

IN THE HIGH COURT OF PUNJAB AND HARYANA, CHANDIGARH  
CRIMINAL WRIT SIDE  
CRIMINAL WRIT PETITION NO. 499 OF 1996

1. Shah Ghazai s/o Ghulam Haider  
R/o Parvan Gaurvam , Barekash, Afghanistan
2. Assadullah s/o Shah Ghazai  
R/o Parvam Gaurvam, Barekash, Afghanistan  
Through Parokar Mr. Manju Chavani ..... Petitioners

Versus

1. Union of India, through its Secretary,  
Ministry of Home Affairs, Govt. of India  
Lok Nayak Bhawan, New Delhi
2. Secretary, Home, Govt. of Punjab,  
Department of Home Affairs & Justice (Passport Branch)  
Chandigarh
3. District Magistrate, Amritsar ...Respondents

Criminal Writ Petition under Articles 226 of the Constitution of India  
praying that this Hon'ble Court may be pleased to:

- i) Issue a writ, order or direction in the nature of Mandamus /  
Prohibition and /or otherwise quash the Deportation order  
referred to in the appended Annexure;
- ii) Kindly order the release of the petitioners into the custody of  
UNHCR, 14, Jorbagh, New Delhi;
- iii) Pass such other orders as may be deemed fit and proper in  
the facts and circumstances of the case;

- iv) Prior notice to the Respondents and filing of the certified copies of annexure P7, P8, P9 and P10 may be dispensed with;
- v) The writ petition be allowed with costs. It is further prayed that the operation and implementation of the impugned deportation order may be stayed during the pendency of the Writ Petition.

Dated the 21<sup>st</sup> February, 1997.

PRESENT

THE HON'BLE MR. JUSTICE S. S. SUDHALKAR

For the Petitioner: Mr. S. R. Khan, Advocate

For the Respondent: Mr. Parminder Singh, AAG, Punjab

Mr. D. D. Sharma, Advocate for

Union of India

ORDER

Mr. Sharma has produced today in the court a copy of letter from the Ministry of External Affairs, IPA Division, written by the Under Secretary (IA). The same is taken on record.

Learned Counsel for the petitioners requests that as both Union of India and the Punjab Government have no objection if the custody of the petitioners is given to United Nations High Commissioner for Refugees (for short UNHCR), the custody of the petitioner be handed over to the UNHCR. Mr. Sharma, learned counsel for UOI and Mr. Parminder Singh, AAG, Punjab have no objection to this request.

Even considering letter of the Minister of External Affairs (supra), the submissions of learned counsel for the parties can be

accepted. In view of the above reasons, the custody of the petitioners deserves to be given to the UNHCR, New Delhi. Respondent No. 2 and 3 shall direct the Superintendent Jail, Amritsar to handover the custody of the petitioners to UNHCR, New Delhi after communicating with the UNHCR. The communication with the UNHCR should be at the earliest. For the custody being handed over to the UNHCR, respondent No. 2 and 3 and the Superintendent Jail shall ensure proper escort of the petitioners.

It is clarified that since there is no letter from the UNHCR before this Court, if UNHCR refuses to take the custody of the petitioners, the petitioners be again taken to the Central Jail, Amritsar and this Court be moved by respondent No. 2 and 3 for further directions in this matter.

This petition stands disposed of accordingly.

Sd/- S. S. Sudhalkar  
Judge  
21. 2. 1997