

2018 C L C 1588

[Islamabad]

Before Mohsin Akhtar Kayani, J

SAEED ABDI MAHMUD----Petitioner

Versus

NATIONAL DATABASE REGISTRATION AUTHORITY through Chairman and
3 others----Respondents

Writ Petition No.3030 of 2017, decided on 7th May, 2018.

(a) Pakistan Citizenship Act (II of 1951)---

----S.4---National Database and Registration Authority Ordinance (VIII of 2000), Ss.9 & 10---Citizenship by birth---Nationality, award of---Authorities declined to issue Computerized National Identity Card to petitioner on the ground that his parents were Somalian nationals---Plea raised by petitioner was that he was born, educated and was residing in Pakistan---Validity---No restriction existed on any individual, who was born in Pakistan, despite the fact that his parents were not citizens of Pakistan---Such individual could apply for grant of citizenship by birth in terms of S.4 of Pakistan Citizenship Act, 1951---Ministry of Interior, Government of Pakistan was competent authority to process the case by virtue of Application Forms in prescribed manner and an applicant was to submit details as required in said document---Any foreigner non-citizen of Pakistan or person from any other State born in Pakistan, except a refugee, was entitled to be dealt under Pakistan Citizenship Act, 1951, subject to his claim if he/she fell within five concepts provided under Pakistan Citizenship Act, 1951, for seeking citizenship of Pakistan---High Court directed the petitioner to approach Federal Government along with application Forms duly filled in whereafter the authorities would decide his application in accordance with law---Constitutional petition was allowed accordingly.

United States v. Wong Kim Ark. 169 U.S. 649 (1898); Ghulam Sanai v. The Assistant Director, National Registration Office, Peshawar and another PLD 1999 Pesh. 18; Baz Muhammad Kakar and others v. Federation of Pakistan through Ministry of Law and Justice and others PLD 2012 SC 923; Ghulam Haider and others v. Murad through Legal Representatives and others PLD 2012 SC 501 and PIAC Karachi v. Wafaqi Mohtasib 1998 SCMR 841 ref.

(b) Constitution of Pakistan---

----Art. 4---Protection of law---Applicability---Every individual has to be given protection of law in terms of Article 4 of the Constitution, whether he is citizen of Pakistan or not.

Umer Ijaz Gillani for Petitioner.

Haseeb Muhammad Chaudhry, Deputy Attorney General for Respondents Nos.1 to 3.

Syed Junaid Jaffar, Law Officer, NADRA.

Munir Ishaq Awan, Director Immigration and Passports, NADRA.

Jahanzeb Pitafi, Section Officer (Passport and Citizenship), Ministry of Interior.

Naseem Ahmed Shah for Respondent No.4.

JUDGMENT

MOHSIN AKHTAR KAYANI, J.----Through the instant writ petition, the petitioner has prayed for following relief:-

"That in view of the foregoing facts and circumstances it is most respectfully prayed that this Hon'ble Court may be pleased to:

a) directed NADRA to issue the Petitioner a Computerized National ID Card in accordance with NADRA's duty under Section 10 of NADRA Ordinance read with section 4 of the Citizenship Act, 1951;

b) declare that the Respondents' policy of denying citizenship status and consequential rights of children born in Pakistan to foreigner parents is ultra vires section 4 of the Pakistan Citizenship Act, 1951 and amounts to a gross violation of fundamental rights guaranteed in the Constitution of the Islamic Republic of Pakistan, 1973; and

c) grant such other remedy as may be available under the law and the Constitution."

2. Brief facts as referred in the instant writ petition are that the petitioner was born on 09.09.1997 in PIMS Hospital and claims to be citizen of Pakistan, who is residing in House No.839, Street No.51, G-11/2, Islamabad. The petitioner completed his secondary/higher education from Saudi School Islamabad and is presently enrolled in International Islamic University, Islamabad for completion of his law degree. The petitioner visited office of NADRA/respondent No.1 on 21.08.2017 to obtain Computerized National Identity Card but NADRA Officials in Blue Area Islamabad refused to issue him CNIC on the ground that his parents are not Pakistani and for that reason he could not be considered as Pakistan Citizen.

