation it should be entered upon. In ***Nadir Mukhtiar vs. Directorate of Immigration and Passport, Government of Pakistan (PLD 2026 Islamabad 1)***, it was held as under:-

“What emerges from the scheme of the Passports Act read together with the Passports Rules is that the action of impounding, confiscating, cancelling or inactivating a passport is a penal action that precedes the placement of a person’s name on the PCL...

The scheme of the Passports Act and the Passports Rules as discussed above makes it abundantly clear that a reasoned order declaring that the passport of a citizen is liable to be impounded, confiscated, cancelled or inactivated is a precondition to the placement of a citizen’s name on the PCL.”

13. Three further features of sub-rule (2) place the matter beyond controversy; firstly, the opening words of the sub-rule confine the list to “individuals who have been refused passport facilities under these rules”. That qualification governs both categories and operates as a condition precedent to entry upon the list. A person who has never been refused passport facilities is, upon the plain language of the Rule, not eligible to be placed upon it. The present petitioner

has never been refused a passport, with the result that his name was entered upon a list to which, upon the respondents' own Rules, he was not eligible to be entered. Secondly, clause (a) expressly nominates the authority competent to place and remove names in Category 'A', namely the Additional Secretary of the Division concerned, whereas clause (b) nominates none. The rule-making authority plainly knew how to designate a placing authority when it intended to do so, and its silence in clause (b) cannot be construed as an invitation to every department and agency of the State to fill the vacancy on its recommendations in colorable exercise of discretion. Thirdly, the process or situation that clause (c) of sub-rule (2) empowers the Director General to consider omission of a name from Category 'B' on appeal furnishes no assistance to the respondents, for a power to entertain an appeal against a decision presupposes a decision taken by some other authority, and is not, and has never been understood to be, a power to pass the original order.

14. It follows that neither respondent No.2, nor the Federal Investigation Agency, nor the National Central Bureau of INTERPOL, possessed the authority to place the name of the petitioner upon the PCL. The Impugned Order recites that it "issues with the approval of the competent authority", but nowhere discloses who that authority is, under which provision it acted, or upon what material it recorded its satisfaction. A formula of that description is no substitute for the identification of the statutory authority and the disclosure of its mind. It has been held by the Hon'ble Supreme Court in ***Federation of Pakistan vs. Messrs E-Movers (Pvt.) Limited (2022 SCMR 1021)*** that where the law stipulates that something has to be done in a particular manner, that is how it should be done, and not otherwise. Sub-section (1) of Section 8 requires the order to be made under the hand of a Secretary to the Government of Pakistan or of an officer authorised by the Federal Government in that behalf, and that Section 11 of the Act of 1974 permits the powers or functions of the Federal Government thereunder to be exercised by a subordinate officer or authority only where the Federal Government has so directed by notification in the official Gazette. No such notification, conferring upon respondent No.2 or upon any recommending agency the power here asserted, has been placed on the record of this case. It is settled that the requirement of section 24A of the General Clauses Act, 1897, is to be read into every statute, so that an order

passed in exercise of a statutory power which does not disclose its reasons is not a just, fair and reasonable order at all, but a colourable exercise of authority.

15. The reliance placed by the respondents upon Rule 23(2) of the Passport Rules is equally misconceived. That Rule is expressly referable to Section 8 of the Act of 1974 and operates in relation to the impounding, confiscation, cancellation or inactivation of a passport. The passport of the petitioner has suffered none of these fates; it remains valid and in his possession. A provision which regulates what may be done to a passport cannot be pressed into service to justify what has been done to its holder. Nor can the exception contained in sub-section (3) of Section 8 be invoked, for it is nobody's case that the petitioner is or has been engaged in subversive activity or in activity prejudicial to the interest of Pakistan or to Pakistan's relations with any foreign power. Equally unavailing is Rule 22(4), upon which the report also relies. That sub-rule contemplates that where a person falls under Rule 21 and a passport already exists in his name, the passport shall be inactivated and the immigration officer shall impound it and forward it to the Directorate General. Whatever the scope of that provision may be, it was not followed, and the passport of the petitioner was neither inactivated nor impounded nor forwarded to anyone; he was permitted to retain it and to leave the airport with it at the time of deportation. The respondents have thus taken from the Rule that part of it which served to stop the petitioner and abandoned that part which would have attracted the safeguards of the parent statute. A provision cannot be applied by halves in this manner, and the immigration officer named in Rule 22(4) does not figure among the officer(s) upon whom Rule 23 confers the power to impound, confiscate, cancel or inactivate, and that he may impound a passport only where the Federal Government has already determined that a citizen holding a valid passport is liable to that consequence upon a ground under Rule 21; it is that determination which tells the officer at the counter that services are to be refused. No such determination was ever made in the case of the petitioner. It is necessary to add, lest it be supposed that the respondents are left without remedy, that the Act of 1974 is not silent upon the case of a person who attracts a ground under Rule 21 but is already in possession of a passport, Section 8 furnishes a complete mechanism for such a case, empowering the

