

ORDER SHEET

IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

W.P. No. 1156 of 2020

Beenish Khalid
Vs
Federation of Pakistan

S. No. of order/ proceedings	Date of order/ proceedings	Order with signature of Judge and that of parties or counsel where necessary.
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- 02) 18-04-2020. Petitioner, in person.
Syed Muhammad Tayyab, DAG.
Syed Naseem Ahmed Shah Advocate, for the D.C.
Office, ICT.
Sardar Gohar Zaman, A.C. Saddar.

The petitioner through the instant petition has sought a direction to the respondents to release his brother namely, Waqas Khalid. It is asserted that he has been detained against his will at the quarantine centre established at the Haji Camp, Islamabad.

2. The brother of the petitioner returned from the Kingdom of Thailand on a special flight on 14.04.2020. On his arrival at the International Airport, Islamabad, all the passengers were taken to a hotel and later some were shifted to the Haji Camp. The respondents have established quarantine centers at designated hotels and the Haji Camp at Islamabad. The petitioner asserts that her brother has been kept in deplorable conditions at the Haji Camp and that too against his will.

3. Sardar Gohar Zaman, Assistant Commissioner (Sadder), Islamabad Capital Territory has appeared in response to notices issued yesterday. He has submitted copy of Standard Operating Procedures (SOP), which have been prescribed to deal with passengers arriving from abroad. He has stated that an option was given to all the passengers to stay at a hotel but the petitioner's brother preferred to be kept at the State expense in the Haji Camp. The relevant portions of the SOP's are reproduced as below:

"26. All passengers and crew will be subjected to a minimum of 7-day quarantine period upon arrival in Pakistan. The quarantine can be extended to 14 days based on the result of the passenger's COVID test, which will be conducted during the initial 7-day quarantine period.

27. The transportation to the quarantine location shall be arranged by the concerned authorities. No meet and greet at the airport shall be allowed for passengers arriving by international flights.

28. Passengers will be responsible for all expenses of their stay if they choose to stay in a hotel/paid facility. Government quarantine centres will be free of cost. They will not be able to switch facilities once their quarantine begins unless deemed necessary by the authorities.

29. While the government will try its best to accommodate passengers according to their preferences, paid facilities are limited and cannot be guaranteed. The authorities on the ground will have the final say on where passengers are quarantined. "

4. The petitioner has stated that the option was not given to her brother and that the latter was forced to be quarantined for seven days in the quarantine centre at the Haji Camp, Islamabad. She has alleged that conditions at the Haji Camp are deplorable and that the inmates are being dealt with as if they have committed some criminal offence. She has further asserted that the officials are not accessible to the family members of the detained passengers nor adequate information is being provided. Sardar Gohar Zaman, Assistant Commissioner on the other hand has stated that utmost effort is being made to ensure the welfare and well being of all the passengers during their stay in the quarantine centres.

5. It is obvious from the above that pursuant to the policy of the Federal Government, the citizens who return from abroad are kept in quarantine centres for a minimum period of seven days. Those who can afford are given the option to be quarantined in one of the hotels taken over by the State for this purpose while others are sent to the Haji Camp at Islamabad. The less privileged who cannot afford to be detained in an acquired hotel

definitely deserve proper care because they are completely at the mercy of the State. They cannot be treated less favourably than those who are privileged enough to afford their stay at an acquired hotel. The detention is not due to any fault on the part of the returning passengers who are already in distress. It is the exceptional circumstances which deprives them of liberty for a minimum period of seven days. It is, therefore, the duty of the State to ensure that conditions in the quarantine centres meet the minimum threshold of the constitutionally guaranteed rights under Articles 9 and 14 of the Constitution. This duty is more onerous towards the less privileged who cannot afford to be detained in the quarantine centres established in the designated hotels.

6. The concerns of the petitioner regarding treating the returning passengers in a manner that stigmatizes the forced detention also does not appear to be misplaced. The challenges are global and not confined to Pakistan. By no stretch of the imagination, the infliction of COVID-19 or its challenges can be treated as a stigma. The threat of outbreak of the virus and its consequences cannot be overstated. The nation States across the globe have taken the challenges seriously that have arisen due to the invisible and deadly virus, while those who did not have regretted publically. But nowhere has the virus or its infliction been treated as a stigma.

7. On the contrary the will to combat the challenges has united nations across the globe. It is, therefore, a duty of the State and the political leadership to build a narrative in order to dispel any impression that stigmatizes the infliction or measures taken in meeting the challenges. It is also their duty to guide the nation and make the citizens aware of the consequences of taking the challenges lightly or dealing with it in an irresponsible manner. It is a constitutionally guaranteed right of every citizen under Articles 19 and 19-A of the Constitution to have access to full and complete information. It is, therefore, the duty of the State and its functionaries to dispel any impression of stigma being attached to the infliction or spread of or measures taken to meet the challenges in safeguarding the public at large from the expected harm. Likewise, it is also duty of the functionaries to ensure that while implementing its policies in relation to COVID-19 the citizens are dealt with humanely and with compassion having regard to their guaranteed rights.

8. In view of the above, this petition is **disposed of** in the following terms:

- i. The respondents shall prescribe a transparent mechanism to seek options from each returning passenger regarding

the quarantine centres established pursuant to the SOPs.

- ii. The respondents shall ensure that each passenger is treated in accordance with, and the conditions at the quarantine centres meet the minimum threshold of the constitutionally guaranteed rights under Articles 9 and 14 of the Constitution.
- iii. The State and the functionaries owe a duty of care towards every quarantined passenger, particularly those who cannot afford to stay in the designated hotels. The respondents shall, therefore, ensure that the conditions at the Haji Camp, Islamabad are scrupulously monitored and each quarantined passenger is treated in accordance with the constitutionally guaranteed rights, inter-alia, under Articles 9 and 14 of the Constitution.
- iv. The respondents are directed to develop a mechanism so that family members of the detained passengers have access to information.

- v. The State and public functionaries, pursuant to the duty they owe to the citizens under the Constitution, are required to disseminate effective information to dispel the impression which stigmatizes the carriers or suspected carriers of COVID-19 and measures taken to meet its challenges, e.g. putting returning passengers in quarantine centres for seven days.
- vi. The Deputy Commissioner, Islamabad Capital Territory shall nominate an official to visit the quarantine centre established at the Haji Camp, Islamabad to meet the quarantined inmates and ensure that the living conditions are in conformity with the constitutionally guaranteed rights, inter-alia, under Articles 9 and 14 of the Constitution and that they are not treated less favourably than those who are privileged enough to afford being quarantined in the acquired hotels. The inspection report shall be submitted before the Registrar of this Court within

three days from the date of receipt of this
order.

CHIEF JUSTICE

Tanveer Ahmed.
18-04-2020.