3. Learned counsel for the petitioner has contended that in terms of section 4 of The Pakistan Citizenship Act, 1951 every person born in Pakistan after promulgation of the Act shall be citizen of Pakistan by birth and as such petitioner falls within purview of section 4 and he is entitled for citizenship as well as CNIC; that under section 10 of

NADRA Ordinance, 2002, NADRA is legally bound to issue CNIC to every citizen, who has obtained proper birth certificate and attained age of 18 years, therefore, refusal on part of NADRA is contrary to law; that citizenship in terms of section 2 of The Pakistan Citizenship Act, 1951, citizen means the person, who is or is deemed to be citizen of Pakistan under the said Act and it is fundamental right of the petitioner to be treated in accordance with law and once a right has been accrued, it cannot be denied/taken back.

4. Conversely, learned Deputy Attorney General, Mr. Naseem Ahmed Shah for Chief Commissioner Islamabad/respondent No.4, Syed Junaid Jaffar, Law Officer NADRA, Munir Ishaq Awan, Director Immigration and Passports, NADRA and Jahanzeb Pitafi, Section Officer (Passport and Citizenship) Ministry of Interior have contended that section 4 of The Pakistan Citizenship Act, 1951 deals with citizenship by birth and every person born in Pakistan is citizen by birth, however, Section Officer (Passport and Citizenship) Ministry of Interior has produced the application APPENDIX-II FORM 'B' (Vide Rules 8, 9 and 10) and certificate of registration APPENDIX-XVI FORM 'R-1' and contended that case of the petitioner as well as any other person for citizenship by birth will be treated under the said rules in the prescribed manner, even the Section Officer has explained the entire mechanism before this Court on 27.03.2017, which is reflected from the order sheet of that date.

5. I have heard the arguments and gone through the record.

6. From perusal of the record, it has been observed that the petitioner was born on 09.09.1997 in PIMS Hospital, whereby certificate of birth was duly issued by CDA, wherein his father and mother names have been mentioned as Abdi Rehman Mehmood and Sultana Abdi Somalian Nationals. The petitioner is resident of Islamabad and completed his secondary/higher education from Saudi School Islamabad and presently he is enrolled in Intentional Islamic University Islamabad for degree of law. The petitioner approached office of respondent No.1 on 21.08.2017 along with his birth certificate in order to seek issuance of CNIC, whereas NADRA Officials in Blue Area refused to issue CNIC to the petitioner on the ground that his parents are not Pakistani and he cannot be considered as citizen of Pakistan.

7. In order to resolve the controversy, it is necessary to reproduce the provisions of section 4 of The Pakistan Citizenship Act, 1951, which deals with mode of citizenship by birth. Section 4 of the Act is reproduced as under:-

"Citizenship by birth.---Every person born in Pakistan after the commencement of this Act shall be a citizen of Pakistan by birth: Provided that a person shall not be such a citizen by virtue of this section if at the time of his birth:-

(a) his father possesses such immunity from suit and legal process as is accorded to any envoy of an external sovereign power accredited in Pakistan and is not a citizen of Pakistan; or

(b) His father is an enemy alien and the birth occurs in a place then under occupation by the enemy."

8. The above referred section 4 of the Act clearly describes that every person born in Pakistan shall be citizen of Pakistan by birth, however, there are two exceptions i.e. when his father possesses such immunity, whereby he has not been declared citizen of Pakistan being envoy of an external sovereign power, second father is an enemy alien and birth of child occurs in place of enemy. In case of the petitioner, he does not fall under the above referred exceptions as his father is neither diplomat nor enemy alien. This Court while dealing with the question has gone through the process of determining the steps of debates and official reports of Constituent Assembly of Pakistan, in which The Pakistan Citizenship Act, 1951 was discussed and promulgated. The term Citizen has not been defined in any specific manner in the Constitution of Islamic Republic of Pakistan, 1973 although Article 260 of the Constitution provides that citizen means "a citizen of Pakistan as defined by Law", however, Constituent Assembly of Pakistan as well as the committee at that time consciously did not provide definition of citizen in the Constitution leaving the matter to be decided by the said constitutional legislation, whereby the report of the Select Committee of the Pakistan Citizenship Bill 1950 recorded the following facts:-

"We have taken note of the following facts:

(a) that the Interim Report of the Basic Principles Committee recommends that citizenship, naturalization and aliens should be a subject matter of Laws to be made exclusively by the Central Legislature;

(b) that the Constituent Assembly, in adopting the report of the Committee on Fundamental Rights, accepted the recommendation of the Committee contained in paragraph 2 of Part 1 of the Report to the effect that, subject to their recommendation contained in paragraph 1 of Part 1 of the said Report regarding citizenship at the date of the commencement of the Constitution, acquisition and loss of the citizenship, and all other matters pertaining thereto should be within the competence of the future Legislature of Pakistan;