competent authority to cancel, impound or confiscate the passport after notice and by a reasoned order. What the law does not countenance is that the passport be left alive and in the hands of its holder while he is restrained from using it by an entry upon a list of which he is never told. The first question is answered accordingly.

16. This brings the Court to the question of vires of Rule 22(2)(b) of the Passport Rules. The vires of the provision raised by the petitioner assert the second limb of clause (b) as a free-standing source of power exercisable upon the recommendation of an agency or any department which has become regular practice of the Directorate. Petitions raising an identical grievance, of citizens holding valid passports and valid visas offloaded by the officials without notice or reasons, recur before this Court with alarming frequency, and relief confined to the individual petitioner would leave that practice by the concerned officials wholly untouched. Where a provision of subordinate legislation is invoked as the sole source of authority for an action curtailing a fundamental right, and its validity is put in issue by the person aggrieved, the Court cannot decline to examine it. It may be added that this Court has had occasion to observe that a question as to whether the Passport Rules exceed the authority conferred by the parent statute may be considered in an appropriate case where such an argument is agitated by an aggrieved person. The principles governing the vires of subordinate legislation are well settled by superior courts, subordinate legislation draws its entire vitality from the parent statute; it may supplement the Act but may neither supplant it nor travel beyond the field which the legislature has marked out; it may not confer a power which the Act withholds, nor dispense with a safeguard which the Act commands, but where it does so, it is to that extent a nullity. Equally, by virtue of Article 8 of the Constitution, any law, including subordinate legislation, which is inconsistent with the Fundamental Rights is void to the extent of such inconsistency. At the same time, this Court remains mindful of the rules of construction stated by the Hon'ble Supreme Court in case of **Lahore Development Authority vs. Ms. Imrana Tiwana (2015 SCMR 1739)**, that an enactment is to be saved rather than destroyed, that where two constructions are open the one which sustains validity is to be preferred, and that invalidity ought to be declared only where the impugned provision and the parent law cannot be reconciled.

17. Tested upon these principles, the first limb of clause (b) is unexceptionable. A list which records the names of persons who have been refused a passport under Rule 21 is no more than a register of decisions already lawfully taken under Rule 21 of the Passport Rules. Nothing in the parent statute forbids the keeping of such a record, and the power to keep it is fairly incidental to the administration of the Act. The second limb, however, stands upon an entirely different footings; the words, ***The names of persons included in the category under this clause may also be placed on the recommendations of government agencies or departments,*** if read as a free-standing source of power, and that is precisely how the respondents have read and applied them, suffer from infirmities which cannot be reconciled either with the parent statute or with the Constitution.

18. In the first place, they create a disability unknown to the Act as Section 8 is the sole provision of the Act of 1974 which authorises adverse action in relation to a passport, and its marginal note declares it to be the *Power to cancel, impound or confiscate passport*. It enumerates those three actions and no more, requires the order to be made under the hand of a Secretary to the Government of Pakistan or of an officer authorised by the Federal Government in that behalf, and commands by sub-section (2) that notice in writing to show cause shall precede the making of the order, the exception in sub-section (3) being confined to subversive activity or activity prejudicial to the interest of Pakistan or to its relations with any foreign power, and even that exception being strengthened by the right of review conferred by sub-section (4). The Act knows nothing of a control list operating to stop the travel of a citizen independently of these three actions, nor do the matters enumerated in sub-section (2) of Section 13, for which rules may particularly be made. In the second place, the second limb dispenses with the very condition which the opening words of sub-rule (2) impose, namely a prior refusal of passport facilities. In the third place, it identifies no authority competent to place the name, prescribes no criteria by reference to which placement is to be judged. In the fourth place, it contemplates no notice to the citizen, no opportunity of hearing, no recording of reasons and no communication of the decision, with the result that the citizen learns only when he is offloaded or turned back at the immigration counter. A provision so framed does not structure discretion; it

abandons it to the recommending agency or department. In **Director Food, N.-W.F.P. vs. Messrs Madina Flour and General Mills (Pvt.) Ltd. (PLD 2001 SC 1)**, the Hon'ble Supreme Court declared provisions of a statute ultra vires the Constitution for the very reason that they conferred unfettered and arbitrary power upon the Government without laying down any methodology or guidelines for its exercise, holding that a discretionary decision must rest upon findings of primary fact based on good evidence and upon reasons which serve the purposes of the statute in reasonable manner, and that action failing to meet those threshold requirements is arbitrary and may amount to a misuse of power. The relevand part is reproduced hereunder:-

