JUDGEMENT SHEET

IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

Writ Petition No. 3947/2026

Naqeeb Ullah Khan

VERSUS

Director General of Immigration and Passports & another

PETITIONER BY:	Mr. Tahir Khan, Advocate
RESPONDENTS BY:	Mr. Fahad Khan Tareen, Assistant Attorney General. Mr. Imtiaz Hussain Hashmi, Assistant Legal Admin, Directorate General Immigration & Passports. Mr. Shahzad Saleem, Inspector, IBHQs.
DATE OF HEARING:	03.09.2026

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AYYAZ SHAUKAT, J:- The petitioner has impugned the respondents' action in impounding and inactivating his passport, and seeks a direction that his passport be unblocked and that his name be removed from the Passport Control List (the "**PCL**"), together with a declaration that the restraint placed upon his travel is unconstitutional and without lawful authority.

2. Learned counsel for the petitioner submitted that the petitioner is a law-abiding citizen of Pakistan, resident of Miranshah, North Waziristan, holding CNIC No.21506-5784869-1, to whom passport No.CV4118693 was issued on 12.06.2018 and is valid until 10.06.2028. He submitted that valid visas stand endorsed upon that passport; that the petitioner has never been convicted by any court, nor is any criminal case, inquiry or investigation pending against him in Pakistan; and that his passport was blocked without notice, without service of any order upon him and without communication of any ground, so that he learnt of the action only when he was unable to travel. Respondent No.1 is the Directorate General of

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Immigration and Passports and respondent No.2 is the Intelligence Bureau through its Director General.

3. The petition as originally framed contained five prayers. By prayer clause (I) a declaration was sought that the placement of the petitioner's passport and name upon the PCL and the imposition of a restraint of five years or more are unconstitutional and patently illegal. By prayer clause (II) a declaration was sought that clause (c) of sub-rule (2) of Rule 22 of the Passports Rules, 2021 is ultra vires the Passports Act, 1974. By prayer clause (III) a direction was sought to respondent No.1 to unblock the passport and to remove the petitioner's name from the PCL or from any other list. Prayer clauses (IV) and (V) related to costs and to general relief.

4. Notice was issued to the respondents vide order dated 17.08.2026. On 25.08.2026, the learned Assistant Attorney-General informed this Court that F.C.P.L.A. No. 599 of 2026 had been filed before the Hon'ble Federal Constitutional Court of Pakistan against the judgment of the learned Lahore High Court in Writ Petition No. 13357 of 2025, whereby clause (c) of sub-rule (2) of Rule 22 of the Passports Rules, 2021, had been declared ultra vires section 8 of the Passports Act, 1974. He further submitted that the operation of the said judgment had been suspended vide order dated 27.04.2026. Since the question is sub judice before the Hon'ble Federal Constitutional Court, this Court observed that it would not be appropriate to adjudicate upon prayer clause (II), whereupon learned counsel for the petitioner submitted that he did not press that prayer. To that extent the petition was dismissed as not pressed. The vires of clause (c) of sub-rule (2) of Rule 22 have accordingly ceased to be in issue, and nothing in this judgment is to be read as expressing any opinion upon that question.

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5. Learned counsel for the petitioner submitted that the action impugned offends Articles 4, 9, 10-A and 15 of the Constitution of the Islamic Republic of Pakistan, 1973. He made three principal submissions. The first was that the petitioner's name was placed upon the PCL without the approval of the Federal Government required by Rule 22(1) of the Passports Rules, 2021, and that upon the authority of ***Messrs Mustafa Impex, Karachi v. Government of Pakistan*** **(PLD 2016 SC 808)** the expression "Federal Government" denotes the Prime Minister and the Cabinet, so that an action taken without such approval is without lawful authority. The second was that the impugned action rests upon nothing more than an undisclosed recommendation of an intelligence agency, unaccompanied by any material and unsupported by any independent satisfaction of the competent authority, and is therefore mechanical. The third was that a restraint upon travel for five years or more is a penal consequence unknown to the parent Act, which delegated legislation cannot supply.

6. In support of these submissions, the learned counsel placed reliance upon two judgments of this Court, being ***Muhammad Adil Irshad v. Federation of Pakistan*** **(Writ Petition No.5235 of 2025)** and ***Zia Ullah v. Directorate General of Immigration and Passports*** **(Writ Petition No.854 of 2026)**. He also relied upon ***Dr. Shireen M. Mazari v. Federation of Pakistan*** **(2024 MLD 1020)**.

7. Learned Assistant Attorney-General, assisted by the Assistant Law Officer of the Directorate General, controverted these submissions and relied upon the report filed on behalf of respondent No.1, which is in the following terms:

> *"It is respectfully submitted that, as per provisions contained in Rule 23(2) of the Passports Rules 2021 (Annex-A) Passport No.CV4118693 dated 12.06.2018 of the petitioner was digitally 'impounded/ inactivated' in the Passport Database on the*

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recommendation of the Intelligence Bureau vide their classified letter No.TR-1340/49/16-CT-South/108 dated 01.08.2024 conveyed by the Ministry of Interior, Islamabad vide letter No.2/1/2024-Pass (P&C) dated 06.08.2024."

