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

+ **W.P.(CRL) 2496/2024**

M.A. BURNEY

.....Petitioner

Through: Appearance not given.

versus

UNION OF INDIA AND ORS

.....Respondents

Through: Mr. Rahul Tyagi, ASC for State
Ms. Manisha Agrawal Narain , CGSC
Mr Arnav Mittal , GP and Mr Nipun
Jain, Advocates.
M Hasibuddin, Advocate for private
respondent.

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDR KUMAR KAURAV

ORDER

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22.07.2026

1. The instant petition is for the following reliefs:-

“a) Issue a writ, order or direction in the nature of mandamus, thereby directing the respondents to deport illegal migrants to their respective countries, who are mostly from Bangladesh, Rohingyas, and other countries, and who are illegally living at the bank of the Yamuna River near Kalindi Kunj, Batla House, Shaheen Bagh, Shram Vihar, Taimur Nagar and Majnu Ka Tila. It is further submitted that they are also involved in illegal activities and crimes, which is a direct threat to the sovereignty of the country, and to take necessary legal action against those local residents who are providing shelter to the aforesaid illegal migrants, like respondent Nos. 3 to 6, and to provide police protection to the petitioner.

b) pass any other further order(s) which this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case.



2. It has been placed on record that no formal complaint regarding the presence of illegal migrants was ever lodged by the petitioner PS Sarita Vihar. It has further been submitted that a local inquiry was conducted by the police, during which no instance of illegal migrants residing in the concerned area came to light. It is also stated that petitioner has not furnished any list or particulars of persons allegedly suspected to be illegal immigrants, thereby rendering it impossible for the authorities to undertake any verification in that regard. In addition to this respondents in their status report, have taken the position that the petitioner has filed various petitions, which are found to be without any substance and have been dismissed, which includes the following:

S No.	Diary No./Case No.	Case Title
1	CONT. CAS (C) 1637/2023 [DISPOSED OFF]	M.A. BURNEY Vs. UNION OF INDIA AND ORS
2	CONT.CAS(C) 1465/2023 [DISPOSED OFF]	M.A. BURNEY Vs. GYANESH BHARTI AND ORS.
3	W.P.(C) 14918/2023 [DISPOSED OFF]	M.A. BURNEY Vs. SPECIAL TASKFORCE THROUGH SECRETARY AND ANR
4	W.P.(C) 756/2023 [DISPOSED OFF]	M.A. BURNEY Vs. STATE NCT OF DELHI AND ANR.
5	CONT. CAS (C) 170/2022 [DISPOSED OFF]	AMAN NEWS THROUGH M.A. BURNEY Vs. SDMC AND ANR.
6	W.P.(C) 4714/2021 [DISPOSED OFF]	M.A. BURNEY Vs. STATE NCT OF DELHI AND ANR.

3. Additionally, as recorded in paragraph 6, the petitioner has long criminal antecedents which includes the following:



S. No.	District	Police Station	FIR No./Year	Under Sections	Status
1	South East	Sarita Vihar	0355/2007	420/467/468/471 IPC	--
2	South East	Sarita Vihar	0009/2012	186/353/332/506/356/34 IPC	--
3	South East	Sarita Vihar	0250/2012	323/342/34 IPC	--
4	South East	Sarita Vihar	0063/2012	466A DMC Act	--
5	South East	Sarita Vihar	0157/2014	365/323/34 IPC	--
6	South East	Sarita Vihar	0011/2021	376/328/506/376D/34 IPC	--
7	South East	Hazrat Nizamuddin	0148/2021	354C/384/376/34 IPC	--

4. The Supreme Court in ***Mohammad Ismail v. Union of India***¹, while dealing with petition related to the deportation of illegal Rohingyas from India observed that it difficult to be persuaded by allegations which are not supported by any prima facie material on record. Mere vague, evasive, and sweeping averments, bereft of supporting material, cannot constitute a valid basis for the grant of relief. Unless the allegations are substantiated by cogent prima facie evidence, this Court cannot undertake a roving enquiry into the matter.

5. The Calcutta High Court in ***Bhodu Sekh vs Union Of India & Ors.***², on 26 September, 2025 while hearing the similar petition related to the deportation of the illegal Rohingyas from the State observed that,

“33. The question of citizenship should be considered based on further documents and evidence before an appropriate Court. In the limited scope of the writ petition, though the Aadhaar Card, PAN Card and Voter ID Card were part of the writ petition, however, as none of

¹2025 SCC OnLine SC 2938

²WPA (H) 50 of 2025 dated 26.09. 2025



these aforementioned documents are proof of citizenship and proof of identity, it may not be sufficient to decide the issue of citizenship finally. Having said this it cannot be denied that the memo of 02.05.2025 applies only to Bangladeshi and Rohingya Muslims from Myanmar; thus, if we take the worst-case scenario of the detainees, that they were not Indian citizens, the steps and procedures laid down in the memo ought to have been followed by the concerned authorities. Not following such procedure and acting in haste to deport them is a clear violation which renders the deportation order bad in law and liable to be set aside. The process and procedure adopted in the deportation raise a suspicion that the concerned authorities, while acting in haste, have clearly violated the provisions of the memo dated 02.05.2025.”

6. Further, in ***Qadir Ahmed v. State (NCT of Delhi) & Anr.***,³ it was held that deportation of a foreign national falls within the exclusive domain of the executive and the scope of judicial review in such matters is necessarily limited. The Court observed that identification of a foreign national and the consequential decision regarding deportation are matters to be undertaken by the competent authorities in accordance with the statutory framework governing foreigners, and judicial review is confined to ensuring that such action is carried out in accordance with law and fair procedure. It was further held that the Court cannot create or recognise a right where none exists under law.

7. The reliefs in the instant case are founded on sweeping and omnibus allegations that illegal migrants are residing at various locations across Delhi and are involved in criminal activities. However, the petitioner has neither disclosed the identity of any such alleged illegal migrant nor furnished any credible or *prima facie* material to substantiate the allegations. The status report filed by the respondents further reveals that enquiries were conducted by the concerned police authorities and no material could be found to

³W.P.(CrI.) 3128/2025, decided on 24.09.2025



corroborate the petitioner's assertions. In the absence of any specific factual foundation, this Court cannot issue a writ of mandamus to the concerned authorities.

8. In light of the aforementioned, this Court is of the opinion that no omnibus direction can be issued requiring the respondents to identify and deport alleged illegal migrants on the basis of vague and unsubstantiated allegations, as such a course would amount to directing a fishing and roving enquiry, which is beyond the permissible scope of writ jurisdiction.

9. Accordingly, the writ petition is found to be bereft of any merit and is dismissed. Pending application(s), if any, also stand disposed of.

PURUSHAINDR KUMAR KAURAV, J

JULY 22, 2026

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