(c) that a Bill amending the Naturalization Act, 1926, has been introduced into the Constituent Assembly (Legislature) and will, in due course, be considered by the Assembly in that capacity;

And being of the opinion that the law relating to citizenship, naturalization and aliens should not be a part of the Constitution but should be capable of amendment in the same manner as Legislative measures which are not part of the Constitution,

Recommended that the Bill under consideration be not proceeded with in the Constituent Assembly but that a Bill to make provision for citizenship in Pakistan amended so as to conform with paragraph 1 of Part 1 of the Report of the Committee on Fundamental Rights be introduced into the Constituent

Assembly (Legislature) as soon as possible.

2. The Bill was published in the Gazette of Pakistan, Extraordinary, dated the 28th September, 1950."

9. Similarly, Khwaja Shahabuddin the then Minister for Interior, Information and Broadcasting in his speech on 09.04.1951 stated in the Constituent Assembly. Some extracts of the speech are reproduced as under:-

"Sir, the salient feature of the Bill is that citizenship at the commencement of the Bill extends to all persons who or whose parents or grandparents were born in the territories which now comprise Pakistan, but who have not migrated from it on the birth of Pakistan. This implies that persons born in this area who have since then left it, forego all claims to Pakistani citizenship. This loss of citizenship reciprocates the provisions of the Indian Constitution. The right to citizenship after the commencement of the Act shall accrue for reasons of birth, descent, migration and naturalization.

A person whose father is a Pakistani shall be a citizen of Pakistan, if his birth has occurred in a foreign country, he can be a Pakistani citizen only if his birth had been registered at a Pakistan Consulate in that country or at the nearest Pakistan Consulate, or if his father was in the service of the Government of Pakistan at the time of his birth abroad.

A person who has migrated to Pakistan from any of the territories of undivided India, shall become a citizen of Pakistan on his having a domicile of one year. The condition of domicile can be waived by the Central Government generally or in special cases. This acquisition of Citizenship extends to the wife and children of the immigrant.

Any person born in the Indo-Pakistan sub-continent but now living abroad can claim Pakistan citizenship, after a domicile of one year in Pakistan, but the Central Government have power to waive this condition of domicile in any case they deem fit. This privilege extends automatically to all those living abroad on Pakistan Passport irrespective of their period of domicile in Pakistan.

The Central Government can grant Pakistan citizenship to persons who have naturalized under the Naturalization Act of 1926. This relates to persons of foreign nationality who have ordinarily resided here for five years, have an adequate knowledge of any of the principal vernaculars notified by Government, are of good character and by taking an oath of allegiance have become naturalized.

Woman do not take after the nationality of their Pakistani husbands automatically, but only on application, except where they are themselves Commonwealth citizens. The reverse of this is also true, i.e., a Pakistani woman shall not lose her Pakistani status by marrying an alien."

10. Similarly, on 10.04.1951 Tuesday the debate on the floor of the assembly was moved towards the final amendment of the bill in the following manner by the then Constituent Assembly:-

"Now Sir, under this Pakistani Citizenship Bill, several classes of people can acquire Pakistani citizenship by birth, by descent, by naturalization, by registration and so on and so forth."

11. On the basis of these extracts, the Constituent Assembly passed by The Pakistan Citizenship Act, 1951, which provides five alternate paths to become citizen of Pakistan, however, a person shall be considered citizen of Pakistan upon meeting any one of the following conditions:-

- I. he or she was born of Pakistani soil (Section 4); or
- II. he or she was born to Pakistani parents (Section 5); or
- III. he or she permanently migrated to Pakistan from any other part of Indo-Pakistan between 13th April, 1951 and 31st December, 1951 (Section 5); or
- IV. he or she has been granted a certificate of naturalization under Naturalization Act, 1926 (Section 9); or
- V. She has married a Pakistani citizen (Section 10)

12. The concept of citizenship by birth is based upon long-established rule of English common law known as rule of Jus soli the Latin phrase that means law of the soil. Principle of Jus soli in effect granted citizenship to all people born in other countries for example USA or American territories and all persons, who born in USA have been declared citizen of USA. The said concept of citizenship right has been recognized in US Constitution through 14th amendment, in which the citizenship right has been recognized on the basis of birth on American soil and naturalization, whereas third source of citizenship is being born to a parent, who is US citizen. The said principle is called "jus sanguinis" which means "law of blood". In order to understand the said concept in United State Constitution, the 14th amendment is reproduced as under:-

"All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No State shall make or enforce any law which shall abridge [deprive] the privileges or immunities of citizens of the United States."