“... Wherever wide-worded powers conferring discretion exist, there remains always the need to structure the discretion ... the wide-worded conferment of discretionary powers or reservation of discretion, without framing rules to regulate its exercise, has been taken to be an enhancement of the power and it gives that impression in the first instance but where the authorities fail to rationalize it and regulate it by Rules, or policy statements or precedents, the Courts have to intervene more often than is necessary, apart from the exercise of such power appearing arbitrary and capricious at times.”

19. A recommendation by a government agency may be understood to do no more than to set in motion the competent authority to consider refusal under Rule 21, without itself placing the name upon the list. This Court is unable to adopt that construction, for the following reasons. Firstly, it has already been held above that where the consequence of the exercise of a power is an interference with the liberty of a citizen, the source of that power must be clear, specified and unambiguous. A provision which must be rescued by construction before it can be lawfully operated does not answer that description, for the ambiguity is itself the defect. Secondly, the ambiguity here does not operate neutrally because the word “also” the second limb of the rule reads as enlarging the power by freeing placement from the very condition which the opening words of sub-rule (2) impose, and that is precisely how the respondents have read and applied it, not in the case of the petitioner alone but as a matter of settled practice. A canon which resolves doubt in favour of validity cannot be pressed into service where the doubt is itself the source of the excess of authority complained of. Thirdly, a construction which depends

for its efficacy upon the forbearance of the very authority that exercises the power is no safeguard at all. Fourthly, it was suggested that the second limb permits a government agency or department to make a recommendation and nothing more, the decision remaining throughout with the competent authority. The language does not bear that construction, what the clause permits is that names may also be placed on the recommendations of such agencies. It is the placing of the name that the clause authorises, and the recommendation is made the ground upon which the name is placed. Nothing in the clause requires any authority to examine that recommendation, or indeed to decide anything at all. Clause (a) of sub-rule (2) of Rule 22 of the Passport Rules furnishes a comparison which cannot be passed over, for it discloses how the rule-making authority proceeded where it intended that a name should be entered upon the list by the decision of an identified officer. In that clause it named the officer competent to place and remove names, namely the Additional Secretary of the Division concerned. In clause (b) of the sub-rule 2, it named no one at all. Had the second limb of clause (b) been intended to do no more than furnish material for the consideration of some authority, that authority would have been identified, as it was in the clause immediately preceding but it was not, and the recommendation is accordingly left to operate as the decision itself. That is precisely what occurred in the present case, where a recommendation of the National Central Bureau of INTERPOL, forwarded by the Federal Investigation Agency, was acted upon by the Directorate without any authority applying its mind to the case of the petitioner at all. A recommendation is by its nature advisory and carries no obligation. A provision which permits an advisory act to visit a citizen with a penal consequence, without any intervening adjudication by an authority answerable for it, cannot be rescued by construing the advisory act to be something other than that which the provision itself declares it to be. Moreover, the second limb be reconciled with the authority upon which the law confers the power to restrain the departure of a citizen. Sub-rule (1) of Rule 22 recites that it is the Federal Government which is vested with the power to regulate departure from and entry into Pakistan, and Sections 8 and 11 of the Act of 1974, already noticed, say the same. The second limb sets this aside, and it permits the name of a citizen to be entered upon the list by the recommendation of any government agency or

department, and so suffers a power which both the Act and the Rule place in the Federal Government to be exercised, in substance, by whichever agency chooses to recommend. Reliance is placed on *Messrs Mustafa Impex vs. Government of Pakistan (PLD 2016 SC 808)*.

20. The validity of clause (b) was assailed before this Court only to the extent that it permits an unguided and disproportionate restraint upon the right to travel. Accordingly, it is declared that the second limb of clause (b) of sub-rule (2) of Rule 22 of the Passport Rules, namely the words **“The names of persons included in the category under this clause may also be placed on the recommendations of government agencies or departments”**, travels beyond Section 8 read with Section 13 of the Act of 1974, offends Articles 4, 9, 10A and 15 of the Constitution, and is in consequence ultra vires and of no legal effect. The second question is answered accordingly.

