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At the Supreme Court
Sitting as the High Court of Justice

HCJ 6475/07
before Honorable Justices Vogelman, Grunis, Hayut

In the matter of:

Ms. _____ Abu a-Laban et al.
represented by counsel, Adv. Abeer Jubran, and/or
Yossi Wolfson et al.
of HaMoked: Center for the Defence of the Individual,
founded by Dr. Lotte Salzberger
4 Abu Obeida St., Jerusalem, 97200
Tel: 02-6283555; Fax: 02-6276317

The Petitioners

v.

OC Southern Command et al.

The Respondents

Notice on behalf of the Petitioners and Motion to Amend Judgment

The Petitioners hereby respectfully notify the Honorable Court that two days after judgment was rendered, wherein the petition was dismissed without a hearing, the Petitioner received full remedy from the Respondents.

The Petitioners request that the judgment be amended to reflect this fact.

The developments in the case:

1. The petition herein concerned the Petitioner's travel from the Gaza Strip to Egypt via Erez Crossing and Allenby Bridge Border Crossing. The Petitioner is a physician by trade and is studying for a Master's degree in obstetrics and gynecology in Egypt. She needed to travel to Egypt to resume her studies and take the exam for membership in the British Royal College of Obstetricians and Gynaecologists, held in Egypt.

2. The Respondents were requested to respond to the petition by July 29, 2007. HaMoked received the Respondents' response at 5:10 PM, on July 29, 2007. According to the Court website, the Respondents' response was received by the Court on July 30, 2007.
3. In their response, the Respondents opposed the petition.
4. On the same day, the Honorable Court rendered a detailed judgment dismissing the petition.
5. The judgment was rendered without scheduling a hearing on the matter and without allowing the Petitioners to respond in writing to the State's arguments. Rendering a judgment in this manner is an exceptional measure, reserved for cases in which "the petition shows no *prima facie* cause" (Regulation 5 of the High Court of Justice Rules of Procedure, 5744-1984). It is generally taken in the rare cases of vexatious petitions devoid of any basis. There is no precedence for such a measure with respect to petitions HaMoked has been filing with this Honorable Court for many years. With due humility, we believe HaMoked has proven that it is quite familiar with the terrain, what is possible and what is impossible, and does not petition without discretion. This case also shows that the petition was not unrealistic and, as a matter of fact, the sought remedy was indeed granted shortly after judgment was rendered.
6. The Petitioners' request, on consent, to respond to the response submitted by the Respondents, was apparently received by the Court only after the judgment was signed.

In the response - which was not in front of the Court at the time of rendering judgment - the Petitioners pointed to contradictions in the State's response and, particularly noted that "Describing a situation wherein the crossing is opened only from time to time, in an improvised manner, under fire and at risk to life is a misrepresentation which may have been correct in the early days of the incidents."

7. The petition was rejected because the Honorable Court believed that Petitioner's passage through the Erez crossing involved risking the lives of soldiers and civilians. The judgment was rendered based on the factual picture presented to the Court by the Respondents, whereby Erez Crossing was closed, any opening thereof involved risking the lives of soldiers and civilians and passage was possible only in special cases.

However, at the end of the judgment, the Honorable Court expressed its wish that:

[A]s times change, the security situation will change in a manner that allows the Petitioner to realize her desire to travel to Egypt.

8. It appears that the Court's wish came to pass sooner than expected:

On August 1, 2007, two days after the judgment was rendered, and with no further correspondence being required, the Respondents approved Petitioner's travel from Gaza to Egypt via Erez and Allenby Bridge.

The approval letter is attached hereto and marked **P/12**.

9. **On August 2, 2007, the Petitioner crossed Erez, traveled to Allenby Bridge and crossed it on her way to Egypt.**
10. As an aside, we shall note that the permit granted to the Petitioner was not issued in error. According to the daily figures published by the State on the army's website, in the week that preceded the judgment (22-28 July, 2007) some **599** individuals crossed Erez. During the week on

which the judgment was rendered (29 July - 1 August, 2007), at least **1747** individuals crossed Erez, **671** of them did so on the day the judgment was published.

The relevant pages from the daily reports of the Office of the Coordinator of Government Activities in the Territories are attached hereto and marked **P/13a-h**.

The Grounds for the Motion

11. The Petitioners request that the judgment reflect the fact that the Petitioner's request to travel to Egypt via Erez Crossing and Allenby Bridge was approved two days after the judgment was rendered.
12. **First and foremost, this is a material and significant fact, without which the judgment is incomplete, provides only "half the picture" and may even be misleading.**
13. Making the addition to the judgment as sought is essential:
 - a. It is essential for completing the factual picture;
 - b. It is essential for the public reading this judgment, who would not fathom that the picture portrayed in the judgment changed so quickly after it was rendered;
 - c. It is particularly essential considering the Respondents' declaration, quoted at the end of the third paragraph of the judgment, that "The Respondents also stress that if they allowed the Petitioner to exit, contrary to current policy, the principle of equality would compel them to do the same for many others."
14. In all the above matters, the reason for the approval of the Petitioner's request: whether it was a sudden change in circumstances that occurred after the judgment was rendered; a change in the Respondents' position; the fact that the response the Respondents submitted to the Court did not accurately reflect their position or the factual situation, or any other reason, is entirely immaterial.
15. The Petitioners believe that the speedy process by which judgment was rendered adds validity to their motion. In these circumstances, and considering that the motion concerns noting a fact that occurred immediately after the judgment was rendered, and before it was provided to the parties, adding it will not prejudice the principle of the finality of judgments. It will increase the accuracy of the judgment and ensure that it reflects the entire picture.

August 6, 2007

Yossi Wolfson, Adv.
Counsel for the Petitioners

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