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At the Supreme Court Sitting as a Court of Appeals in Administrative Affairs

AAA 170/12

Before: The Honorable President A. Grunis
 The Honorable Justice H. Melcer
 The Honorable Justice D. Barak-Erez

The Appellants: 1. Khadri
 2. Khadri
 3. Khadri
 4. Khadri
 5. Khadri
 6. HaMoked: Center for the Defence of the Individual

v.

The Respondents: 1. The Minister of Interior
 2. Head of the Population Administration
 3. Director of the Population Administration Bureau
 4. Israel Prison Service

Appeal from the judgment of the Jerusalem District Court sitting as a Court for Administrative Affairs dated November 27, 2011 in AP 7112-10-11 rendered by the Honorable Judge Dr. Y. Marzel

Date of Hearing: 16 Sivan 5772 (June 6, 2012)

For the Appellants: Adv. Noa Diamond; Adv. Ido Blum; Adv. Benjamin Agsteribbe

For the Respondents: Adv. Hila Gorni

Judgment

President A. Grunis:

1. The Court for Administrative Affairs in Jerusalem rejected appellants' petition the purpose of which was to enable the entry of appellant 2 (hereinafter – the **appellant**) to Israel from the Gaza Strip.
2. The appellant was removed to the Gaza Strip by the Israel Prison Service after having served a prison sentence. The appellant is married to a permanent resident of Israel. According to the records, the appellant is a resident of the Gaza Strip.
3. The main argument which was raised before us was that the authorities failed to comply with a certain procedure established by the Ministry of Interior pursuant to which an applicant shall not be removed from Israel while a family unification application is pending. In this case a family unification application was indeed pending. It is evident that in this regard the authorities did not comply with the procedure. However, under the circumstances of this case we do not think that an order for the return of the appellant to Israel so that the proceedings in his case may continue while he is present in Israel should be granted. It seems that it is needless to say that the authorities must make sure they follow the procedure that they have themselves established.
4. There is nothing to prevent the various proceedings concerning the family unification application from continuing while the appellant is in the Gaza Strip. It should be noted, that we were informed today that the professional committee, acting in accordance with section 3A1 of the Nationality and Entry into Israel Law (Temporary Order), 5763-2003, has decided to deny appellant's application. The matter is now pending before the Minister of Interior. If the Minister of Interior denies the application, the matter may be referred to the appellate committee and thereafter, if necessary, to the court.

5. In summary, the appeal should be denied and so we hold. Certainly, the appellants have the right to continue with the administrative and judicial proceedings established by law. No costs order is granted.

Granted today, 16 Sivan 5772 (June 6, 2012), in the presence of parties' legal counsel.

President

Justice

Justice