

Hafees M, vs Union of India,

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Court : Kerala

Decided On : Apr-08-2024

Judge : Honourable Mr.Justice N.Nagaresh

Appeal No. : WP(C)/14280/2024

Appellant : Hafees M,

Respondent : Union of India,

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR.JUSTICE N.NAGARESH MONDAY,
THE 8TH DAY OF APRIL 2024 / 19TH CHAITHRA, 1946 WP(C) NO.
14280 OF 2024 PETITIONERS: 1 HAFEES M AGED 48 YEARS
N.K.VILLA, PALLIKKARA.P.O., THIKKODI, KOZHIKODE DISTRICT,
PIN - 673522 2 THASNI HAFEES AGED 41 YEARS N.K.VILLA,
PALLIKKARA.P.O., THIKKODI, KOZHIKODE DISTRICT, PIN - 673522
BY ADV P.K.ABOOBACKER(EDAPPALLY) RESPONDENTS: 1 UNION
OF INDIA RE P BY JOINT SECRETARY (GULF), MINISTRY OF
EXTERNAL AFFAIRS, GOVERNMENT OF INDIA. SOUTH BLOCK,
NEW DELHI, PIN - 110011 2 THE REGIONAL PASSPORT OFFICER
PASSPORT OFFICE, ERANHIPALAM, KACHERI, KOZHIKODE, PIN -

673006 3 THE BUREAU OF IMMIGRATION IMMIGRATION DEPARTMENT, CALICUT INTERNATIONAL AIRPORT, CALICUT AIRPORT.P.O.,KARIPUR, MALAPPURAM DISTRICT, PIN - 673647 SRI.T.C.KRISHNA-CGC THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 08.04.2024, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

Dated this the 8th day of April, 2024 The 1st petitioner was employed at Sultanate of Oman for few years. Later, the 2nd petitioner along with the 1st petitioner and their two children had gone to Oman on 15.10.2022. From there the petitioners had come to know that there is ample employment chances in Yemen and they will get Student Visa from there for Quran studies. So, to get better employment, the petitioners along with their children had gone to Yemen on Visiting Visa for 15 days. On expiry of the Visiting Visa period of 15 days, the petitioners could get extended their Student Visa for another 10 months by paying some Yemen amount.

2. The petitioners could not find out suitable job and

they were compelled to return to India. So, the petitioners along with their children had returned to U.A.E. and the 2nd petitioner and their two children had returned to Kozhikode via Dubai on 06.03.2022. On their arrival at Calicut International Airport, the 2nd petitioner and their children were intercepted and their Passports were seized by the 3rd respondent for breach of Yemen Ban. Then only the petitioners had come to know that there was a ban by the 1st respondent for travel of an Indian citizen to civil war hit Yemen.

3. The 1st petitioner had returned from U.A.E. on

23.5.2022 and on his arrival at Calicut International Airport, he was intercepted and his Passport was seized by the 3rd respondent for breach of Yemen Ban. The Station House Officer, Payyoli found that an offence under Section 12(3) of the Passports Act was pending against the petitioners. On further investigation,

the police found that the petitioners had not committed any offence as charged against them and so they had filed a Final Report before the Court and on the basis of that Final Report, the Judicial first Class Magistrate Court, Payyoli had dropped the case, by order dated 10.7.2023.

4. After Ext.P6 order, the respondents had not

released the Passport of the petitioners and their children. So, the petitioners had approached the Member of Parliament of Kozhikode and Vadakara and filed representations before them for getting released their Passports and they had forwarded the said representations to the Chief Passport Officer, New Delhi along with a covering letter and affidavit of the petitioners. Ext.P6 order clearly shows that no crime is pending against the petitioners regarding the case of their Passports. Some friends of the 1st petitioner had offered employment at U.A.E. or to include him in their business as a partner. But, as the Passport is with the 3rd respondent, the 1st petitioner could not try that chance, contend the petitioners.

5. Sri.T.C.Krishna, Senior Panel Counsel,

Government of India entered appearance and resisted the writ petition. The Senior Panel Counsel submitted that as the petitioners have violated travel embargo and have visited Yemen, a decision in this matter can only be taken at the Government level. If the petitioners file a representation before the Joint Secretary (Gulf), Ministry of External Affairs, the petitioners grievance can be considered at the Government level.

6. Counsel for the petitioners submitted that the

petitioners shall approach the Joint Secretary (Gulf) in this regard. In view of the stand so taken, the writ petition is disposed of permitting the petitioners to submit representations before the 1st respondent-Joint Secretary (Gulf), Ministry of External Affairs, Government of India within a period of two weeks. If the petitioners submit representations within two weeks, the 1st respondent shall consider the same and pass appropriate orders thereon within a further period of one month. Sd/- N.NAGARESH JUDGE hmh APPENDIX OF WP(C) 14280/2024

PETITIONER EXHIBITS Exhibit P1 THE TRUE COPY OF THE SEIZURE FORM DATED 6.3.2022 ISSUED BY THE 3RD RESPONDENT FOR THE PASSPORT OF THE 2ND PETITIONER Exhibit P2 THE TRUE COPY OF THE SEIZURE FORM

DATED 6.3.2022 ISSUED BY THE 3RD RESPONDENT FOR THE PASSPORT OF THE PETITIONERS' DAUGHTER AHALAM HAFIZA Exhibit P3 THE TRUE COPY OF THE SEIZURE FORM DATED 6.3.2022 ISSUED BY THE 3RD RESPONDENT FOR THE PASSPORT OF THE PETITIONERS' SON AKAIN HAFIZ Exhibit P4 THE TRUE COPY OF THE SEIZURE FORM DATED 23.5.2022 ISSUED BY THE 3RD RESPONDENT FOR THE PASSPORT OF THE 1ST PETITIONER Exhibit P5 THE TRUE COPY OF THE PETITION DATED 31.1.2023 FILED BY THE 1ST PETITIONER BEFORE THE 2ND RESPONDENT FOR RELEASING THE PASSPORT OF THE PETITIONERS AND THEIR CHILDREN Exhibit P6 THE TRUE COPY OF THE ORDER DATED 10.7.2023 OF THE JUDICIAL FIRST CLASS MAGISTRATE COURT, PAYYOLI Exhibit P7 THE TRUE COPY OF THE COVERING LETTER DATED 16.5.2023 OF K.MURALEEDHARAN, MEMBER OF PARLIAMENT FROM VADAKARA Exhibit P8 THE TRUE COPY OF THE COVERING LETTER DATED 19.5.2023 OF M.K.RAGHAVAN, MEMBER OF PARLIAMENT FROM KOZHIKODE ATTACHED ALONG WITH THE REPRESENTATION OF THE PETITIONERS Exhibit P9 THE TRUE COPY OF THE AFFIDAVIT DATED 15.5.2023 OF THE PETITIONERS AND THEIR CHILDREN FILED ALONG WITH THEIR REPRESENTATIONS

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