8. Upon that report the learned Assistant Attorney-General submitted that the petition is not maintainable, inasmuch as an adequate and efficacious remedy stands available to the petitioner before the Review Committee constituted under sub-rule (3) of Rule 22 of the Passports Rules, 2021, and by way of review under sub-section (4) of section 8 of the Passports Act, 1974, neither of which the petitioner invoked before approaching the constitutional jurisdiction of this Court. He submitted that the impugned action was taken by the competent authority in the exercise of the lawful authority conferred upon it by the Passports Rules, 2021, upon and after consideration of the material available with it, and that an order so made is not open to challenge upon the grounds urged.

9. He submitted that the facts pleaded do not disclosed the infringement of any fundamental right of the petitioner. The right guaranteed by Article 15 of the Constitution is by, its own terms, subject to reasonable restriction imposed by law in the public interest, and the material upon which the action proceeds is of a classified character which it would not be in the public interest to disclose. He maintained that the petitioner has made out no case of mala fide, of arbitrariness or of want of jurisdiction such as would warrant interference in the exercise of a jurisdiction which is in any event discretionary, and prayed that the petition, being devoid of merit, be dismissed. Upon the direction of this Court, he produced the departmental record for perusal.

10. I have heard learned counsel for the petitioner as well as the learned Assistant Attorney General and have carefully examined the record, the report submitted by the respondents and the applicable law.

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11. Out of the pleadings in the petition, the action of respondent No.1 taken under the Passports Rules, 2021 as disclosed in its report, the divergent arguments addressed and the stances taken at the bar, and the record produced before this Court, the following questions arise for determination:

i. ***Whether the impugned action was taken under Rule 21, Rule 22 or Rule 23 of the Passports Rules, 2021; and whether Rule 23 confers a power exercisable independently of Rules 21 and 22 and, if so, on what grounds, by which authority and subject to what legal threshold?***

ii. ***Whether the principle laid down in Messrs Mustafa Impex, Karachi v. Government of Pakistan (PLD 2016 SC 808), as applied by this Court to Rule 22(1) of the Passports Rules, 2021, is also attracted to an order made under Rule 23(2) thereof?***

iii. ***Whether, upon examination of the material placed before this Court, the impugned action was taken by the competent authority on a ground recognised by law and after due application of mind?***

12. Before we turn to those questions, it is necessary to consider the scheme within which they arise for adjudication. The starting point is the fundamental rights guaranteed under the Constitution of 1973. Article 4 guarantees to every citizen the inalienable right to enjoy the protection of law and to be treated in accordance with law, and forbids any action detrimental to the life, liberty, body, reputation or property of a person save in accordance with law. Article 9 provides that no person shall be deprived of life or liberty save in accordance with law. Article 15 provides that every citizen shall have the right to remain in, and, subject to any reasonable restriction imposed by law in the public interest, enter and move freely throughout Pakistan and to reside and settle in any part thereof. Two features of Article 15 deserve notice at the outset. The first

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is that the guarantee is not unqualified upon its own terms; it is expressly subordinated to reasonable restriction imposed by law in the public interest. The second is that the Article contemplates the existence of such a law, and therefore presupposes a legislative regime by which the movement of citizens across the frontiers of the State may lawfully be regulated.

13. That regime is the Passports Act, 1974 (Act XX of 1974), which received assent on 11.03.1974. Its preamble recites that it was expedient to regulate departure from and entry into Pakistan and visits to foreign countries of citizens of Pakistan and to provide for matters ancillary thereto. It is a compact statute of fifteen sections, not divided into chapters or parts.

14. Its scheme may be described under five heads. The first is the regulatory prohibition itself. Section 3 provides that no citizen shall depart from Pakistan by any means whatever unless he is in possession of a passport, nor otherwise than from such port or place, by such routes and in accordance with such conditions as may be prescribed, and makes corresponding provision in respect of entry. The second is the penal apparatus by which that prohibition is enforced. Section 4 prescribes punishment for contravention of section 3, section 5 deems certain acts to be such a contravention, and section 6 prescribes penalties for certain offences relating to passports. The third is enforcement. Section 7 confers powers of arrest and seizure, while sections 9 and 10 make provision as to the burden of proof and as to indemnity.

15. The fourth is the continuing control of the State over the passport itself. Section 8 declares a passport to be the property of the Federal Government and confers the power to require its return and to cancel, impound or confiscate it. The fifth is the machinery of administration where Section 11 empowers the Federal Government to delegate any of

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its powers or functions under the Act to any officer or authority subordinate to it, by notification published in the official Gazette; section 12 confers a power of exemption; section 13 confers the power to make rules for carrying out the purposes of the Act; and sections 14 and 15 contain the customary savings and repeal.

