

Form No: HCJD/C-121
ORDER SHEET.
ISLAMABAD HIGH COURT, ISLAMABAD.
JUDICIAL DEPARTMENT.

Intra Court Appeal No. 274 of 2021

Maryam Begum (aka Ms. Moni)

Versus

FOP through Secretary Ministry of Interior, Islamabad and another

S.No. of order/ proceeding	Date of order/ proceeding	Order with signature of Judge and that of parties or counsel where necessary.
	21.06.2021	Mr. Omer Farouk Adam, Advocate for the appellant.

TARIQ MEHMOOD JAHANGIRI, J.

Through the instant Intra Court Appeal, the appellant has assailed Judgment dated 07.06.2021, passed in Writ Petition No. 266 of 2021, whereby, the learned single Judge-in-Chambers has dismissed the writ petition filed by the appellant.

02. Brief facts of the case are that the appellant had challenged letters dated 24.09.2020 and 16.12.2020, issued by the Ministry of Interior whereby her request for extension of visa was regretted.

03. The appellant is a national of People's Republic of Bangladesh; she is residing in

Pakistan for the last 24 years; she came to Pakistan on a House Maid visa in the year 1996; in April 1998 the appellant married to Syed Mazhar Hussain Zaidi, a Pakistani national according to Muslim rights and ceremonies; in the year 2011 the appellant was granted one year multiple entry stay which was duly renewed till the year 2014; the appellant always applied for extension of her "*Stay with Husband Visa*" but in the year 2014, classification of her visa was changed to Visit Visa which was regularly extended/granted till 12th May, 2020.

04. In September 2020, the appellant applied for one year extension of her family visit visa but respondent No. 2 vide letter dated 24.09.2020, refused to issue NOC regarding visa of the appellant.

05. Feeling aggrieved, the appellant through her husband filed an application/appeal seeking review of the decision dated 24.09.2020, but again vide impugned letter dated 16.12.2020,

respondent No. 2 regretted to issue NOC for visa of the appellant. Being aggrieved the appellant filed a writ petition against the impugned letters but the same was dismissed by learned Single Judge-in-Chambers vide impugned judgment dated 07.06.2021, hence the instant Intra Court Appeal.

06. Learned counsel for the appellant states that Article 4 of the Constitution of Islamic Republic of Pakistan deals with the rights of individuals to be dealt with in accordance with law and the appellant has a right to be protected in accordance with law; the appellant and her husband have been condemned unheard and without any justifiable reason; that contrary to clear provisions of Section 24-A of General Clauses Act, 1897; impugned letters are not speaking orders and the respondents have failed to justify the reasons for refusing application of the appellant as mandated by law and the Constitution, hence both the impugned

letters are liable to be set aside.

07. Arguments heard, record perused.

08. It is an admitted fact that the appellant is a citizen of Bangladesh; she came to Pakistan in the year 1996 on a work visa; subsequently got married with a Pakistani national in the year 1998; thereafter, she has been living with her husband being legally wedded wife and was granted visit visa till 12.05.2020.

09. As being a citizen of Bangladesh, married to a Pakistani national; the appellant can apply for grant of citizenship under Citizenship Act, 1951. When confronted, learned counsel for the appellant admitted that the appellant does not want to apply to get the citizenship of Pakistan as she does not intend to surrender her citizenship of Bangladesh.

10. As far as grant of family visit visa is concerned, it is not a vested right of the appellant that she should be granted family visit visa for an indefinite period as she is

already residing in Pakistan for the last 23 years on visit visa.

11. It has been held by the Hon'ble Supreme Court of Pakistan in case titled as "**Owais Shams Durrani and others v. Vice Chancellor, Bacha Khan University, Charsadda and another**", (2020 SCMR 1041) that:

"It is trite that where a citizen seeks relief in constitutional jurisdiction he must point to a right statutory or constitutional which vests in him and has been denied in violation of the law."

12. It has also been held by the Hon'ble Supreme Court of Pakistan in case titled as "**N.W.F.P Public Service Commission and others v. Muhammad Arif and others**", (2011 SCMR 848) that:

"The right which is the foundation of an application under Article 199 is a personal and individual right. The legal right may be a statutory right or a right recognized by the law. A person can be said to be aggrieved only when a person is denied a legal right by someone who has a legal duty to perform relating to the right."

There must not only be a right but a justiciable right in existence, to give jurisdiction to the High Court in the matter. Unless whatever right, personal or otherwise, on which the application is based is established, no order can issue under Art. 199."

Reliance is also placed on cases titled as **"Muntizma Committee v. Director K.A."**, (PLD 1992 Kar. 54), **"Mahmoona v. Ilam Din"**, (PLD 1984 Lah. 223), **"A.F. Farms and Industries v. Development Commr"**, (AIR 1953 Assam 155), **"Mahboob Khan v. Deputy Commissioner"**, (AIR 1953 Assam 145) and **"Dineshcharan v. State of MB"**, (AIR 1953 Madh-B 165).

13. Hence, the discretion exercised by the competent authority to decline the request for extension of visit visa has not been found to be arbitrary or fanciful.

14. Intra-Court appeal can be filed when the impugned judgment of the Single Judge-in-chambers is shown to have been delivered against the provisions of law and is the result

of conclusions, which are contrary to any specific provision of law or is the result of misreading, non-reading or same has caused miscarriage of justice, or mistakes of like nature; liable to be corrected by the Division Bench, otherwise, the judgment could not be upset in the Intra-Court appeal.

15. In view of foregoing discussion, instant Intra Court Appeal is not maintainable, hence the same is **dismissed in limine** being merit less.

(MIANGUL HASSAN AURANGZEB) (TARIQ MEHMOOD JAHANGIRI)
JUDGE JUDGE