
(1999) 02 P&H CK 0072

In the Punjab And Haryana At Chandigarh

Case No : Criminal Writ Petition No. 1089 of 1998

Mohammad Imran Chaudhary

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision : 26-02-1999

Acts Referred:

Citation : (1999) 3 RCR(Criminal) 275

Hon'ble Judges : K.K.Srivastava, J

Advocate : M.S. Guglani, S.S. Randhawa, Ranjan Lakhanpal, Sanjeev Kandal,
Advocates for appearing Parties

Judgement

K.K. Srivastava, J.

1. The petitioner, a Pakistani National, who is at present confined in Central Jail, Amritsar, seeks issuance of a writ of Habeas Corpus or any other appropriate writ, order or direction to the respondents for his deportation to his native country, i.e. Pakistan.
2. Notice was issued to the respondents, who are four in number, i.e. State of Punjab, Deputy Commissioner, Amritsar, Superintendent Central Jail, Amritsar and Union of India.
3. Written statement has been filed on behalf of respondent No. 1, which is in the shape of an affidavit of Shri Rohit Chaudhary, IPS, Superintendent of Police, CounterIntelligence, Punjab and a separate reply was filed by the Superintendent, Central Jail, Amritsar.
4. The learned Deputy Advocate General for the State of Punjab, Mr. S.S. Randhawa, contended that as a matter of fact, the relevant jurisdiction and concern in this regard is that of Union of India and respondent No. 4 is the competent authority to take a decision in this regard. Today, Shri M.S. Guglani, Additional Central Government Standing Counsel, placed the original letter before the Court issued by the Government of India, Ministry of Home Affairs dated 3.12.1998 in respect of the petitioner and with reference to this Criminal Writ

Petition No. 1089 of 1998, wherein it has been mentioned in para 2 as under :

"It is requested that the Hon"ble Court may be apprised of the fact that the Pak national has been given consular access and thus be required to be repatriated through Pak High Commission only after the latter issues him travel document for facilitating his return journey to Pakistan. The State Government will take further necessary action to ensure his repatriation to Pakistan at the earliest. The State Government has also been instructed to follow the similar procedure in respect of other Pak Civil prisoners who have completed their jail terms and whose national identity as Pakistani is fixed on the basis of consulate access given of them."

5. In view of the stand taken in para 2, the State Government of Punjab was to take further necessary action to ensure the repatriation to Pakistan of the petitioner at the earliest. The State Government was instructed to follow the similar procedure in respect of other Pak civil prisoners who have completed their jail terms and whose national identity as Pakistani is fixed on the basis of consular access given of them. This letter has enclosed a communication to Mrs. A. Atwal, Joint Secretary (Home), Government of Punjab, Chandigarh, wherein she was communicated the no objection of the Home Ministry to the repatriation of Mohd. Imran if he had completed his jail term and his national status as Pakistani is confirmed on the basis of consular access. Additionally, she was requested to contact Ministry of External Affairs for preparation of the travel documents in respect of the petitioner Mohd. Imran through the Ministry of External Affairs for effecting his repatriation to Pakistan. The reply filed by the Superintendent, Central Jail, Amritsar, as contained in para 3, would show that the petitioner had completed his sentence on 10.4.1998. In para 4, it was mentioned inter alia that the petitioner was detained as an internee with the order of the competent authority and as soon as necessary approval was received from the Ministry of Home Affairs, the petitioner would be deported to Pakistan. It was also mentioned that no other case was pending against the petitioner as per the jail record.

6. The reply filed by respondent No. 1 shows that the fact that the petitioner was a Pak national was admitted as correct vide para 1 of the reply. In para 7 of the reply, it was mentioned, inter alia, that the petitioner could be deported to Pakistan after receipt of the travel documents from Pak High Commission. From the replies filed by respondents 1 and 3, it is clear that the petitioner is a Pakistani national and has completed his jail term and that he is detained only to await the formal documents to be released by the Ministry of External Affairs in concurrence with the Ministry of being deported to his native country, i.e., Pakistan.

7. A letter which has been placed on record today by Mr. M.S. Guglani shows that the Ministry of Home Affairs had no objection to the repatriation of the petitioner Mohd. Imran, but two conditions were imposed. One of the conditions was that if he has completed his jail term and second was that his national status was as

Pakistani. As said earlier, these two conditions stand satisfied in respect of the petitioner as would be appeared from the reply filed by respondents 1 and 3.

8. Since the Ministry of Home Affairs, Union of India (respondent No. 4) has no objection to the repatriation of the petitioner, and since the respondent No. 4 has directed the Joint Secretary (Home) Mrs. A. Atwal to take up the matter with the Ministry of External Affairs for preparation of travel documents in respect of the petitioner, this petition is disposed of with the direction to the Joint Secretary (Home), Government of Punjab, Chandigarh to take necessary step as per the letter dated 26.10.1998 addressed to the Joint Secretary Home by the Under Secretary to Government of India, namely, Shri S.C. Roy and to ensure that all exercise is completed regarding repatriation of the petitioner within one month from the date of receipt of a copy of this order from this Court or a certified copy thereof from the learned Deputy Advocate General, Punjab.

9. Let a copy of this order, attested by the Reader of this Court, be handed over to the learned Deputy Advocate General, for the State of Punjab, as also the learned Additional Central Government Standing Counsel Mr. M.S. Guglani and another copy to the learned counsel for the petitioner for necessary compliance.

Disposed of accordingly.