IN THE ISLAMABAD HIGH COURT, ISLAMABAD.

No.

IHC/Judl.Deptt.

(REVISED FORM OF BLUE SLIP)

Case No. W.P. 3085 - 2013

Titled. RIAZ AHMED. Vs. Sout of Pakiston etc

a) Judgment approved for reporting

Yes/No

b) Judgment any comment upon the conduct of the Judicial officer for quality of the impugned judgment Is desired to be made.

YES/NO

(In case the answer is affirmative separate confidential note may be sent to the Registrar drawing his attention to the particular aspect).

Initial of the Judge.

NOTE.

- 1. If the slip is used, the Reader must attach on top of first Page of the judgment.
- 2. Reader may ask the Judge writing the judgment whether the judgment is to be approved for reporting of any comment is to be made about the judicial officer / quality of judgment.
- 3. This slip is only to be used when some action is to be taken.

FORM NO:HCJD/C-121.

ORDER SHEET IN THE ISLAMABAD HIGH COURT, ISLAMABAD IUDICIAL DEPARTMENT.

WRIT PETITION NO.3085/2013

RIAZ AAMAD VERSUS. GOP

Lorder of L	Date or order of proceedings	Order with signatures of judge, and that of parties or counsel, where necessary.
1	2	3

09.9.2013 .

Ch. Mohammad Zafar Iqbal Zafar, Advocate for the petitioner.

Qazi Rafi-ud-Din Babar, D.A-G for the respondents.

ORDER MUHAMMAD ANWAR KHAN KASI, CJ:

The petitioner has challenged the placement of his name in the Exit Control List [E.C.L] as being malafide and arbitrary act of the respondents.

- 2- Brief facts of the case are that petitioner had been serving at Doha Qattar since 1995 in connection with his job as Auto Mobile Mechanic and used to see his family once in a year pursuant to annual vacations allowed to him by His Employer and lastly when he entered Pakistan on 13-09-2012 through Bacha Khan International Airport, the agency of respondent No. 2 intercepted him on the pretext of having name on ECL and sent him to AHTC for inquiry after taking Passport. He was kept under investigation by the respondent No.1 including ISI but nothing was found against him. To very his antecedents, local area committee, constituted by the Pakistan Army, also submitted a character certificate in his favour.
- 3- It is the case of the petitioner, that he remained non controversial and had never been part of any anti-social activities and remained out of country since last 19 years, therefore, placement of his name on ECL, without any justification is absolutely illegal, un constitutional is liable to be set-aside. He also prays for a direction to the respondents



to return his Passport as he has to go back to his job in Qatar before expiry of his Visa till 13-09-2013.

- 4- According to version of respondent FIA, the name of the petitioner was placed on ECL on the direction of respondent No.1, whereas the latter in their separate written comments advanced justification that the name of the petitioner was placed on E.C.L on 12.03.2012, on the recommendation of ISI as he was active in terrorist activities against Security Forces in Swat during Swat Operation.
- 5- Heard and record perused.
- 6- It is evident from record that the respondents have not mentioned any specific reason for placing the name of the petitioner on ECL. His repeated representations/appeals also remained un-attended, which is quite strange.
- 7--Right to movement/travel is a fundamental right of every citizen guaranteed under Articles 04, 09 and 15 of the Constitution. It is universally recognized right enshrined in Article 12(4) "Everyone shall be free to leave any country, including his own" of the Covenant on Civil & Political Rights, adopted by United Nations General Assembly on 16th December, 1966 and enforced with effect from 23rd March, 1976. Therefore, no one can be allowed to deprive a citizen from his/her fundamental rights, save in accordance with due process of law. Where a citizen is in possession of legal documents to travel abroad, mere allegation that his visit abroad would endanger the security of state cannot be held to be a valid ground for curtailment of right for endless period. Guidance may be resorted to PLD 2010 SC 61, PLD 1987 SC 504, PLD 1997 Lah 617.
- 8-. It is pertinent to mention that none can be kept in lurch for an indefinite period. The respondent has also not controverted the grounds of the petition through para-wise



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comments, whereby the petitioner alleged that since 19th

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September, 2012 he has made several representations to get

his grievances redressed, but of no avail. The record does not

show any justifiable reason for placing the name of the

petitioner on ECL. Even no order with specific allegation is

there.

9-. The authorities are under obligation to solve the

problems of the general public in a fair and just manner and

to decide their applications within a reasonable time. They

are not supposed to sit over the issues for indefinite period

without any decision.

10- In the instant case the act of respondents is sheer

violation of fundamental rights, where the respondents have

neither conducted any trial against petitioner in connection

with his alleged involvement in terrorist activities nor has he

been exonerated of the charges. The government authorities

are the patrons of the citizen and they have to adhere to law

for resolving the genuine issues of the aggrieved persons.

11-. The respondents are so indifferent to the rights of

the petitioner that none of them is even ready to shoulder

responsibility of the impugned action.

12-. For the foregoing reasons, the petition is **accepted**

and the respondents are directed to remove the name of the

petitioner from Exit Control List and to hand over his

Passport forthwith. There will be no order as to costs.

(CHIEF JUSTICE)

*M. Suhail

APPROVED FOR REPORTING

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