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At the Supreme Court Sitting as the High Court of Justice

HCJ 1912/12

Before: Honorable Justice E. Arbel
Honorable Justice N. Hendel
Honorable Justice N. Solberg

The Petitioners: 1. Akra
2. HaMoked: Center for the Defence of the Individual, founded by Dr. Lotte Salzberger

v.

The Respondents: 1. Military Commander of the West Bank
2. Coordinator of Government Activities in the Territories

Petition for *Order Nisi*

Date of Hearing: 16 Sivan 5772 (June 6, 2012)
For the Petitioners: Adv. N. Avigal, Adv. T. Yehuda
For the Respondents: Adv. A. Epstein

Judgment

Petitioner 1 (hereinafter: the **petitioner**), a resident of the Judea and Samaria Area (hereinafter: the **Area**) seeks permission to travel from the Area to the Gaza Strip

through the State of Israel, to visit his brother, who, as argued, had suffered a heart attack recently and undergone heart surgery. The petitioner stated that he and his brother had not seen each other for seven years and that he now wished to support and take care of his ailing brother. The petitioner argued that he should be allowed to make the requested visit by virtue of his rights to family life and freedom of movement.

The respondents argue that the petition should be rejected in the absence of cause to interfere with the decision of the military commander. The military commander decided to disallow petitioner's entry to the Gaza Strip in view of respondents' policy to limit passage from the Area to the Gaza Strip to exceptional humanitarian cases with an emphasis on urgent medical cases. The medical records indicate that petitioner's brother underwent cardiac catheterization last January and that at present he is in good health. Therefore, it was decided to deny the application as it failed to meet the established criteria of "life threatening" conditions and need for immediate care.

We did not find cause to interfere with the decision of the military commander. Respondents' response indicates that the prevailing policy, which stems from the current security-political situation, is to separate between the areas. According to this policy, passage from the Area to the Gaza Strip will be allowed only in exceptional cases involving a humanitarian need. It should be noted that this court has examined this policy in the past and found no justification to interfere therewith. In the present case, no such need arose for now. This is neither a life threatening illness nor an illness which requires lengthy hospitalization, as required under the above referenced policy. Therefore, there are no grounds for our interference in said decision.

The petition is therefore rejected. Evidently, if and to the extent that the circumstances change, the petitioner may submit a new application which will be examined by the competent authorities in accordance with prevailing policy.

Rendered today, 16 Sivan 5772 (June 6, 2012)

Justice

Justice

Justice