



Sr.No.235

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH  
AT JAMMU****WP(C) No. 2460/2025  
CM No. 5673/2025**Reserved on:- 03.03.2026  
Pronounced on:25.03.2026  
Uploaded on:- 25.03.2026**Sajjad Ahmed** Age 42 years  
S/O Late Abdul Gani  
R/O Village Rajnagar,  
Tehsil Budhal, District Rajouri

....Petitioners

Through :- Mr. Aseem Sawhney, Sr. Adv.  
Mr. Mohd. Shabab Malik,  
Ms. Tehseena Bukhari,  
Mr. Mohd. Kashif Malik,  
Ms. Khushboo Sharma,  
Mr. Anil Kumar &  
Ms. Aafia Malik, Advocates.

Versus

1. **Union of India** through  
Secretary to Govt.,  
Ministry of Home Affairs, North Block,  
New Delhi
2. UT of J&K through Pr. Secretary to Govt.  
Department of Home, Civil Secretariat,  
Jammu.
3. Director General of Police (DGP),  
J&K Police Headquarters  
Jammu University Road, Jammu
4. Additional Director General (CID),  
Canal Road, Jammu J&K.
5. District Magistrate, Rajouri, J&K
6. Senior Superintendent of Police (SSP), Rajouri

....Respondent(s)

Through :- Mr. Mr. Vishal Sharma, DSGI  
Mr. Eishan Dadhichi, CGSC  
Mr. Karan Sharma, CGSC.  
Ms. Monika Kohli, Sr. AAG**CORAM: HON'BLE MR. JUSTICE M A CHOWDHARY, JUDGE****JUDGMENT**

1. The petitioner, through the medium of this petition, *inter alia*, has prayed for the following reliefs:

*(i) Commanding the respondents to repatriate Aasim Sajjad  
aka Fardin Sajjad S/O Sajjad Ahmed (son of the petitioner)*



*from Gujranwala Pakistan to the petitioner's home at Rajouri, J&K;*

*(ii) Further, to pass an order or direction in the shape of Writ of Mandamus, directing the respondents to expeditiously decide the petitioner's representation/application, and to grant citizenship to the petitioner's son, Aasim Sajjad aka Fardin Sajjad son of Sajjad Ahmed.*

*(iii) Further to pass any other order or directions the Hon'ble Court deems fit in the interest of justice."*

2. Facts giving rise to the filing of this petition, briefly stated, are that the petitioner namely Sajjad Ahmed went to Pakistan on valid passport on 08.12.2005, to meet his relatives; that during his stay there in Pakistan, he solemnized his marriage to one Shabnum Kouser D/O Ghulam Mohd R/O Rawali Gujranwala, Pakistan on 11.12.2005; that his spouse delivered male baby (Fardin Sajjad) in Pakistan on 26.10.2006 at Gujranwala and came to India along with her baby on the strength of valid Pakistani documents on 09.10.2007, for a period of 90 days; that on expiry of visa, she had applied for extension of visa for a period of one year on marriage grounds; that she was granted permission by the competent authority to stay along with her baby accordingly; that as she applied for extension of visa on yearly basis and she was granted permission accordingly upto the year 2013; that on 05.06.2013, the wife of the petitioner- Shabnam Kouser died due to a fatal illness; that after the death of petitioner's wife, he again applied for the extension of visa in respect of his minor son namely Fardin Sajjad, wherein an extension was granted by the competent authority till 20.04.2015; that subsequently, the petitioner had moved several applications through proper channel before the



competent authority for seeking declaration of his son namely Fardin Sajad aka Asim Sajad as citizen of India/extension of visa on compassionate grounds, but till date neither son of petitioner had been declared as citizen of India nor visa extended in his favour; that as a bolt from sky, personnel of J&K Police raided the house of the petitioner and took away his son and deported to Pakistan without any information or copy of the deportation order; that the son of the petitioner was taken forcibly in a police van and deported to Pakistan via Wagah Border. Aggrieved of the alleged illegal deportation of his son, the petitioner has approached this court seeking the reliefs mentioned supra in paragraph 1 of the order.

