

WP(C) NO. 22580 OF 2026

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2026:KER:63060

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE BECHU KURIAN THOMAS

THURSDAY, THE 13TH DAY OF AUGUST 2026 / 2secondSRAVANA, 1948

WP(C) NO. 22580 OF 2026

PETITIONERS :

- 1 UNAIZ KADUMBOTTIL
AGED 31 YEARS
KADUMBOTTIL HOUSE,
NIRAPPAM, NAIKETTY P.O.,
SULTAN BATHERY TALUK,
WAYANAD DISTRICT, KERALA
PRESENTLY RESIDING AT DUBAI,
UNITED ARAB EMIRATES,
PIN - 673592
- 2 KHADIJA JABEEN KHALID HUSSAIN
AGED 25 YEARS
W/O UNAIZ KADUMBOTTIL,
CITIZEN OF PAKISTAN,
PRESENTLY RESIDING AT DUBAI,
UNITED ARAB EMIRATES,
PIN - 673592

BY ADV SHRI.AMAL DEV D.S.

RESPONDENTS :

- 1 UNION OF INDIA
REPRESENTED BY ITS SECRETARY,
MINISTRY OF EXTERNAL AFFAIRS,
SOUTH BLOCK, NEW DELHI,
PIN - 110011



2 THE CONSULATE GENERAL OF INDIA
AL HAMRIYA DIPLOMATIC ENCLAVE,
DUBAI, UNITED ARAB EMIRATES,
PIN - 110011

3 THE VISA OFFICER
CONSULATE GENERAL OF INDIA,
AL HAMRIYA DIPLOMATIC ENCLAVE,
DUBAI, UNITED ARAB EMIRATES,
PIN - 110110

* ADDL.R4 IS IMPEADED

4 UNION OF INDIA
MINISTRY OF HOME AFFAIRS
NORTH BLOCK,
REPRESENTED BY ITS SECRETARY,
NEW DELHI-110001

* ADDL.R4 IS IMPEADED AS PER ORDER DATED 28/7/26 IN
IA 1/26 IN WP(C) 22580/26]

BY SHRI.HARIKRISHNAN P.B., CGC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 13.08.2026, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:



'C.R.'

BECHU KURIAN THOMAS, J.

W.P.(C) No.22580 of 2026

Dated this the 13th day of August, 2026

JUDGMENT

Can a foreign national demand that he/she should be given an opportunity to submit an application for obtaining an appropriate Visa to enter India and have it considered? Would the foreign national have a right for such consideration if he/she happens to be the spouse of an Indian citizen? These questions arise for consideration in this writ petition.

2. Petitioners are husband and wife, with the first petitioner being an Indian Citizen and the second petitioner, a Pakistani National. Their marriage was registered on 01.06.2025 at Dubai and they are presently residing abroad. The brother of the first petitioner is getting married on 15.08.2026 and petitioners intend to participate in the said wedding. However, when the second petitioner attempted to apply for an Indian Visa, no procedure could be identified, even to submit an application, for obtaining a visit Visa or any other suitable category of Visa. Petitioners



allege that an opportunity to lodge even a formal application for a Visa, through the prescribed electronic platform was not available and hence they have approached this Court for appropriate directions.

3. A counter affidavit has been filed on behalf of the 4th respondent stating that no foreign national can claim, as a matter of right, a permission to enter or remain in India, except in accordance with the provisions of law and the policy decisions of the Central Government. It is further stated that the grant of Visa is a condition precedent for a lawful entry into a country and also that it is the discretion of the Central Government to regulate immigration in the interest of the nation. Respondents have pleaded that as per Section 3 of the erstwhile Foreigners Act, 1946, Ext.R4(a) was issued whereby, all Visas issued by the Government of India to nationals of Pakistan except medical Visas, long term Visas, diplomatic Visas and official Visas stood revoked with effect from 27.04.2025 and consequently Visa services in respect of such Nationals remain suspended. It is also stated that unless and until the competent authority revokes or modifies the order dated 25.04.2025, no Visa can be processed or be issued to a Pakistani National, contrary to the prevailing statutory and executive instructions.



4. Sri. Amaldev D.S., the learned counsel for the petitioners with due vehemence and in a persuasive manner, submitted that the second petitioner has done no harm to the nation and therefore declining, to provide an opportunity to apply for and process an application for a Visa is contrary to the constitutional provisions of Article 21 and 14 of the Constitution of India. It was further submitted that though the second petitioner intends to participate in the wedding ceremony of her brother-in-law, she ultimately would require a long term Visa as she is already married to an Indian citizen and therefore the petitioner ought to be treated as entitled for such a Visa or atleast, be considered for the grant of a long term Visa.