The 14th amendment guaranteed that people of all races born in the United States and subject to its government are citizens. This 14th amendment in United States Constitution is based upon controversial case of Dred Scott (1857), who was an enslaved African American in Missouri, a slave state. Scott had also lived with his owner in Illinois (a free state) and the Wisconsin territory, where the Northwest

Ordinance forbade slavery. Scott sued his owner's widow for his freedom claiming that his residence in a free state and a free territory made him free. A state court ruled in Scott's favour but the Missouri Supreme Court later reversed the decision. The said decision was assailed before United States Supreme Court. The United State Supreme Court led by Chief Justice Roger Taney ruled that Scott could not bring a legal suit in a Federal Court. Taney reasoned that African Americans whether slaves or free were not United State citizens at the time the Constitution was adopted, therefore, they could not claim citizenship. Only descendants of people who were state citizen at that time or immigrants who became citizens through naturalization were United States citizens. The Court also stated that Congress could not forbid slavery in United States territories and this background lead to 14th amendment as Dred Scott decision caused great outrage and protest in the North and added to tension that could lead to civil war and United States legislatures recognized the right of a person born in United States as citizen of USA through the said amendment.

13. The principle of "jus soli" was recognized by the United States Supreme Court in the decision announced in 1898 in case 169 U.S. 649 (1898) (United States v. Wong Kim Ark.), whereby the majority opinion authored by Justice Gray stated as under:-

"The fundamental principle of the common law with regard to English nationality was birth within the allegiance, also called "ligealty," "obedience," "faith," or "power" of the King. The principle embraced all persons born within the King's allegiance and subject to his protection. Such allegiance and protection were mutual-as expressed in the maxim protection trahit subjectionem, et subjection protectionem - and were not restricted to natural-born subjects and naturalized subjects, or to those who had taken an oath of allegiance, but were predicable of aliens in amity so long as they were within the kingdom. Children, born in England, of such aliens were therefore natural-born subjects. But the children, born within the realm, of foreign ambassadors, or the children of alien enemies, born during and within their hostile occupation of part of the King's dominions, were not natural-born subjects because not born within the allegiance, the obedience, or the power, or, as would be said at this day, within the jurisdiction, of the King

It thus clearly appears that, by the law of England for the last three centuries, aliens, while residing in the dominions possessed by the Crown of England, were within the allegiance, the obedience, the faith or loyalty, the protection, the power, the jurisdiction of the English Sovereign, and therefore every child born in England of alien parents was a natural-born subject unless the child of an ambassador or other diplomatic agent of a foreign State or of an alien enemy in hostile occupation of the place where the child was born."

13. In the 19th and 20th Centuries various countries choose to restrict the scope of jus soli or did away with it entirely as France for instance the Code of Napoleon of 1807 practically replaced this rule with jus sanguinis. In 1983, the United Kingdom itself abandoned this. In India, where section 3 of the original Citizenship Act, 1955 had

incorporated this principle, Parliament decided to do away with it through Citizenship (Amendment) Act, 1986.

14. I have also gone through the citizenship laws of different countries and it has been observed that many other countries of the world, the principle of jus soli remains in place. In the United States of America, the framers of the fourteenth amendment to the US Constitution, the rule of jus soli was fully applied as interpreted in the case United States v. Wong Kim ARK as such United States born children of illegal immigrants are given citizenship. Similarly, the other prominent countries, which have also applied principle of jus soli, are as under:-

(i) Antigua and Barbuda

(ii) Argentina

(iii) Barbados

(iv) Belize

(v) Bolivia

(vi) Chile

(vii) Columbia

(viii) Dominica

(ix) Ecuador

(x) El Salvador

(xi) Fiji

(xii) Grenada

(xiii) Guatemala

(xiv) Guyana

(xv) Honduras

(xvi) Jamaica

(xvii) Mexico

(xviii) Nicaragua

(xix) Panama

(xx) Paraguay

(xxi) Peru

(xxii) Saint Kitts and Nevis

(xxiii) Saint Lucia

(xxiv) Saint Vincent and the Grenadines

(xxv) Trinidad and Tobago

(xxvi) Uruguay

(Source: Birthright Citizenship in the United States: A Global Comparison, by Jon Feere, published on August 31, 2010. Available at: <https://www.cis.org/Birthright-Citizenship-United-States>)