16. The design of the Act, so viewed, is simple and coherent: the passport is made the indispensable instrument of lawful international travel; travel without one is made an offence; the officers of the State are armed with powers of enforcement; and the document, being the property of the Federal Government and not of the holder, remains at all times susceptible to recall. The liabilities which the Act creates fall upon the citizen who travels without a passport or who tampers with one. The powers which it confers are the powers of prosecution, of seizure and of recall. What is significant for present purposes is that the Act does not prescribe categories of passport, conditions of eligibility, or procedures of application. Nor does it anywhere stipulate the conditions upon which a passport is to be issued or granted, or upon which the issue or grant of a passport may be refused. All of that is left to be prescribed by rules.

17. That silence is the origin of the questions which have repeatedly come before the superior courts. If the statute prescribes no conditions of refusal, the question at once arises whether the Federal Government possesses any discretion at all in the matter, and if so, how far that discretion may travel before it collides with the rights guaranteed by Articles 4, 9 and 15 of the Constitution.

18. That question was answered by the august Supreme Court in ***Government of Pakistan and another v. Dada Amir Haider Khan*** **(PLD 1987 SC 504)**, which remains the foundational authority upon the subject. The respondent in that case had applied for a passport, which was declined without reasons; the reason disclosed when he moved the

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High Court was that he was an old political worker of 'communist thought'. Their lordships approached the matter thus:

> *"Article 15 guarantees to every citizen the right to remain in, enter and move freely throughout Pakistan. But his right to enter the country if he is leaving it or has gone abroad and his right to step out and step in the country are subject to reasonable restrictions imposed by law in the public interest. By reading the provisions of Articles 4, 9 and 15, it is manifest that every citizen has the liberty to go abroad and to re-enter Pakistan unless he is precluded from doing so under some law made in the public interest. The Passports Act, 1974, is one such law. Indeed its preamble itself recites that it has been enacted to regulate the departure from and entry into Pakistan and visits to foreign countries of citizens of Pakistan…"*

19. Having made the foregoing observations, their lordships held, that it cannot be argued that a passport is to be granted to an applicant by way of right, inasmuch as the discretion to issue or not to issue a passport is incidental to the power to regulate the exit of a person from Pakistan and his subsequent return to it. That discretion is, however, not at large, for it is now established law that a discretion vested in a public authority must be exercised fairly, reasonably and in good faith. The law approved and laid down in ***Dada Amir Haider Khan*** may be stated as two propositions that judgment must be kept in view. The first concerns the value of the right:

> *"Moreover, a citizen's right to travel abroad is an important aspect of the citizen's liberty and is closely related to the rights of free speech and association. As nations in the world become politically and commercially more dependent upon each other and foreign policy decisions have come to have greater impact upon the lives of citizens, the right to travel has become correspondingly more important."*

The second, and for present purposes the more significant, identifies the class of case in which that right yields:

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> *"…Undoubtedly, to travel abroad could be barred if it was shown that the applicant was going abroad to meet the enemies of the country and his foreign visit could endanger the security of the State or was against the public interest."*

20. Similarly, in the case of ***Mian Muhammad Shahbaz Sharif v. Federation of Pakistan*** **(PLD 2004 SC 583)** it was held that while the right of a citizen to enter the country cannot be denied, he may be restrained from going out of it. ***In Pakistan Muslim League (N) v. Federation of Pakistan*** **(PLD 2007 SC 642)**, the Hon'ble Supreme Court, while recognising the liberty to go abroad and to return, held that the right is neither absolute nor unqualified and remains subject to whatever law is in force at the relevant time.

21. I now turn to section 8, which is the provision of the Act most directly engaged in matters of this description. It is convenient to reproduce it in full:

> ***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 authorized by the Federal Government in this behalf be required to be returned and shall also be liable to be cancelled, impounded or confiscated by 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 shall not be 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*

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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) *Any expenditure incurred by the Federal Government on the repatriation to Pakistan of a citizen of Pakistan who gets stranded or becomes a destitute while he is in a foreign country, or for any other reason, shall be recoverable, as an arrear of Land Revenue.*

22. Three features of the section may be noticed at this stage, without pursuing them further. The first is that sub-section (1) names three powers, namely to cancel, to impound and to confiscate, to which must be added the incidental power to require the return of the document. The second is that the order shall be made under the hand of a Secretary to the Government of Pakistan or of an officer authorized by the Federal Government in that behalf, so that the section itself contemplates the exercise of the power by a designated officer and not by the Cabinet sitting collectively. The third is that sub-section (2), which prescribes the show cause notice, is in its own words made 'subject to sub-section (3)', and that sub-section (3) removes an identified class of case from that requirement altogether. Sub-section (4) furnishes in that very class a right of review within thirty days.

23. The Passports Rules, 2021, which supplement section 8, were framed in exercise of the authority conferred by section 13 of the Act. The Rules were notified by S.R.O. 245(I)/2022 and published in the Gazette of Pakistan, Extraordinary, on 14.02.2022, and stand amended by S.R.O. No.1139(I)/2023. By Rule 24 they repealed the Rules of 1974, which had until then held the field. They comprise twenty-four rules together with schedules.