5. Sri.Harikrishnan P.B., the learned Central Government Counsel, on the other hand submitted that even with respect to long term Visas, it was subsequently clarified that fresh long term Visas are not open for consideration and only long term Visas and medical Visas issued prior to 25.04.2025, were permitted to continue, that too with medical Visas valid only till 29.04.2025. It was further submitted that no foreign national has a vested right to enter or reside or settle in India and therefore the second petitioner cannot, unless and until she attains an Indian



citizenship, be permitted to even apply or have her application for Visa be processed, considering the fact that she is a Pakistani National.

6. While considering the rival contentions, it needs to be noted that the regulation of entry, stay, movement and departure of foreigners into and from India, is an exclusive sovereign function of the Union. The said power flows from its obligation to safeguard the sovereignty, integrity, security and public order of the nation as specified in the erstwhile Foreigners Act, 1946 (which has been replaced with effect from 01-09-2025, by the Immigration and Foreigners Act, 2025). Annexure R4(a) is an order issued under Section 3 of the Foreigners Act, 1946, stating that all existing valid Visas of Pakistani Nationals are revoked with immediate effect from 27.04.2025 and no new Visas are permitted to be issued for Pakistani Nationals. An exception is seen carved out in the said order, in respect of existing medical Visas and long term Visas, with the validity of the former extended till 29.04.2025 i.e. just two days.

7. In this context, it is relevant to mention that no foreign national has an inherent or legally enforceable right to seek entry into India and the issuance of a tourist Visa, as it is a sovereign function of the State, deeply rooted in considerations of national security, foreign policy and



administrative discretion. No foreign national, even if he/she is the spouse of an Indian citizen, has a vested right to demand that he/she should be permitted to enter the country.

8. Section 3 of the Foreigners Act, 1946, confers a wide power upon the Central Government to regulate immigration. The said power is a facet of the sovereign function of the State. After security concerns were raised pursuant to certain attacks, at Pahalgam on 22.04.2025, the Central Government issued the order on 25.04.2025, suspending all Visa services to Pakistani Nationals. The said order continues to remain in force. As long as the order issued under Section 3 of the Foreigners Act, 1946 remains in force, no Pakistani National can demand that his/her application for Visa be processed.

9. The High Court of Delhi had, in **Sheena Naz & Anr. v. Union of India & Ors.** [W.P.(C) No.5480/2025], held that the order issued under section 3(1) of the Foreigners Act, 1946 does not warrant any judicial review as the issuance of the same was impelled by serious national security considerations. It was also observed that it is not within the province of this Court to carve out any exception.

10. The second petitioner's intention, as evident from the pleadings



in the writ petition, is to attend her brother-in-law's wedding, on 15.08.2026 and 16.08.2026. Obviously Visa required cannot be for a long term and can only be for a visit. Being a Pakistani National, from 25.04.2025 onwards, all Visa services have been brought to a stand still, and hence the second petitioner cannot demand that her Visa application should be processed. As long as Ext.R4(a) remains valid and is not revoked, the second petitioner cannot claim any right to have her application processed.

11. The right to liberty under Article 21 can be deprived on the basis of a procedure established by law. Ext.R4(a) having been issued in exercise of the powers under Section 3 of the Foreigners Act, 1946, is a procedure established by law.

12. Further, Article 14 of the Constitution of India cannot be claimed by the second petitioner as she is not in India presently. Though Article 14 applies to non-citizens also, the same can be claimed only within the territory of India and while they are inside the country. In the decision in **Tanveer Wasim Safdar @ Tan France v. Union of India and Others** (W.P.(C). No.14627 of 2024), the High Court of Delhi has observed that alleging violation of Article 14 of the Constitution on



account of the delayed processing of the Visa, is fundamentally misconceived as the said Constitutional provision guarantees equality before law to individuals who are within the jurisdiction of India and not to foreign nationals outside its jurisdiction.

Thus the questions posed at the beginning of this judgment are answered in the negative. Hence the writ petition fails and is dismissed.

Sd/-

BECHU KURIAN THOMAS, JUDGE

RKM



APPENDIX OF WP(C) NO. 22580 OF 2026

PETITIONERS' EXHIBITS :

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| Exhibit P1 | A TRUE COPY OF THE MARRIAGE CERTIFICATE DATED 01.06.2025 BEARING NO.2871/202 AND THE TRANSLATION OF THE SAME |
| Exhibit P2 | A TRUE COPY OF THE WEDDING INVITATION CARD IS PRODUCED |
| Exhibit P3 | A TRUE COPY OF THE E- MAIL REPLY DATED 12.06.2026 RECEIVED TO THE PETITIONER STATING NO PROVISION EXIST TO APPLY FOR THE VISA |
| Exhibit P4 | A TRUE COPY OF THE E- MAIL REPRESENTATION DATED 12.06.2026 SUBMITTED BEFORE THE RESPONDENTS |

RESPONDENTS' EXHIBITS :

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| EXHIBIT-R4 (a) . | A TRUE COPY OF THE ORDER NO.25022/28/2025-F.I DATED 25.04.2025 ISSUED BY THE 4TH RESPONDENT |
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