

Stereo H.C.J.D.A 38  
**Judgment Sheet**  
**IN THE LAHORE HIGH COURT LAHORE, MULTAN BENCH,**  
**MULTAN**  
**JUDICIAL DEPARTMENT**

**W.P. No.7102 of 2020**

Zarmeen Abid     **Versus**     National Database and  
Registration Authority, etc.

**JUDGMENT**

Petitioner by:	Ms. Farah Sharif Khosa, Advocate.
Respondents by:	Mian Faraz Samad, Advocate/Legal Advisor-National Database And Registration Authority.  Mr. Azhar Saleem Kamlana, Addl. Advocate General.  Maj. (R) Imran Ali Khan, Director General, National Database And Registration Authority, Multan.
Date of hearing:	22.09.2021.

**MUHAMMAD SHAN GUL, J:-** Through this judgment the titled constitutional petition is sought to be decided.

2.     An eighteen year old girl without an identity card in the present day world is like a pigeon amongst cats! Vulnerable, unprotected and quite susceptible to exploitation. In the matter before this Court petitioner, Zarmeen Abid, finds herself in a unique position. Her foster mother, Zarsanga Nasir, adopted her during subsistence of her marriage with one Abid-ur-Rehman. The foster mother after ending her first marriage with Abid-ur-Rehman remarried one Nasir Ahmad and whose name was entered in the National Database and Registration Authority record as the father of the petitioner, albeit in an adopted capacity. It may, however, be mentioned here that the childhood

testimonials of the petitioner as also her educational qualification degrees and cards carry the name of Abid-ur-Rehman as her father, as does her “ب” Form. Nobody knows anything about her real biological parents, not even her foster mother Zarsanga Nasir!

3. For reason only known to the said Nasir Ahmad, he applied to the National Database and Registration Authority to have the petitioners’ identity card blocked since he claimed she was not his daughter. The trigger happy National Database and Registration Authority blocked her identity card without much ado and in downright derogation of Section 18 of the National Database and Registration Authority Ordinance, 2000. As a result, the petitioner was left in a flux. Her adopted father does not own her, she is not in the know about her actual biological father and is, therefore, helpless because the National Database and Registration Authority authorities have, without hearing her, and without allowing her to present her defence, unilaterally blocked *nee* cancelled her identity card. She requested the National Database and Registration Authority to issue a fresh identity card but was refused and which prompted her to come to this Court.

4. In “Muhammad Umar v. Federation of Pakistan, through Secretary, Ministry of Interior, Islamabad and 2 others” (PLD 2017 Sindh 585), it has been noted as follows: *“It is also important to point out that nearly all government and private organizations have framed rules, issued circulars and/or displaced notices for production of CNIC. Now it is not possible to get higher education, apply for a job, open a bank account, get a driving license or arms license, get utility*

*connections, purchase railway and air tickets, execute any instrument, stay in a hotel or lodge, appear in court proceedings and enter in certain buildings and premises without production of CNIC. In such a situation, blocking of CNIC is an extreme act as it amounts not depriving a Pakistani national from his/her identity and depriving him to discharge his routine work. It means that 'blocking of CNIC' is actually negating the very identity of a person, which amounts to depriving him nearly from all the necessities, leaving him helpless and even imposing restrictions to his freedom of movement. This Court considers that it is the serious violation of fundamental rights of a person if her identity is blocked on the ground of suspicion without giving her an opportunity of hearing.*"

### **Section 18 of the National Database and Registration Authority Ordinance, 2000**

**"18. Power to cancel, impound or confiscate cards. – (1)** A card issued under this Ordinance shall be the property of the Federal Government and may, by an order in writing under the seal of the Authority or an officer authorised by it in this behalf, be required to be returned and shall also be liable to be cancelled, impugned or confiscated by a like order:---

*Provided that no order shall be made unless such person has been given notice in writing calling upon him to show cause why the order should not be made.*

**(2)** An order under subsection (1) canceling, impounding or confiscating a card may be made only if there is reason to believe that"

- (a)** The card has been obtained by a person who is not eligible to hold such card, by posing himself as eligible;
- (b)** More than one cards have been obtained by the same person on the same eligibility criteria;
- (c)** The particulars shown on the card have been obliterated or tampered with; or
- (d)** The card is forged.

**(3)** .....

*Provided that no order on such appeal shall be passed unless the appellant has been given an opportunity of being heard."*

5. Let us stop here and consider the two conspicuous illegalities committed by the National Database and Registration Authority while compromising and offending the requirements of the afore-noted section. Not only was the principle of 'audi alteram partem' compromised (even no posthumous hearing was granted to even remotely consider remedying the defect) rendering the act of little legal effect, the additional factor of there being no ground available of the kind envisaged in the statutory provision conferring the exercise of the power in question puts paid the exercise anyway! Both precedent facts enumerated in Section 18 have been blithely ignored. Therefore, the exercise of power being subject to the two precedent conditions mentioned above and both conditions having not been met, the action impugned is visibly without lawful authority. History is replete, it may be stated, with cases that were touted to be open and shut but which when came to be heard turned out to be totally different. Article 10-A recognizes this unarguable fact!