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24. It may be seen that the Rules are an instrument of administration rather than of restraint, and it is useful to view the restrictive provisions against that background. Rule 2 contains the definitions, among them "confiscation", which means forfeiture of a passport in accordance with the Act and the Rules, and "impound", which means seizure of a passport for a limited period; it also defines the "Directorate General" as the Directorate General of Immigration and Passports established to regulate matters relating to immigration and passports, and the "Division concerned" as the Division of the Federal Government to which the business of the Directorate General stands allocated.

25. The Rules then provide for the categories of passport, being ordinary, official and diplomatic, the last two governed by Schedules III and IV respectively. They provide next for the machinery of application and issue, Rule 6 permitting a citizen to apply at any passport office irrespective of the address recorded in his identity document, and Rule 9 prescribing the duties of the passport officer, clause (e) of which requires him to satisfy himself that the applicant does not fall within any category of refusal mentioned in Rule 21 or bear an active status upon the Integrated Border Management System. Provision is made for validity, renewal, replacement of lost passports and the like, and Rule 18 provides for the issue of an Emergency Travel Document to enable a citizen abroad to return to Pakistan. Rules 21, 22 and 23 are the only provisions of the Rules which impose restraint, and Rule 24 effects the repeal already mentioned.

26. This survey of the Act and the Rules yields two observations. The first is that the entire law of restraint upon a citizen’s passport is contained in three rules of a subordinate instrument, resting upon a statute which itself confers three powers. The second is that these three rules are not cast in identical terms, do not name the same officers, and

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do not operate upon the same subject matter; and they have nonetheless been treated as though they did.

27. In recent years, section 8 of the Act and the Passports Rules, 2021, have increasingly come under judicial scrutiny by the superior courts. This Court, while deciding the case of ***Dr. Shireen M. Mazari v. Federation of Pakistan*** **(2024 MLD 1020)**, held that placement without due process and without the approval of the Federal Government was without lawful authority. In ***Faisal Maqbool Shaikh v. Federation of Pakistan*** **(Writ Petition No.2141 of 2023)** a placement made upon a notification of the Federal Investigation Agency founded upon an F.I.R. was set aside for want of approval under Rule 22(1), for want of any list issued by the Division concerned or the Directorate General, and because the petitioner answered the description in neither category of Rule 22(2). In ***Umar Sultan v. Federation of Pakistan*** **(Writ Petition No.51 of 2025)** it was held that category "B" applies to persons whose passports have been refused, and that nothing had been placed on record to show approval of the Federal Government "as provided by Rule 22(1)". The same formula was applied in ***Zaka ud din Dewan v. Federation of Pakistan*** **(Writ Petition No.3761 of 2024)** and in ***Muhammad Iqbal v. Federation of Pakistan*** **(Writ Petition No.405 of 2025)**. To these must be added ***Nadir Mukhtiar v. The Directorate of Immigration and Passports*** **(PLD 2026 Islamabad 1),** which contains the fullest consideration yet given by this Court to the scheme of the Rules.

28. These precedents together with the decisions rendered on the same question by the High Courts of other provinces, are authority upon Rules 21 and 22 specifically. Learned counsel for the petitioner has placed reliance on these judgments and has advanced arguments on the strength of the ratio decidendi therein. However, a study of these cases reveals that they are distinguishable in that they do not address the process envisaged under Rule 23. Whether they govern an action taken under

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Rule 23 is the question at the heart of this petition before this Court, and it cannot be answered without first examining what the three rules respectively provide.

29. I turn, therefore, to the three rules themselves, and it is convenient to take them in the order in which they appear. Rule 21 is headed "Refusal of passport" and is in the following terms:

> ***21. Refusal of passport.—*** *A citizen of Pakistan may be refused issuance of passport for the time being on any of the following grounds, namely:—*
>
> *(a) on the orders of courts or tribunals;*
>
> *(b) a minor being taken out of Pakistan against the wishes of the legal guardian;*
>
> *(c) a person, who is placed on Provisional National Identification List (PNIL) and is likely to flee the country to evade prosecution in a criminal or other offence;*
>
> *(d) a deserter or delinquent of Government service recommended by respective department;*
>
> *(e) a person whose name exists on exit control list (ECL);*
>
> *(f) a person wanted by the International Criminal Police Organization (INTERPOL);*
>
> *(g) a person who is likely to engage abroad in activities prejudicial to the sovereignty, security or integrity of Pakistan;*
>
> *(h) a person whose presence abroad is detrimental to the friendly relations of Pakistan with any other country;*
>
> *(i) a person whose presence abroad, in the opinion of the Federal Government, is not in the public interest;*
>
> *(j) a person involved in offences punishable under sections 4 and 6 of the Act;*
>
> *(k) a person who obtained one or more CNICs or passports fraudulently on fake identities;*
>
> *(l) a person previously deported from abroad on account of undesirable activities or illegal entry or criminal charges;*
>
> *(m) upon receipt of report from the concerned authority(ies), i.e. FIA, ANF, Customs, IB, Coast Guards or Border Agencies, a person*

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suspected of being habitual smuggler or purveyors of contraband goods or involved in human trafficking; and

(n) upon receipt of report from FIA or Border Agencies, persons suspected to be smugglers of foreign exchange.