3. It has been further pleaded that the deportation of the petitioner's son is bad in the eye of law as the authorities have not followed due process of law; that the petitioner had moved several applications to the respondents on 19.09.2015, 11.05.2015 and 07.01.2019 seeking citizenship for his son but no decision with regard to citizenship was taken till date; that the petitioner also moved application for registration of minor child under Section 5(1)(d) of the Citizenship Act, 1955 on the concerned web portal of the Ministry of Home Affairs on 04.05.2024 bearing MHA file No.2024030441 with receipt No.0000001202403044103; that this Court in WP(C) No. 1072/2025 titled 'Rakshanda Rashid through Falak Zahoor Vs. Union of India & Ors' involving similar controversy has granted ad interim relief to the petitioner therein by directing the Secretary, Ministry of Home Affairs, Government of India, to retrieve the petitioner back to J&K, India and therefore, he prays for the same relief in his case also. Lastly, it is prayed that the writ petition be allowed, granting the claimed reliefs.

**Objections on behalf of respondent No.1**

4. Pursuant to notice, in the objections filed by the Foreigner Regional Registration Officer, Bureau of Immigration (Ministry of Home Affairs) Govt. of India, it has been pleaded, that the writ petitioner has not come to court with clean hands, therefore, no relief can be granted in his case; that the son of the petitioner was staying in the country without valid visa and was under an obligation to leave India; that the order of deportation of the petitioner's son, issued by FRO Rajouri in the light of order dated April 25, 2025 issued by the Ministry, is in accordance with the extant Act/Rules/Law; that it is submitted that after duly examining the status of the Citizenship application filed by the petitioner in favour of his son namely Fardin Sajjad under Section 5(1)(d) Citizenship Act, 1955 vide MHA file No.2024030441, it has been found that, as per the portal of the Ministry, the said application is displaying the status as '*not received yet*', therefore, as and when the same is received in the Ministry, along with proper recommendation of the DM/DC concerned through the UT administration, the same shall be processed, in accordance with the extant Act/Rules/Law. Lastly, it is prayed that the writ petition be dismissed.

**Objections on behalf of respondent No.6.**

5. Respondent No.6 in his objections, submitted that writ petition be dismissed in view of petitioner raising disputed questions of facts, which cannot be adjudicated by this court; that the stay of the petitioner's son was illegal and therefore, he was deported after notice duly served upon him in compliance to Government of India, Ministry of Home Affairs Foreigners-1 Division order issued under No.25022/28/2025-F dated 25.04.2024.



6. Learned counsel for the respondents, *ex adverso*, vehemently argued that the writ petition is devoid of any merit and substance; that the petitioner has not approached the court with clean hands and has suppressed the material facts; that the son of the petitioner has rightly been deported to Pakistan as he was neither a citizen of India nor extension of visa had been granted in his favour.

7. Heard learned counsel for the parties, perused the file and consider the matter.

8. The partition of Indian Sub-Continent in the year 1947, at the time of independence, resulted into creation of two separate States - India and Pakistan, entailed countless miseries of human tragedy wherein besides being a grave loss of lives, the families had also been divided. The instant case stems out of this tragedy, inasmuch as the petitioner, who is a Government teacher in Education Department in District Rajouri, had married one Shabnam Kouser, daughter of his paternal aunt on 11.12.2005 at Gujranwala in Pakistan, where she had migrated in the year 1947. The families having been divided had such common marriages; that out of the wedlock, a male baby was born, who was named Fardin Sajjad; that the wife of the petitioner Shabnam Kouser succeeded to travel to India on 11.09.2007 to visit her husband's family on a visa granted by High Commission of India in Islamabad and the petitioner's son Fardin Sajjad also travelled with his mother on visa/public residential permit; and that, in India, the boy was named as Aasim Sajjad and by the name of Fardin Sajjad aka Aasim Sajjad was granted extensions from time to time by the Foreign Registration Office (SSP CID (SB) Jammu) which is evident that the minor son reported through his father on 27.01.2009 NORI



permission and the permission was granted from time to time till the year 2025. As pleaded, petitioner's minor son Fardin Sajjad aka Aasim Sajjad lived a normal life with his parents at Budhal in Rajouri seeking extension of permission to reside in India, however, as the fate would have it, the spouse Shabnam Kouser of the petitioner suffered from a fatal disease and expired on 04.06.2013 in India when the minor Fardin Sajjad aka Aasim Sajjad was merely 4/5 years old and there was none except his father petitioner herein to take care of him and, therefore, the petitioner started making efforts to seek citizenship of India for his minor son who was a student and had passed 12<sup>th</sup> class having studied in India from 2007 till 2025 with few visits to Pakistan to his mother's paternal home with the parents. Further, after the demise of his mother Shabnam Kouser, the said child never visited Pakistan as he had none there, in the family from mother side except one aunt, who herself was a widow and barely ekes out her living.