21. It is pertinent to mention that the respondents having also invoked Rules 22(2)(c), 22(4) and 23(2) of the Passport Rules, and the placement itself having been found to be without lawful authority, no opinion is expressed, beyond what has been stated in paragraph 15 above, and upon the vires of those provisions, which do not fall for determination in the present case.

22. Independently of the foregoing, the Impugned Order cannot survive scrutiny upon its own terms. The grounds actually assigned therein, namely that the conduct of the petitioner adversely impacts Pakistan’s International reputation and that his name has been placed upon the PCL in order to create deterrence,, are nowhere to be found in the Act of 1974 or in the Passport Rules. An executive authority may not enlarge the grounds which the law has specified by importing into them objects which the law has not named. In case of Dada Amir Haider Khan (supra) the Hon’ble Supreme Court approved the following observation of Mirza, J. in Mumtaz Ali Bhutto vs. Government of Pakistan (PLD 1981 Karachi 98):-

“the exercise of the power to grant or refuse the issue of a passport is the exercise of a public power and it is well-settled that the public power cannot be arbitrarily exercised to the disadvantage of the citizens ... Public power granted to the functionaries of the State has to be exercised fairly and reasonably in consonance with the objects

of law under which it is granted and not for extraneous purposes which will be tantamount to fraud on the statute.”

The considerations invoked in the Impugned Order are precisely of that description, and the order discloses no material whatsoever connecting the conviction of the petitioner with any injury to the international standing of Pakistan. A restraint upon the movement of a citizen must bear a live and proximate nexus with a present necessity. The petitioner has served his sentence in full and stands deported; no case, inquiry or investigation is pending against him in Pakistan, and no jurisdiction has sought his custody. The restraint is therefore referable to nothing save a completed foreign conviction. Whether such a measure attracts the bar contained in Article 13 of the Constitution need not be decided; it is sufficient to observe that a measure which, after the completion of sentence, operates purely punitively, and for which no statutory sanction can be shown, cannot be sustained. This Court says nothing to diminish the gravity of the offence of which the petitioner stands convicted, which occasioned the loss of a human life. But gravity does not supply jurisdiction. That a restraint upon travel must be imposed by a lawful authority, under a clear statutory provision, upon relevant material, after notice and by a reasoned order is settled by a consistent precedents of superior Courts.

23. Before parting, this Court is constrained to observe upon the manner in which the direction contained in the order dated 15.01.2026 passed in Writ Petition No.162 of 2026 was treated. A specific direction to decide the matter within one week by a speaking order elicited no order has been passed at all until a contempt petition had been filed and notice issued thereon. The order thereafter produced, whatever its date, and mere titling it “**Speaking Order**” engages with the statutory provisions not at all, identifies no competent authority, records no finding upon the ingredients of any Rule, and disposes of the request of the petitioner by the solitary word “regretted”. An order of that description does not answer the form of a speaking order. Compliance with the directions of this Court is not a matter of formality, and the respondents would be well advised to bear this in mind.

24. Accordingly, the instant petition is hereby allowed in the following terms:-

a) The Impugned Order dated 26.01.2026 (No.2/194/2024-PCL) passed by respondent No.2 is set aside, and the placement of the name of the petitioner upon the Passport Control List on 24.12.2024 is declared to be without lawful authority and of no legal effect. Respondents No.1 and 2 shall cause the name of the petitioner to be removed from the Passport Control List within fifteen days of the receipt of a certified copy of this judgment.

b) The respondents shall not interfere with the lawful foreign travel of the petitioner on the basis of the placement hereby set aside; it is, however, clarified that nothing in this judgment shall preclude the competent authority from taking such action, if any, as may be warranted in accordance with law and after due compliance with the procedure prescribed therefor.

c) It is declared that the second limb of clause (b) of sub-rule (2) of Rule 22 of the Passports Rules, 2021, namely "The names of persons included in the category under this clause may also be placed on the recommendations of government agencies or departments", is ultra vires the Passports Act, 1974 and the Constitution of 1973 and is of no legal effect.

25. A copy of this judgment shall be sent to the Secretary, Ministry of Interior, Government of Pakistan, to the Director General, Immigration and Passports, and to the Director General, Federal Investigation Agency, who shall each ensure, so far as their respective functions extend, that the Passport Control List is prepared and maintained in accordance with the scheme of the Act of 1974 and the Passport Rules. The parties are left to bear their own costs.

(INAAM AMEEN MINHAS)
JUDGE

Announced in open Court on 14.09.2026.

JUDGE

APPROVED FOR REPORTING.