Explanation: For the purpose of sub-clauses (g), (h) and (i) the action shall be based on reasonable likelihood or suspicion.

30. Rule 21 is concerned with a passport that has not yet been issued. A citizen applies, and the State decides whether to grant the application. The Rule sets out fourteen situations in which the answer may be no, and it says that the refusal operates "for the time being", which means that it lasts only so long as the situation which caused it lasts. The grounds are of several kinds. Some come from a court, as in clause (a). Some arise out of the citizen's employment, as in clause (d). Some follow from an offence, as in clauses (j) and (k). Clauses (g), (h) and (i) stand apart from the rest. They are concerned with the sovereignty, security and integrity of Pakistan, with its relations with other countries, and with the public interest. To those three clauses, and to no others, the Explanation is attached, and it provides that action under them is to be based on reasonable likelihood or suspicion. Clause (m) names the Intelligence Bureau among the authorities upon whose report a passport may be refused. Rule 9(e) completes the picture at the practical level, for it requires the passport officer, when an application is received, to satisfy himself that the applicant does not fall within any of these fourteen categories.

31. Rule 22 provides for the Passport Control List. Sub-rule (1) provides that the Federal Government is vested with the powers to regulate the departure from and entry into Pakistan and also visits to foreign countries of its citizens under the Act. Sub-rules (2) and (4), which are the provisions material for present purposes, are as follows:

(2) The Division concerned and Directorate General shall prepare and maintain a PCL for placement of names and other record of

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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;

(c) normal period of retaining a person on the PCL is five years. However, a person may be kept on PCL even beyond five years provided the referring department or agency recommends for further retention having full justification in this regard. The Additional Secretary of the Division concerned in case of category 'A' and Director General in case of category 'B' may consider omission of name of any person from such list on appeal even before the normal period of five years; and

(d) both the categories 'A' and 'B' are subject to periodical review by a Review Committee under sub-rule (3) in consultation with the relevant agency or department on whose recommendations the individual was placed on PCL. …

(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."

32. Rule 22 provides for two actions. It creates a record, and it provides for what is to happen to a passport already in existence. As to the first, the Division concerned and the Directorate General are to prepare and maintain a list of persons who have been refused passport facilities, and to divide them into two categories. Category "A" is for a

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person involved in anti-state activities, or whose travel abroad is considered to be against the interest of the State, or whose travel is stopped on security grounds, and names are placed there and removed by the Additional Secretary of the Division concerned. Category "B" is for a person who has been refused a passport for any other reason, and names may be placed there upon the recommendation of a government agency or department. A name normally remains on the list for five years. It may be kept longer if the referring agency furnishes full justification, and it may be taken off earlier on appeal. Both categories are reviewed from time to time by the Review Committees constituted under sub-rule (3). As to the second, sub-rule (4) deals with the citizen who already holds a passport. If such a person falls under Rule 21, his passport is to be inactivated in the database of the Directorate so that a fresh one is not issued to him, his particulars are placed on the Integrated Border Management System so that immigration services are refused to him, and the immigration officer is to take the booklet from him and send it to the Directorate.

33. Rule 23 provides for the impounding, confiscation, cancellation and inactivation of a passport, and is reproduced below:

> ***23. Impounding, confiscation, cancellation and inactivation of passport****.—(1) In pursuance of section 8 of the Act, the Secretary of the Division concerned shall have the power to confiscate, impound, cancel, or inactivate any passport at any time.*
>
> *(2) Director General shall have power to impound, confiscate, cancel or inactivate ordinary and official passport.*
>
> *(3) Additional Secretary, Ministry of Foreign Affairs shall have the power to impound, confiscate, or cancel diplomatic passport and shall forward a request to Directorate General for in-activation of such passport.*
>
> *(4) Heads of the Pakistan missions abroad shall have the power to impound passport in respect of a person residing in a foreign country, who shall forward such passport to Director General or Additional Secretary, Ministry of Foreign Affairs for confiscation, cancellation or inactivation, as the case may be: Provided that the*

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above mentioned action shall be taken by the Head of Pakistan mission abroad, after personally satisfying himself of the un-desirability of the person concerned while staying abroad.

(5) A passport may be impounded, confiscated, cancelled or inactivated in the following cases, namely:— (a) when the person belongs to one of the classes of persons to whom passport is refused under Rule 21; (b) when a person is found to be in wrongful possession of a passport; or (c) when a person is found to be involved in un-desirable activities mentioned in sub-rule (6).

(6) For the purpose of sub-rule (4), the following shall be the grounds on any of which a passport may be impounded, namely:—

(a) activities, prejudicial to the interest of Pakistan involving security of the country;

(b) while on good evidence, found to have fled Pakistan to avoid prosecution for criminal or other offence; or

(c) found to have indulged in racketeering or forgery in passport; or

(d) convicted in the host country of a crime involving moral turpitude; or

(e) has been generally indulging in activities of a criminal nature; or

(f) has used physical violence against the personnel or property of the mission concerned; or

(g) being a government servant and for the time being employed in a foreign country has extended his contract with a foreign government without prior approval of the Government of Pakistan.