6. Since the Court was faced with a citizen whose adopted father does not own her and who is clueless about her actual biological parentage but whose rights guaranteed by the Constitution were being violated with impunity, the Court thought it proper to summon the Director General, National Database and Registration Authority, Multan. The purpose, of course, being to sensitize the administrative agency and allow it to make amends by coming up with a workable solution. He appeared in the Court and he was asked to consider the case of the petitioner for the grant of National Identity Card. The

Director General, National Database and Registration Authority was confronted with the fact that the petitioner had been deprived, on account of the action taken by National Database and Registration Authority, from the enjoyment of rights that flowed out of her citizenship. Her right to dignity of life, her right to travel, her right to free movement, her right to education and her right to own property, *inter alia*, being at stake, the Director General, National Database and Registration Authority was asked to consider her case sympathetically yet promptly.

7. The Director General, National Database and Registration Authority was asked to take heed from an enlightening judgment of this Court “Mian Asia v. Federation of Pakistan through Secretary Finance and 2 others” (PLD 2018 Lahore 54), wherein on account of the indulgence shown by the Court, the National Database and Registration Authority authorities framed a policy for issuance of identity cards to Eunuchs. The Policy dated 21.8.2017 titled **issuance of CNIC to Eunuchs** recognizes orphans with unknown parentage and since in the judgment in question Eunuchs with unknown parentage had been ordered to be granted identity cards by filling in their parentage columns with random names culled from National Database and Registration Authority database, the Director General, National Database and Registration Authority was sensitized to follow suit. He was reminded about Article 25(2) which allowed for affirmative action in favour of women!

8. Today, when the case was called, the Director General, National Database and Registration Authority, Multan, Major (R) Imran Ali

Khan appeared and, it may be mentioned with satisfaction that the Director General, National Database and Registration Authority by acceding to the request of the petitioner and by ensuring the issuance of an identity card in her favour has exhibited conduct quite becoming of a public servant and his indulgence and prompt approach in the matter is appreciated.

9. The Director General, National Database and Registration Authority has made arrangements for a fresh identity card to be issued in the name of the petitioner with the same (imaginary) yet necessary parentage of Abid-ur-Rehman and now the petitioner stands entitled and eligible to enjoy the rights guaranteed to her by the Constitution of Islamic Republic of Pakistan, 1973. The endorsement of the name of Abid-ur-Rehman in the column of parentage in her identity card is quite meaningful in more ways than one for the petitioner. Documents from her childhood days, her testimonials, her “ب” Form etc. all carry the name of Abid-ur-Rehman, a person who was previously married to her foster mother and who had allowed his name to be mentioned in the column of parentage of the petitioner till her foster mother divorced him. It may be mentioned here that the name Abid-ur-Rehman which shall now figure in the column of parentage of the petitioner is not of the same Abid-ur-Rehman who was previously married to the petitioners’ mother but is rather in the nature of the imaginary ‘Guru’ recognized and noted with approval in “Mian Asia v. Federation of Pakistan through Secretary Finance and 2 others” (PLD 2018 Lahore 54).

10. It may also be noted here that even in terms of the State of Pakistans' commitments under International Law, [(The Convention of Eradication of Discrimination against Women (CEDAW) having been adopted and ratified by Pakistan in 2006 (Women Protection Act 2006) refers] the State through its instrumentalities has the duty and obligation to ensure dignity of a girl/woman.

11. Under International Law, a human rights based lens is adopted with respect to state obligations. There are three aspects to state obligations associated with any human right: responsibility to respect, protect and fulfill. This encompasses a recognition for both positive and negative rights under international law. Positive rights are those that provide something to people and require action to ensure provision of the right (for example the right to education). Whereas negative rights are free from interference and thus limit the ability of other people or governments from taking action toward or against the right holder.

12. The obligation to respect identity means that state must refrain from actively interfering with the individual's identity. This responsibility encompasses protection from arbitrary denial of identity documents, as that directly violates the individuals right to identity, and interferes with her name and ties to family, place and nation.

13. The obligation to protect identity means that state must take necessary measures to prevent others from interfering with the individual's identity. On a global level, this responsibility requires states to register their populations, since civil registration in turn

protects citizens and other individuals within a state's territory from vulnerability to criminal activity like human trafficking, forced prostitution, bonded labour, etc. Therefore, guaranteeing a national identity document to those aged 18 and above is integral to ensuring protection from criminal activity and general menaces which tend to benefit from the lack of identity documentation of individuals, especially vulnerable population groups like women, persons with disabilities, indigenous people, transgender persons etc.

14. The obligation to fulfill identity means that States must progressively ensure that each person has opportunities to develop her identity. It is equally important to ensure that the State promotes the dynamic development of an individual's identity by providing them with the right to change or rectify collected personal data. **Exactly what the petitioner before this Court wanted to do and has succeeding in doing!**

15. Applying this obligation to the present case, the denial of a CNIC is a blatant violation of the right to identity as such denial is an unlawful interference with the said right. The right to identity is a fundamental, non-derogable, independent and autonomous right which is rooted in human dignity and preserves each human's distinct existential interest. Therefore, it is immaterial whether the national framework expressly includes this right. For example, in the case of Pakistan, the Constitution of Pakistan does not expressly include a 'right to identity', as such and it is deduced from a range of positively recognized rights and principles of policy. These include, *inter alia*,



the right to life, inviolability of dignity, and equality of citizens. It is a concomitant right of such positive rights.

16. Furthermore, Sustainable Development Goal (SDG) 16.9 aims to provide legal identity for all by 2030, and it has been noted that legal identity is the key to realizing a range of other sustainable development goals because it unlocks access to various state services, social welfare schemes and economic empowerment.

17. This petition is, therefore, **allowed** in the above terms.

**(MUHAMMAD SHAN GUL)**  
**JUDGE**

Approved for reporting.

**Judge**

\**Waseem*\*