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At the Supreme Court Sitting as the High Court of Justice

H CJ 5148/08

Before: The Honorable Justice A. Procaccia
 The Honorable Justice S. Joubran
 The Honorable Justice Y. Amit

Petitioner: The Association for Civil Rights in Israel

VS

Respondents: 1. The Chief of General Staff – Lieutenant General Ashkenazi
 2. IDF Commander in the Area of Judea and Samaria
 3. Chief Military Advocate General
 4. Commander of the Judea and Samaria Area Division
 5. Commander of the *Bikaa* Brigade

Petition for an *Order Nisi*

Date of hearing: 23 Kislev 5770 (10 December 2009)

For the petitioner: Adv. Limor Yehuda

For the respondents: Adv. Hila Gorny

Judgment

The essence of the petition – the lifting of the ban on the entry of Palestinian residents through the Beit Ha'arava checkpoint - has been granted in that since the end of August, 2008, the operation of the Beit Ha'arava checkpoint was discontinued in its previous format, whereby the entry of Palestinian residents to the Dead Sea area was blocked at various times. As of today passage at the checkpoint is no longer barred, but it is used for checking activities only. Nonetheless, in the event of a focused security alert, a temporary blocking of passage by Palestinians through the checkpoint may occur.

As for the second facet of the petition, related to the statements made by the departing commander of the *Bikaa* Brigade in respect of the background to the prevention of the

entry of Palestinians through the checkpoint, an extensive enquiry into the matter was held within the framework of a hearing led by the head of the command, and with the participation of others.

In the framework of this enquiry it was clarified to the departing brigade commander that his statements, from which it arose that there were, ostensibly, non-security considerations in the operation of the checkpoint, were untrue and improper, and in fact the establishment and operation of the checkpoint are rooted entirely in security considerations. This army policy was also clarified in informational activities and briefings to the soldiers. The message was relayed and emphasized also upon the new brigade commander's assumption of office.

Under these circumstances, the army did not take further measures against the departing brigade commander. We see no room to intervene in the way the army handled this facet of the petition.

The petition is denied.

Issued today, 23 Kislev 5770 (10 December 2009).

Judge

Judge

Judge