(7) The details of passport impounded shall be communicated to the Directorate General. Time, date and place of entry of the returnee into Pakistan shall also be intimated well in advance by the Pakistan mission abroad to Directorate General who may take necessary steps to proceed against the returnee in accordance with these rules, where necessary.

(8) An impounded passport may not be cancelled but kept in safe custody.

(9) Refusal or failure to surrender the passport on requisition under this rule renders the person to whom it was issued liable to

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prosecution under section 175 of the Pakistan Penal Code, 1860 (Act XLV of 1860).

34. Rule 23 is concerned with a passport that is already in the hands of the citizen. It confers four powers. (1) A passport may be impounded, which Rule 2 defines as seizure for a limited period. (2) It may be confiscated, which Rule 2 defines as forfeiture. (3) It may be cancelled, and (4) it may be inactivated. The Rule then names the officers who may exercise those powers. The Secretary of the Division concerned may exercise all four at any time. The Director General may exercise all four in respect of ordinary and official passports. The Additional Secretary of the Ministry of Foreign Affairs deals with diplomatic passports and must ask the Directorate to inactivate them. Heads of Pakistan missions abroad may impound only and must send the passport home for any further step to be taken. Sub-rule (5) sets out the three situations in which a passport may be impounded, confiscated, cancelled or inactivated. Sub-rule (6), however, is expressly stated to be "for the purpose of sub-rule (4)" and, therefore, enumerates grounds for impounding by heads of Pakistan missions abroad; it is not an independent source of grounds for action by the Director General under sub-rule (2). Sub-rule (8) provides that an impounded passport may be kept in safe custody rather than cancelled, and sub-rule (9) makes a failure to surrender a passport upon requisition punishable under section 175 of the Pakistan Penal Code, 1860.

35. I now turn to see how the three rules stand in relation to one another. Each of them answers a different question. Rule 21 answers the question whether a passport is to be issued to a citizen who asks for one. Rule 22 answers the question whether his name is to be entered upon a list. Rule 23 answers the question what is to be done with a passport that has already been issued to him. Because the questions are different, the rules differ in every respect that matters: in what they act upon, in how

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long their effect lasts, in whose hands they are placed, and in what follows from their exercise.

36. They differ, first, in what they act upon. Rule 21 acts at the stage of application, before any passport has come into existence. Rule 22 acts upon a name, and upon its entry in a list. Rule 23 acts upon the document itself, upon a passport already issued and held by the citizen. They differ, next, in the duration of their effect. A refusal under Rule 21 is expressly "for the time being" and endures only so long as the ground endures. A placement under Rule 22 has a normal period of five years. Under Rule 23, impounding is a seizure for a limited period, confiscation is a forfeiture, and cancellation brings the document to an end altogether.

37. They differ, further, in the hands to which they are committed. Rule 21 is applied at the counter by the passport officer under Rule 9(e). Rule 22(2) commits category "A" to the Additional Secretary of the Division concerned and category "B" to the Director General. Rule 23 names four officers of its own. And they differ in what follows as a consequence from them. Neither a refusal under Rule 21 nor a placement under Rule 22 carries any punishment. An order under Rule 23 does, for sub-rule (9) makes a failure to surrender the passport an offence under section 175 of the Pakistan Penal Code.

38. The Rules themselves treat the three as separate. Rule 18(3), which provides for the issue of an Emergency Travel Document, describes three different persons in three different clauses. Clause (b) speaks of a holder "whose passport has been confiscated, impounded, cancelled or inactivated". Clause (c) speaks of "a person who has been refused passport under these rules". Clause (d) speaks of "a person whose name is borne on passport control list". Had the legislature regarded these as one and the same person, or as the same person at three stages of a

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single journey, he would have had no occasion to describe him three times over.

39. Having observed that Rules 21 and 23 establish two distinct processes and give rise to separate administrative consequences, let us now turn from the general to the particular. The first of the questions framed admits of a short answer, because the respondents have committed themselves in writing. The report of respondent No.1 states that the petitioner's passport was "digitally 'impounded / inactivated' in the Passport Database". The respondents do not assert that the petitioner applied for a passport and was refused under Rule 21, nor do they assert that his name was placed upon the PCL under Rule 22. What has been asserted is that an existing passport, issued in 2018 and valid until 2028, was impounded and inactivated in exercise of the power conferred by Rule 23(2).

40. That is an action falling squarely within the four corners of Rule 23. Impounding is expressly among the powers conferred by section 8(1) of the Act itself. Inactivation is expressly among the powers conferred by Rule 23(1) and (2). The subject of the action is a passport already issued, which is the subject with which section 8 and Rule 23 alone are concerned. Rule 21 is not engaged, there having been no application to refuse. Rule 22 is not engaged, there having been no placement upon the PCL; and should the Directorate hereafter seek to make such a placement, that will be a distinct administrative act, to be tested against Rule 22 upon its own record and upon its own merits.