15. In view of above background, this Court has also been confronted with the situation, where judgment of Pakistani jurisdiction reported as PLD 1999 Peshawar 18 (Ghulam Sanai v. The Assistant Director, National Registration Office, Peshawar and another) is in the field on the similar subject, where the Afghan refugees obtained National Identity Card by submitting false information, which were cancelled, wherein the Division Bench of Peshawar High Court held as under:-

"Sections 4 and 5 of the Act *ibid* read together would provide that every person born in Pakistan after the commencement of the Act shall be a citizen of Pakistan by birth and subject to the provisions of section 3 a person born after the commencement of the Act shall be a citizen of Pakistan by descent, if his father is a citizen of Pakistan at the time of his birth. Haji Ghulam Sakhi father of the petitioner an Afghan refugee, on false information managed to obtain the National Identity Card and Pakistan Passport which have been cancelled. The petitioner and his father has also purchased immovable property at Peshawar. Their stance is that they have been living in Pakistan since long and intend to remain in Pakistan, therefore, they have become Pakistan national. Para. 2 of the rejoinder to the comments filed by the petitioner is reproduced below:--

"2. The corresponding para. 2 of the writ petition is correct. Copies of the sales deed are Annexure 'A' and 'B' to the writ petition is a proof of the fact that the father of the petitioner is living in Pakistan since long and they have the intention to remain in Pakistan."

The long stay of a foreigner in a foreign country would not automatically convert him to be the citizen of that country unless he acquires the nationality by process of law. The Afghan refugees have been provided refuge in Pakistan temporarily and they being not the citizen of Pakistan are governed by the Foreigners Act, 1946 (Act XXXI of 1946) and not by the provisions of Citizenship Act which is not applicable to them. According to the definition of 'Foreigner' given in section 2(a) of the Act (XXXI of 1946), 'Foreigner means a person who is not a citizen of Pakistan' hence an Afghan refugee being a foreigner and not a citizen of Pakistan cannot be issued a National Identity Card under section 4 of the National Registration Act, 1973 (Act LVI of 1973) which can only be issued to Pakistani citizens."

16. This Court has great respect to the view rendered by Division Bench of the Peshawar High Court but this Court further confirms the said view on an additional reason on the point that any person, who born in Pakistan becomes citizen of Pakistan on plain reading of section 4 of The Pakistan Citizenship Act, 1951 except the refugees, who have already taken up refuge temporarily in Pakistan and as such their stay is recognized under UNHCR.

17. The status of refugees has to be considered under United Nations Convention 1951 (came into force on 23.04.1954), which was prepared and debated in the aftermath of second world war mainly on the context of thousands of displaced people in Europe. In 1967 protocol was added to it extending definition of refugees to non-European and to people forced to seek refuge because of events took place after 1945, therefore, this Court has to go through the definition of refugees defined in the said convention, which is as follow:-

"A person who has a well-founded fear of persecution for reasons of race, religion, nationality, membership of a particular social group or political opinion and who is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence is unable or, owing to such fear, is unwilling to return to it."

18. The above referred definition gives rise to certain important ingredients of term "well-founded fear of persecution", therefore, the international convention recognized the status of refugees, although in Pakistan, there is no separate law in this regard but Pakistan being signatory to UN Convention, therefore, any person, who has been declared refugee under UNHCR in Pakistan, is entitled to equal treatment with national of the country vis- -vis his other rights although some social services have been provided in Pakistan on

government level but once a person has been declared refugee he cannot claim benefit under The Pakistan Citizenship Act, 1951 in any manner and his status cannot be converted to any other position except he has been granted freedom of movement, residence permit, protection of law and in some cases entitled for employment in private business and jobs except government authorities. He is also entitled to have medical services and right to education.

19. Except the refugees (especially Afghan refugees) any other person who born in Pakistan shall be considered citizen of Pakistan in terms of section 4 of the act and his case has to be considered under rule 8 of The Pakistan Citizenship Rules, 1952, which reads as under:-

"8. Citizenship by birth.-(1) Any person claiming Citizenship under section 04 of the Act shall apply in form 'B' in duplicate to the Authorized Officer in the district where he was born or, if for any reason beyond his control, it is not possible for him to apply to such officer, to the authorized officer, in the District where he is residing at the time of making the application.

