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At the Supreme Court
Sitting as the High Court of Justice

HCJ 86/11

1. _____ Shalaldeh
2. **HaMoked: Center for the Defence of the Individual**
represented by counsel, Att. Ido Blum et al.
4 Abu Obeida St., Jerusalem, 97200
Tel: 02-6283555; Fax: 02-6276317

The Petitioners

v.

1. **Military Commander of the West Bank**
2. **Head of the Civil Administration**
3. **State of Israel**
represented the State Attorney's Office
Ministry of Justice Jerusalem
Tel: 02-6466590; Fax: 02-6467011

The Respondents

Preliminary Response on behalf of the Respondents

In accordance to the motion for a stay submitted in conjunction with this response, the respondents hereby respectfully submit their preliminary response to the petition:

1. This petition concerns the petitioners' demand to allow residents of the Judea and Samaria Area to fill out application forms in Arabic and submit them to the respondents in Arabic. The petitioners also seek to have the respondent process an objection filed by petitioner 1, despite having been filed in Arabic.
2. **The respondents' position, in a nutshell, is that the petition must be dismissed out of hand as the main remedy sought therein is already granted by the respondents. The petition originates in an error whereby the petitioners were presented with incorrect positions which do not reflect the respondents' policy. The respondents' policy has been and still is to process any request by a resident of the Judea and Samaria Area whether written in Hebrew or Arabic. A response to that effect was sent to counsel for the petitioners before this petition was submitted.**

The factual infrastructure

3. On October 25, 2010, the petitioners contacted the head of the Hebron DCO complaining that the petitioner's application had not been processed because it was written in **Arabic** (the petitioners' letter is attached as Exhibit P/4 to their petition).
4. On December 2, 2010, the head of the civil administration replied to counsel for the petitioners that the matter was being pursued vis-à-vis the Hebron DCO. The inquiry revealed that the petitioner had been requested to fill out her application in Hebrew in view of security officials' policy.

It was further relayed that the petitioner's application which had been initially submitted in Arabic was transferred to security officials despite this policy, but the latter replied that the application must be written in Hebrew in order to be processed.

It was also relayed that the resident submitted an additional application on November 3, 2010, in Hebrew and that it was refused on its merits on November 7, 2010 and that this response was provided to the petitioner.

(The letter to the respondents was attached as Exhibit P/6 to the petition).

It should be noted, at this early stage, that the letter of response to the petitioners dated December 2, 2010, does not reflect the respondents' policy with respect to the language in which applications are submitted or the position of security officials on this issue. It also does not reflect – in any way – the situation on the ground. This was an isolated error by the Hebron DCO vis-à-vis security officials which was later addressed and corrected, as detailed below.

5. As stated in the petition, the petitioners sent another letter dated December 12, 2010 in which they took issue with the alleged policy of security officials which requires submission of applications in Hebrew only (the petitioners' letter was attached as Exhibit P/8 to the petition. Another letter dated December 28, 2010 was attached as Exhibit P/9 to the petition).
6. **In the letter of response dated December 29, 2010, the respondents clarified to counsel for the petitioners that “residents of the Judea and Samaria Area may freely fill out their applications in Arabic or Hebrew, according to their wishes and abilities. All applications will be properly processed in conformity with the civil administration's procedures.”** To the best knowledge of the respondents, this letter was transmitted to counsel for the petitioners by fax on the same day (yet, they do not have an acknowledgment of receipt to that effect).

R/1 A copy of the letter to counsel for the petitioners dated December 29, 2010 is attached and marked **R/1**.

7. On January 4, 2011, the petition at bar was filed.

The respondents' position

8. The DCO representative's response to the petitioners dated December 2, 2010 according to which security officials do not process applications filed in Arabic originated in an isolated error.
9. As stated above, **the respondents' aforesaid policy was clarified to the petitioners in a letter dated December 29, 2010.**
10. Moreover, **in order to ensure that the respondents' policy is implemented, the head of the civil administration, via the branch head of the operations division, instructed all DCO officials in the various districts that residents of the Judea and Samaria Area are to be allowed to file their**

applications in Hebrew, Arabic or English. It was further made clear that residents are not to be compelled to file applications in Hebrew or use the services of typists in order to file applications in Hebrew. Inasmuch as a diagnostic by security officials is required, DCO officials were ordered to briefly translate residents' applications into Hebrew and work with the security official inasmuch as clarifications or additional translation is required.

11. It must be noted that the petition itself indicates that the response of the DCO officials of December 2, 2010 did not reflect the practice in effect (see, on this issue, sections 10-13 of the petition).
12. With respect to the individual matter of petitioner 1, indeed, as counsel for the petitioners was notified on December 2, 2010, her application was reviewed and rejected on November 7, 2010 on its merits **and not due to the language in which it was written.**
13. Therefore, the honorable court is requested to dismiss the petition out of hand as the relief sought therein is already implemented without recourse to the intervention of this honorable court.
14. Finally, the respondents will argue that **no legal costs should be ruled against them in this petition,** despite its becoming redundant.

As indicated by the petition, the petitioners' communication of December 12, 2010 was processed immediately, but the petitioners did not wait 45 days from writing their letter to the respondents (December 12, 2010) and filing this petition (January 4, 2011). In evidence – this letter was addressed, the respondents responded to counsel for the petitioners in a letter dated December 29, 2010 and a clarifying directive was also issued to the DCOs – **all prior to submission of the petition.** In fact, there was no real need to take legal action in order to obtain the relief sought in the petition and it became redundant even before it was filed.

Today: 4 Adar A, 5771
8 February 2011

[signed]
Sharon Rotshenker
Senior Deputy A to the State Attorney