41. The petition, as framed and the arguments advanced by the learned counsel for the Petitioner, are accordingly directed against a case that has not been made against him. Of the six questions of law formulated in the memorandum of petition, one concerns the vires of clause (c) of sub-rule (2) of Rule 22 and is no longer pressed; two concern

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Rule 22(1) and the requirement of approval of the Federal Government; and one concerns a travel ban of five years which arises only under Rule 22(2)(c). The petitioner has, in substance, brought a Rule 22 case against a Rule 23 order. The differences between the two rules are differences of repository, of procedure and of consequence, and it is precisely upon those differences that the authority relied upon turns. The first limb of the first question framed is accordingly answered against the petitioner.

42. That brings me to the second of the questions framed. Adverting to the contention regarding the absence of the Federal Government's approval for impounding the petitioner's passport, it is seen that the reasoning in each of the precedents relied upon in this behalf is tethered to Rule 22(1), not Rule 23. The proposition upon which the petitioner's case substantially rests concerns Rule 22(1) alone. The formula of quashing and setting aside the orders placing names on the PCL in **Umar Sultan**, **Faisal Maqbool** and **Zaka ud Din Dewan** (supra) was essentially the same: an order that fails to comply with the law laid down in **Mustafa Impex** is patently illegal and cannot be sustained in law. That was the premise of those Rule 22 cases. Rule 23(2), however, expressly designates the Director General as the authority competent to impound, confiscate, cancel or inactivate an ordinary or official passport. Mustafa Impex is a decision upon the meaning of the expression 'Federal Government' where a statute or rule employs that expression. Where the relevant provision itself identifies the officer by designation, no question of construing that expression arises in the same manner, and the Rule 22 precedents do not, for that reason alone, govern an order under Rule 23(2).

43. This reasoning finds support in the judgment of this Court in ***Nadir Mukhtiar***, where the learned Judge examined this question. The Court observed that section 8 of the Act permits the power to cancel, impound or confiscate to be exercised by an order under the hand of a Secretary to the Government of Pakistan or an officer authorized by the Federal Government

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in that behalf, while section 11 permits delegation to an officer or authority subordinate to the Federal Government by notification in the official Gazette. Rule 23 expressly designates the authorities competent to exercise the powers specified therein. The obstacle that proved fatal in the Rule 22 cases does not, therefore, arise in the same form in the present case.

44. Furthermore, in each of the Rule 22 decisions, the Directorate acted upon a letter received directly from an agency. Here the classified reference of the Intelligence Bureau was conveyed to the Directorate by the Ministry of Interior under its letter dated 06.08.2024, that is to say, through the Division concerned, which Rule 2(f) defines as the Division of the Federal Government to which the business of the Directorate General stands allocated. This circumstance corroborates the official channel through which the matter reached the Directorate; it is not, by itself, the source of the statutory power, which must still be traced to section 8 read with Rule 23. The action impugned is described in the report as one of impounding as well as inactivation, and impounding is a power expressly conferred by section 8(1) of the Act. The second question framed is answered accordingly.

45. It remains to deal with the decisions of this Court upon which learned counsel rested his case, and which were mentioned in paragraph 28 above. ***Muhammad Adil Irshad (Writ Petition No.5235 of 2025***) concerned a name placed upon the Passport Control List upon a report of the Consulate General of Pakistan at Dubai that the petitioner had been jailed and deported upon an allegation of motorcycle theft; ***Zia Ullah (Writ Petition No.854 of 2026)*** concerned a deportation from Dubai for a breach of local residency regulations. In each the placement was set aside because nothing had been produced to substantiate the allegation, neither a first information report nor a charge-sheet nor a conviction nor any determination of guilt by a competent authority at home. Neither

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decision governs the case in hand. In each the impugned action was a placement upon the list under Rule 22 and not an order under Rule 23; in each the ground was ordinary criminal or regulatory conduct abroad, bearing no relation whatever to the security of Pakistan; and in neither did the security-related class described in Rule 21(g) arise for determination. Those precedents therefore do not carry the petitioner's case any further, and the second question framed having already been answered, there remains only the last of them.

46. I now turn to the third and last of the questions framed. Learned counsel for the petitioner urged, with force, that no F.I.R. stands registered against the petitioner, that no challan has been submitted, that he has been charged with no offence and convicted of none, and that his passport cannot be rendered useless upon suspicion alone. That submission assumes a standard which neither the Act nor the Rules do not invariably require. In the present context, Rule 23(5)(a) incorporates the classes of persons described in Rule 21. Under clauses (g), (h) and (i) of Rule 21, the Explanation prescribes that action shall be based upon 'reasonable likelihood or suspicion'. Section 8(3) of the Act separately applies where the Federal Government has 'reason to believe' that the person is or has been engaged in subversive activities or activities prejudicial to the interest of Pakistan or its relations with a foreign power. Neither formulation invariably requires the registration of a criminal case, since the harm against which these provisions are directed may be anticipatory. Rule 23(6)(a) is not relied upon for this conclusion because, by its express terms, sub-rule (6) operates for the purpose of sub-rule (4), which concerns action by heads of Pakistan missions abroad.

