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At the Supreme Court
Sitting as the High Court of Justice

HCJ 4048/13
Scheduled for a hearing: May 21, 2014

In the matter of:

1. _____ **Arshid**
2. _____ **Handi**
3. _____ **Salameh**
4. _____ **Makhemar**
5. _____ **Dudin**
6. _____ **Bani 'Odeh**
7. _____ **Habel**
8. _____ **Zalum**
9. **HaMoked: Center for the Defence of the Individual,
founded by Dr. Lotte Salzberger - RA**

all represented by counsel, Adv. Daniel Shenhar et al.
4 Abu Obeida St., Jerusalem, 97200
Tel: 02-6283555; Fax: 02-6276317

The Petitioners

v.

Military Commander of the West Bank Area
represented by the State Attorney's Office,
Ministry of Justice, Jerusalem
Tel: 02-6466787; Fax: 02-6467011

The Respondent

Respondent's Response

In preparation for the hearing which is scheduled for tomorrow – May 21, 2014 – and according to the application which was filed, this notice is filed on respondent's behalf.

1. The petition concerns petitioners' request that the honorable court orders the respondent to appear and show cause why "he should not cancel the limitation imposed on the number of entry permits into Israel which petitioners [...] are allowed to receive for the purpose of visiting their loved ones,

who are incarcerated in Israel; Why he should not cancel the sweeping limitation imposed by him on the number of permits which the sons and brothers of Palestinian prisoners may receive for the purpose of entering Israel to visit them."

2. In the context of respondent's response to this petition it was argued, *inter alia*, that "respondent's policy concerning the arrangement of visits by family members of prisoners who serve their sentences in Israel, in general, including the ostensible "limitation" imposed on male family members in the ages of 16-34, which stands in the center of the petition, was examined by staff work which began before the petition was filed, and which has recently been concluded. Upon its conclusion, the staff work was presented – just recently – before the Minister of Defence and the Coordinator of Government Activities in the Territories. [...] considering the current political-security circumstances, the Minister of Defence decided that in view of the current timing, a decision in the issue being the subject matter of the staff work could not be made, and that said issue should be revisited within the next few month."
3. The State Attorney's Office has been now advised, that the Minister of Defence had reconsidered this issue and ordered that the conclusions of the staff work should be adopted – by giving effect to the draft procedure entitled "The grant of entry permits into Israel for the purpose of visiting a prisoner" (hereinafter: the **procedure**) – which renders the above petition redundant, as will be shortly specified below.

A copy of the draft procedure is attached and marked **R/1**.

4. As aforesaid, the above referenced staff work which was conducted with the participation of the relevant agencies – and which began before the petition was filed – examined the policy concerning the visits by Palestinian family members of prisoners who serve their sentences in Israel, including the issue which arises within the contest of this petition – the number of permits which the respondent enables to issue to immediate male family members of the age group 16-35.
5. Upon the termination of the staff work, the respondent established a draft procedure which entrenches his current policy. In essence, the draft procedure establishes the current procedure, according to which, applications for entry permits for the purpose of making prison visits are initially submitted to the International Committee of the Red Cross, which transfers them to the military officials, as is customarily done these days in this matter. With respect to all applications, the satisfaction of the required kinship and the existence of security preclusion will be examined. Thereafter, the application will be handled according to the stages which were specified in the part entitled "Examination of Application" (section 5B of the procedure). Once the required examination is concluded the response of the military agencies (the approval or the denial of the application and the grounds therefore) will be transferred to the Red Cross organization, which transfers it directly to the permit applicant. According to the procedure "a decision in an application will be delivered to the Red Cross organization not later than within two months and-a-half from the date of its receipt at the permits' center. To the extent any delays occur in the process, adequate notice will be given to the Red Cross." (see for instance section 5B(8) of the procedure).
6. With respect to the matter at hand, the procedure provides in section 4B as follows:

"As a general rule, a multiple entry permit, valid for one year, will be issued to a resident of the Judea and Samaria Area having an immediate kinship to an incarcerated person in the facilities of the civil administration. Notwithstanding the above, a single entry permit, valid for 45 days, will be issued to the following groups of residents, according the rules specified in this procedure:

- 1) A security precluded who obtained an approval to receive a permit following an individual examination.
 - 2) **A brother or son of a prisoner between the ages of 16 to 35.**
7. Thereafter, section 5C(6) of the procedure provides with respect to the "groups of residents" specified in sub-sections 1-2 quoted above, as follows:
- "A person holding a single entry permit, valid for a period of 45 days, who wishes to re-visit the prisoner, can submit a new application, according to this procedure, immediately after the permit in his possession was used or upon the expiration of the permit's term.**
8. According to all of the above, **as soon as the procedure enters into effect, the number of permit applications which may be submitted by the members of the above age group, whose matter is discussed in this petition, shall no longer be limited.**
9. As specified above, the Minister of Defence adopted the conclusions of the staff work and found that an order may be issued according to which the procedures will enter into effect. In this context is should only be noted that in order to enable the relevant agencies of the Coordinator of Government Activities in the Territories to make the required preparations, the procedure is expected to be published and enter into force within ten days – on June 1, 2014.
10. Under these circumstances, as it seems that the main arguments of the petitioners have no longer any merit in view of the adoption of the conclusions of the staff work, respondent's position is that the petition became redundant, and should be dismissed.

Toady, 20 Iyar 5774
May 20, 2014

(signed)

Avishai Kraus, Advocate
Assistant to State Attorney