

Form No: HCJD/C-121.

**JUDGEMENT SHEET**

**IN THE ISLAMABAD HIGH COURT, ISLAMABAD**  
**JUDICIAL DEPARTMENT**

W.P. No. 4013 of 2019

Overseas Pakistani Foundation

***Vs***

Director (Legal) President Secretariat (Public), etc

**PETITIONER BY:** Ms Fazal Maula and Faheem Raza, Advocates for the petitioner.

**DATE OF HEARING:** 13-01-2020.

**ATHAR MINALLAH, CJ.-** Through this petition, Overseas Pakistani Foundation (hereinafter referred to as the "***petitioner Foundation***") has assailed order, dated 25.09.2019, passed by the President of Pakistan.

2. The facts, in brief, are that Muhammad Hanif was working abroad and had died in a road accident on 11.08.2011. He was buried in the Kingdom of Saudi Arabia. The father of the deceased overseas Pakistani citizen filed an application on 11.01.2012 in the office of Deputy Director, Protectorate of Immigration for seeking financial aid. He later filed a representation/complaint before the Federal Ombudsmen, which was dismissed vide recommendation, dated 20.03.2019. Respondent no.3 filed a representation before the President of Pakistan, which was allowed vide the impugned order, dated 25.09.2019.

3. The learned counsels for the petitioner Foundation have argued that under Standing Operating Procedure for Financial Aid Scheme no application in the prescribed form was submitted within the stipulated period of three years. They have further contended that this crucial aspect was not taken into consideration by the President of Pakistan while deciding the representation of respondent no.3. However, they have admitted that the son of respondent no.3 was an overseas Pakistani employed in the Kingdom of Saudi Arabia and that he died in a road accident in 2011.

4. The learned counsels have been heard and record perused with their able assistance.

5. It is an admitted position that Muhammad Hanif i.e. son of respondent no.3 was an overseas Pakistani citizen employed in the Kingdom of Saudi Arabia. He died in a road accident on 11.08.2011. An application was filed by respondent no.3 in the office of the Deputy Director, Protectorate of Immigration at Multan on 11.01.2012. Whether or not such an application was filed by respondent no.3 in the office of Deputy Director, Protectorate of Immigration at Multan was obviously a question of fact and the same was decided by the President of Pakistan while disposing of the representation. The petitioner Foundation has invoked the jurisdiction of this Court under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973 and seeks intervention on the ground that the President of Pakistan while deciding the representation had not appreciated the fact that respondent no.3 had failed to file an application within the period prescribed under the Standing Operating Procedure for Financial Aid Scheme. The questions of fact have been conclusively determined by the President of Pakistan and, therefore, the same are not justiciable

while exercising jurisdiction under Article Court 199 of the Constitution of the Islamic Republic of Pakistan, 1973. The two paramount facts i.e. that respondent no.3's son was an overseas Pakistani employed in the Kingdom of Saudi Arabia and that he died in a road accident on 11.08.2011 and was buried in the said country are not disputed. Moreover, a plain reading of the Standing Operating Procedure for Financial Aid Scheme shows that it is not an instrument issued or notified pursuant to powers conferred under a statute. The said document admittedly has not been notified and published in the official gazette. The time prescribed through the said document cannot defeat rights accrued in favour of eligible persons. The right to seek financial assistance under the Financial Aid Scheme would not become redundant on the ground that application was not filed within time prescribed through a document which has no statutory backing. Respondent no.3 had filed an application before an office which is also acknowledged in the Standing Operating Procedure for Financial Aid Scheme. This Court has not found any legal infirmity requiring interference with the impugned order. The impugned order is well reasoned and not required to be interfered with while exercising jurisdiction under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973.

6. For what has been discussed above, this petition is without merit and is, therefore, accordingly dismissed ***in limine***.

**CHIEF JUSTICE**