47. Applying that measure to the present case, it appears that the origin of the action is a classified reference of the Intelligence Bureau bearing a counter-terrorism designation, addressed not to the Directorate but to the Ministry of Interior, and conveyed by the Ministry under its own

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letter. Upon the direction of this Court the departmental record was produced and has been perused. It discloses that the reference was considered within the Directorate; that the petitioner was treated as falling within the security-related class described in Rule 21(g), as incorporated by Rule 23(5)(a); and that the impounding and inactivation of his passport were directed by the authority named in Rule 23(2). The material itself is not reproduced in this judgment because its contents are of a nature which it would not be in the public interest to disclose. **Dada Amir Haider Khan (PLD 1987 SC 504)** contemplates the withholding of detailed reasons where the sensitivity of the matter so requires, provided the decision records that such reasons are being withheld on that ground. Having perused the record, this Court is satisfied that the conclusion reached was supported by relevant material, was referable to a ground recognised by the Rules, and was not a mechanical transcription of the recommendation of an agency.

48. Before parting with the judgment, a word must be said as to the limits of the scrutiny which this Court may properly undertake in such a matter. Judicial review of an executive assessment touching the security of the State is review for legality; it is not an appeal on the merits. This Court will determine whether the authority under scrutiny possessed jurisdiction, acted upon relevant material, applied its own mind in the manner required by law, acted in good faith and for the purpose for which the power was conferred, and whether the action bears a rational relation to the ground invoked. It will strike down an order which is mala fide or colourable, founded upon extraneous considerations, or made upon no material at all. It will not, however, substitute its own assessment of a security risk for that of the authority entrusted by law to make such an assessment. The Constitution entrusts the safety of the Republic to the executive, and the courts guard the citizen against abuse of that trust but do not assume the executive function themselves. This distinction was

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drawn in ***Dr. Joseph Wilson v. Federation of Pakistan*** **(2017 PCrLJ 1569)**, where this Court, having noticed the general trend of authority against restraint founded upon a merely pending inquiry, added that each case has to be examined on its own merits and that the peculiar facts of a case may cause a Court exercising constitutional jurisdiction to decline relief.

49. I revert to the questions framed in paragraph 11 above. As to the first, the action impugned is an action under Rule 23(2) of the Passports Rules, 2021, and is neither a refusal under Rule 21 nor, on the respondents' pleaded case, a placement upon the Passport Control List under Rule 22. Rule 23 confers a power exercisable independently of Rule 22. The circumstances in which that power may be exercised are set out in sub-rule (5); clause (a) thereof incorporates by reference the classes described in Rule 21 and, where clauses (g), (h) or (i) of Rule 21 are invoked, the standard prescribed by the Explanation to that Rule. The power is exercisable, in the case of an ordinary passport, by the Director General under Rule 23(2).

50. As to the second, the principle laid down in ***Mustafa Impex*** regarding the construction of the expression 'Federal Government' does not apply in the same manner to Rule 23(2), which identifies the competent officer by designation; the precedents applying Mustafa Impex to Rule 22(1) therefore do not govern the present order. As to the third, upon the record produced and perused, the impugned action was taken by the authority designated in Rule 23(2), upon the security-related class recognised by Rule 23(5)(a) read with Rule 21(g), and on relevant material considered by that authority. All three questions are accordingly answered against the petitioner, subject to what follows regarding communication of the order and the statutory right of review.

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51. One further matter requires attention. The Review Committee constituted under Rule 22(3) is not the forum for reviewing an order made under Rule 23. However, where section 8(3) dispenses with prior notice and an opportunity of hearing in the class of security-related cases specified therein, section 8(4) expressly confers upon the affected person a right to seek review within thirty days of the order. That statutory remedy cannot be exercised effectively unless the person is informed, at the least, of the fact and date of the order, its operative effect and the provision under which it has been made. The legitimate withholding of sensitive particulars does not warrant complete non-communication of the legal act by which the passport is impounded or inactivated.

52. Respondent No.1 shall, therefore, within seven days of receipt of a certified copy of this judgment, communicate to the petitioner a copy of the operative order or, if disclosure of the complete order would prejudice the security interest involved, a written communication specifying its date, statutory basis and operative effect, together with such non-sensitive gist of the ground as may lawfully be disclosed. The communication shall also inform the petitioner of his right to seek review under section 8(4) of the Act.

53. If the petitioner applies for review within thirty days of such communication, the application shall be treated as having been filed within time and shall be decided by the competent authority expeditiously, preferably within thirty days, by a reasoned order. Sensitive material need not be disclosed where its disclosure would be contrary to the public interest; nevertheless, the decision shall disclose reasons to the extent compatible with that interest. The impugned action shall remain operative pending such review.

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54. For the foregoing facts, discussion and reasons, the petition is dismissed, subject to the directions contained in paragraphs 51 to 53 above. There shall be no order as to costs.

(AYYAZ SHAUKAT)
JUDGE

Announced in open Court on **16.09.2026.**

JUDGE

Approved for reporting.

Saeed.

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