9. The petitioner contended that he had made several applications to the respondents from time to time seeking citizenship in favour of his son, however, no decision with regard to the citizenship was taken or conveyed to the petitioner though the extension of stay was being granted as usual; petitioner's further contention is that on 29.04.2025, the J&K Police personnel stormed the petitioner's house at around 4.00 AM and shuttled petitioner's son in a police van to be taken to Wagha Border, from where he was forcibly deported to Pakistan; that this action, on the part of the respondents, had occurred in the backdrop of the ongoing hostilities between India and Pakistan in the aftermath of Pahalgam Terror Attack on 22.04.2025; and the petitioner's



child has been made to stuck in the conflict zone between two nations and their hostilities.

**10.** The respondents have admitted that the petitioner's son, who had travelled on visa to India from Pakistan was extended from time to time and that '*Leave India Notice*' was served upon the petitioner's son being a Pakistani national and his deportation to Pakistan is an exercise of the sovereign power of the State to regulate the entry, stay and departure of foreigners; that the visa of the petitioner's son Fardin Sajjad aka Aasim Sajjad had expired at the time of the issuance of the '*Leave India Notice*' and that, at the given point of time, he was not having a valid visa. It was further contended that the petitioner's son has already been repatriated to Pakistan and hence the matter of granting extension of visa in his favour does not arise at this stage and also with regard to contention of grant of citizenship, it was contended that the online citizenship portal of the Ministry of Home Affairs had displayed the status of application 'not received yet'. Therefore, as and when the same is received along with proper recommendation of the DM/DC concerned through the UT Administration of J&K, the same shall be processed, in accordance with law.

**11.** A co-ordinate Bench of this Court in WP(C) No. 1072/2025 titled '*Rakshanda Rashid through Falak Zahoor V. UOI & Ors*' vide order dated 06.06.2025 in identical facts of the case, where the petitioner in that case who was having a status of Long Term Visa (LTV) at relevant point of time was deported to Pakistan, directed Ministry of Home Affairs, Government of India to retrieve the petitioner therein back to J&K, India so as to facilitate his reunion with the husband- Sheikh Zahoor Ahmed in Jammu. The Union of



India having been aggrieved preferred an appeal LPA No.118/2025 titled ‘UOI V. Rakshanda Rashid & Ors’ and the learned Division Bench of this Court vide order dated 30.07.2025, on the assistance of Mr. Tushar Mehta, learned Solicitor General of India, that government decided to grant visitor visa to the respondent so that she may pursue the two applications as regards acquiring Indian citizenship and also the LTV purportedly moved by her and pending with the respective authorities, and decided the LPA with the withdrawal of the writ petition and observing that the decision taken by the authorities centred upon the peculiar facts and circumstances of the case, shall not constitute a precedent, in any manner.

12. Having regard to the fact that the petitioner’s son Aasim Sajjad aka Fardin Sajjad had been staying with the petitioner in District Rajouri on a LTV, which was being extended on a yearly basis and that his mother who was a Pakistani national with whom he had travelled to India to stay with the father’s family expired in Gujranwala Pakistan, and that there was none to look after petitioner’s son, also that he had not only applied for extension of LTV but also for grant of Indian Citizenship for his father (petitioner herein) being an Indian Citizen, this court, is of the considered opinion that having regard to the sacrosanct human values and rights, the court must step in to pass certain directions.

13. Viewed thus, the petition is, thus, disposed of with the following directions to the respondent-Ministry of Home Affairs through Secretary to Govt, of India to consider:

- (i) to retrieve the petitioner’s son, namely Aasim Sajjad aka Fardin Sajjad pursuant to ‘Leave India Notice’ dated April 25,



- 2025 served upon him, so as to pursue his application for extension of long term visa and the application for citizenship filed under Section 5 (1) (d) of Citizenship Act, 1955; and
- (ii) to grant of citizenship in favour of petitioner's son having been applied by him vide MHA File No.2024030441 as claimed by the petitioner.

The aforesaid exercise shall be carried out by the respondent-Ministry of Home Affairs, expeditiously, having human aspect of the matter, preferably within a period of eight weeks.

14. A copy of this order shall be forwarded by the Registry of this Court to respondent no.1- Secretary to Govt. Ministry of Home Affairs, North Block, New Delhi for information and compliance.

15. The petition is, **disposed of** in terms of above along with pending applications.

Jammu:  
25.03.2026  
Raj Kumar

(M.A. Chowdhary)  
Judge

Whether the order is speaking?  
Whether the order is reportable?

Yes/No  
Yes/No