(2) Each form shall be accompanied by

(a) a certificate of birth issued by a village officer or an officer-in-charge of a Police Station or a Municipal or Town Committee or Corporation, or a Registrar of Births and Deaths appointed under the Births, Deaths and Marriages Registration Act, 1986 (VI of 1986).

(b) If the applicant is below the age of 21 years, a statement by his parents or guardian recorded on oath.

(3) If the [authorized officer], after making such inquiry as may be necessary, is satisfied that the facts stated in application are correct, he shall recommend to the Provincial Government that a Certificate in Form 'R-1' be granted.

(4) The Provincial Government shall pass such orders on the recommendations as it deems fit."

20. In view of section 4 of The Pakistan Citizenship Act, 1951 read with Rule 8 The Pakistan Citizenship Rules, 1952, I am of the confirmed view that the meanings of the said provision of law are simple and straight and in such like situation, the literal rule of statutory interpretation is applicable, which means the statue words and phrases used therein should be read keeping in view their plain meaning. Reliance is placed upon PLD 2012 Supreme Court 923 (Baz Muhammad Kakar and others v. Federation of Pakistan through Ministry of Law and Justice and others).

21. It is also settled law that where the plain language of a statute admits of no other interpretation then the intention of the legislature conveyed through such language is to be given its full effect. Reliance is placed upon PLD 2012 Supreme Court 501 (Ghulam Haider and others v. Murad through Legal Representatives and others).

22. I have gone through section 4 of The Pakistan Citizenship Act, 1951, which deals with citizenship by birth as well Rule 8 of The Pakistan Citizenship Rules, 1952 from all diverse angles but could not find any other meanings except the straight meanings, which favour interpretation that any person born in Pakistan has to be considered citizen of Pakistan under the law as the words used in the said section are plain and unambiguous, therefore, their natural and ordinary sense has to be considered for all intents and purposes. Reliance is placed upon 1998 SCMR 841 (PIAC Karachi v. Wafaqi Mohtasib).

23. I have asked Section Officer (Passports & Citizenship) Ministry of Interior, who has drawn attention of this Court towards two different documents, through which any person can apply for the certificate of citizenship of Pakistan in terms of The Pakistan Citizenship Act, 1951 as provided in APPENDIX-II FORM 'B' and APPENDIX-XVI FORM 'R-A'.

24. In view of above background, this Court is fully convinced that there is no restriction on any individual, who born in Pakistan despite the fact that his parents are not citizen of Pakistan can apply for grant of citizen by birth in terms of section 4 of The Pakistan Citizenship Act, 1951 and Ministry of Interior Government of Pakistan being competent authority has to process the case by virtue of the abovementioned application forms in prescribed manner and the applicant has to submit the details as required in the said documents.

25. Besides the above referred concept of citizenship, CNIC has only been issued to citizen of Pakistan under NADRA Ordinance in terms of section 10 in such a manner and on terms and conditions subject to every citizen, who has attained the age of 18 years and got himself registered under section 9 of the Ordinance and he is issued card, which is called National Identity Card with such period of validity upon payment of such fee in such manner as prescribed, therefore, after issuance of certificate of registration as citizen of Pakistan, NADRA is bound to issue CNIC to every person in Pakistan, if he claims citizenship in terms of section 4 of The Pakistan Citizenship Act, 1951.

26. It is also trite law that every individual has to be given protection of law in terms of Article 4 of the Constitution of Islamic Republic of Pakistan, whether he is citizen or not as Article 4 applies to "every other person for the time being within the Pakistan" and the said articles also assures that no action detrimental to the life, liberty, body, reputation or property of any person shall be taken except in accordance with law, therefore, under the command of the Constitution of Islamic Republic of Pakistan, 1973, High Court while exercising powers in terms of Article 199 has to ensure the protection of Article 4 of the Constitution to any foreign subject (person/citizen) with equal protection of law and his rights have to be dealt in similar manner, therefore, there is no cavil to the proposition that any foreigner non-citizen of Pakistan or person from any other state born in Pakistan, except a refugee, is entitled to be dealt under the Pakistan Citizenship Act, 1951 subject to his claim, if it falls within five concepts provided under The Pakistan Citizenship Act, 1951 for seeking citizenship of Pakistan.

27. In view of above background, the instant writ petition is allowed. The petitioner is directed to approach the Ministry of Interior Government of Pakistan along with application forms duly filled in, where-after Ministry of Interior Government of Pakistan/ respondent No.2 shall decide the application of the petitioner within a period of 03 months in accordance with law.

MH/63/ISL Petition allowed.

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