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At the Supreme Court in Jerusalem
Sitting as the High Court of Justice

HC Mot. 566/91
(HCJ 5168/90)

Before The Honorable Justice D. Levin

The Applicant: **A.F. Qarish**

v.

The Respondent: **Commander of IDF Forces in the West Bank**

Application for disclosure of confidential evidence in accordance with
Section 44 of the Evidence Ordinance (New Version), 5731 – 1971

Date of hearing: 25 February 1991

On behalf of the Applicant: Attorney A. Rosenthal

On behalf of the Respondent: Attorney Gnessin

Decision

1. This is a motion for disclosure of classified evidence pursuant to Section 44 of the Evidence Ordinance (New Version), 5731 – 1971.
2. The matter involves a petition filed by the Petitioner for an order nisi and absolute order directing the Respondent to allow her to exit Israel for Jordan (Amman) for medical treatment that she needs.
3. The Respondent has the power to permit or deny such a request. He based his refusal in the present case, inter alia, on the fact that he has classified evidence, pursuant to a certificate of classified material, signed by the Minister of Defence, which contains information indicating that when the Petitioner leaves the region,

she assists her husband in his hostile terrorist activity, and that she is liable to impair the security of the region and the state and the safety of IDF forces.

The Petitioner's husband has been in administrative detention since 25 November 1990. His detention order provides that he will be held for six months.

The motion before me requests that I study the classified evidence and decide whether it should be disclosed, all or in part, in one manner or another.

4. Counsel for the Petitioner noted that the Petitioner is a veteran teacher and, until February 1990, was not prevented from leaving the country. Among the places she visited, pursuant to more than one permit, was Amman in order to allow her to receive medical treatment for her back problems, for which she may require an operation. If she receives the medical treatment, including the operation, in Amman, her expenses will be covered by her health insurance in Jordan; if she has to undergo the medical treatment and operation in the region, her expenses may be substantial. If the reason for the evidence remaining classified is that she assists her husband in his activity, this concern is minimal, if not completely negated, as long as her husband is in administrative detention.
5. I studied the classified evidence, and the legal advisor of the security service and Attorney Gensin, counsel for the state, explained the evidence and the reasons that it is classified. I have reached the following conclusions:
 - 1st. The material, which is not extensive, should not be disclosed in its entirety, for the reason that disclosure of the evidence can expose an important security source and is thus liable to cause grave harm to the security of the region.
 - 2nd. It is also not possible to disclose the entire contents of the information stated therein, because it is clear that disclosure of the information as written is certainly liable to expose the source.
 - 3rd. Study of the information, and the information only, indicates that the primary contents and substance of the material shows that on the occasions that the Petitioner left the region, more than once she served as a contact between her husband, whom the Respondent believes is a senior Fatah activist in Nablus, and members of that organization who are located in Amman.

- 4th. This is what one may disclose from this information (which as regards the conclusions to be drawn from it, described by me, is less the information stated in the state's response), and nothing more should be disclosed.

Given today, 25 February 1991

[signed]

Justice