



\$~120

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 8600/2025**

JAMILA SALEHI & ORS.

.....Petitioners

Through: Ms. Shazia Kidwai, Mr. Zahid Hanief, Advs.

versus

UNION OF INDIA

.....Respondent

Through: Mr. Siddhartha Shankar Ray (CGSC) along with Mr. Vedansh Anand, Ms. Laavanya Kaushik (GP), Ms. Smritika Kesri, Ms. Khyaani Bansal, Advs.

CORAM:

HON'BLE MR. JUSTICE SACHIN DATTA

ORDER

% **13.08.2025**

CM APPL.39989/2025 (u/O 1 R 10)

1. This is an application seeking impleadment of Ministry of External Affairs as respondent in the present proceedings.
2. Considering the averments made in the application, the same is allowed. Accordingly, the Ministry of External Affairs is impleaded as respondent no.2 in the present proceedings.

W.P.(C) 8600/2025

3. The present petition has been filed by the petitioners seeking, *inter alia*, the following prayers:

“a. issue the Writ of Mandamus or appropriate writ, order whereby respondent be directed to provide necessary assistance to the petitioners in processing visa application for getting Refugee and Humanitarian (CLASS XB) Australian visa, pending before Australian Embassy, without insisting for custody order or consent letter from the husband of the petitioner no.1



b. issue order/direction that the petitioner no. 2 and petitioner no.3 be allowed to travel abroad without the consent letter from the husband of petitioner no.1”

4. The factual background, as canvassed by the petitioner is that petitioner no.1 is a national of Afghanistan who entered India on 09.01.2020 along with her husband and minor daughter/ petitioner no.2, fleeing persecution in her home country. On 22.01.2020, petitioner no.1 approached the United Nations High Commissioner for Refugees (UNHCR), India, and petitioner no.1 and her husband were issued an asylum seeker certificate bearing case no. 513-20C00226. Petitioner no.3 was born in India on 31.03.2020 and was subsequently conferred refugee status under the mandate of UNHCR-India. The refugee card issued to petitioner no.1 on 25.01.2023, upon renewal is valid from 28.01.2025 to 27.01.2028.

5. It is submitted that the husband of petitioner no.1 returned to Afghanistan in July 2021 to fulfil official obligations and has been missing since September 2021, following the change in government in Afghanistan. Petitioner No.1 has since been the sole caregiver and guardian of petitioner nos. 2 and 3.

6. Petitioner no.1 has applied for a Refugee and Humanitarian (Class XB) visa under the Special Humanitarian Program of the Australian Government, Department of Home Affairs, dated 15.04.2023, which was duly acknowledged and assigned Application ID no. 1100665057.

7. It is further submitted that petitioner no.1 was informed via UNHCR that she must furnish either a consent letter from the biological father or a custody/guardianship order affirming her status as sole guardian of the minor children/petitioner nos.2 and 3. Given the circumstances of the



disappearance of the petitioner no.1's husband and lack of contact, petitioner no.1 is unable to procure such documentation.

8. Learned counsel for the petitioners has relied upon the judgment of the Rajasthan High Court in ***Nilika Assinen & Ors. v. Union of India*** [W.P.(C) 17293/2021] wherein the Court held that in circumstances where the mother is the sole guardian, the insistence on a consent letter is unwarranted. The Court further relied upon the precedent laid down by the Supreme Court in ***ABC v. State (NCT of Delhi)***, AIR 2015 SC 2569 and held as under :

“9. This Court observes that the given factual matrix of the case clearly reveals that the petitioner No. 1 is the sole guardian (mother) of the minor daughter (petitioner No. 2) and thus, in the opinion of this Court, the consent of the biological father, as demanded by the Embassy of Finland, at New Delhi, is not at all warranted, more particularly, in light of the precedent law laid down by the Hon'ble Supreme Court in the case of ABC Vs. State (NCT of Delhi) (supra).

10. In view of the above and in light of the precedent law laid down by the Hon'ble Supreme Court in the case of ABC Vs. State (NCT of Delhi) (supra), the present petition is disposed of with a direction to the respondent-Union of India to provide every possible assistance to the petitioners, who as per the averments made in the petition, are valid Indian Passport holders, so as to facilitate their travel to Finland, and in case they would be able to visit Finland, it shall be ensured that no objection in regard to absence of consent of biological father would be raised during such visit. Such an exercise shall be undertaken, while also keeping in view the fact that during earlier visits of the petitioners to Finland, as informed by learned counsel for the petitioners, no objection regarding non-furnishing of the biological father's consent was



raised. All pending applications also stand disposed.”

9. In line with the directions in the aforesaid judgment, the present petition is disposed of with the direction to the respondent authorities to extend assistance to the petitioners (who are presently residing in New Delhi and are registered refugees under UNHCR-India bearing Case No. 513-20C00226) for the purpose of documentation / processing and facilitation of the Refugee and Humanitarian (Class XB) visa application preferred by the petitioner.

10. The petition is disposed of in above terms. All pending applications also stand disposed of.

SACHIN DATTA, J

AUGUST 13, 2025/ss