



2026:DHC:6506-DB



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

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Order Reserved on: 10.08.2026

Order Delivered on: 11.08.2026

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CNR No. DLHC010974952024

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LPA 1239/2024

KHALID JAHANGIR QAZI THROUGH HIS POWER OF
ATTORNEY HOLDER MS FARIDA SIDDIQIAppellant

Through: Mr. Parag P. Tripathi, Senior
Advocate with Ms. Sanam Tripathi,
Ms. Anjali Kaushik, Mr. Apaan
Mittal, Mr. Aparjito Sen, Advocates.

versus

UNION OF INDIA THROUGH SECRETARY MINISTRY OF
HOME AFFAIRS & ANR.Respondents

Through: Mr. Chetan Sharma, ASG and Mr.
Apoorv Kurup, Senior Advocate with
Mr. Farman Ali, CGSC, Ms. Usha
Jamnal, Mr. Sahil Sharma, Mr. Gurjas
Narula, Ms. Tanya and Mr. Amit
Gupta, Advocates.

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CNR No. DLHC010974992024

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LPA 1243/2024

KHALID JAHANGIR QAZI THROUGH HIS POWER OF
ATTORNEY HOLDER MS FARIDA SIDDIQIAppellant

Through: Mr. Parag P. Tripathi, Senior
Advocate with Ms. Sanam Tripathi,
Ms. Anjali Kaushik, Mr. Apaan
Mittal, Mr. Aparjito Sen, Advocates.

versus

UNION OF INDIA THROUGH SECRETARY MINISTRY OF
HOME AFFAIRS & ORS.Respondents

Through: Mr. Chetan Sharma, ASG and Mr.



Apoorv Kurup, Senior Advocate with Mr. Farman Ali, CGSC, Ms. Usha Jamnal, Mr. Sahil Sharma, Mr. Gurjas Narula, Ms. Tanya and Mr. Amit Gupta, Advocates.

CNR No. DLHC010975012024
+ **LPA 1245/2024 & CM APPL. 76034/2024**
UNION OF INDIA & ANR.

.....Appellants

Through: Mr. Chetan Sharma, ASG and Mr. Apoorv Kurup, Senior Advocate with Mr. Farman Ali, CGSC, Ms. Usha Jamnal, Mr. Sahil Sharma, Mr. Gurjas Narula, Ms. Tanya and Mr. Amit Gupta, Advocates.

versus

KHALID JAHANGIR QAZI THROUGH HIS POWER OF ATTORNEY HOLDER MS. FARIDA SIDDIQIRespondent
Through: Mr. Parag P. Tripathi, Senior Advocate with Ms. Sanam Tripathi, Ms. Anjali Kaushik, Mr. Apaan Mittal, Mr. Aparjito Sen, Advocates.

CNR No. DLHC010975022024
+ **LPA 1246/2024 & CM APPL. 76040/2024**
UNION OF INDIA & ORS.

.....Appellants

Through: Mr. Chetan Sharma, ASG and Mr. Apoorv Kurup, Senior Advocate with Mr. Farman Ali, CGSC, Ms. Usha Jamnal, Mr. Sahil Sharma, Mr. Gurjas Narula, Ms. Tanya and Mr. Amit Gupta, Advocates.

versus

KHALID JAHANGIR QAZI THROUGH HIS POWER OF ATTORNEY HOLDER MS. FARIDA SIDDIQIRespondent
Through: Mr. Parag P. Tripathi, Senior



Advocate with Ms. Sanam Tripathi,
Ms. Anjali Kaushik, Mr. Apaan
Mittal, Mr. Aparjito Sen, Advocates.

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE TEJAS KARIA

ORDER

TEJAS KARIA, J

CM APPL. 51640/2026 (Exemption) in LPA 1239/2024

1. Exemption allowed, subject to all just exceptions.
2. The Application stands disposed of.

CM APPL. 51639/2026 (Additional Documents) in LPA 1239/2024

3. The present Application has been filed on behalf of the Appellant seeking to bring on record certain additional documents.
4. Considering the averments made in the present Application, the same is allowed and the additional documents filed along with this Application are taken on record.
5. The Application, accordingly, stands disposed of.

CM APPL. 75597/2024 in LPA 1239/2024

CM APPL. 75638/2024 in LPA 1243/2024

6. The present Applications, being CM APPL. 75597/2024 in LPA 1239/2024 and CM APPL. 75638/2024 in LPA 1243/2024 (“**Applications**”), filed by the Appellant in LPA 1239/2024 and LPA 1243/2024 (“**Appeals**”), respectively, assailing the judgment dated 12.11.2024 (“**Impugned Judgment**”) passed by the learned Single Judge in W.P. (C) Nos. 7755/2023 (“**First Writ Petition**”) and W.P (C) 8873/2024



(“**Second Writ Petition**”), are being taken up for hearing and decided pursuant to the order dated 03.08.2026 passed by the Hon’ble Supreme Court in Special Leave to Appeal (C) No. 25989/2026 filed by the Appellant, whereby this Court was requested to decide, within one week, the Appellant’s prayer for interim relief with respect to visiting India for the purpose of attending wedding festivities, which have commenced on 07.08.2026 and are scheduled to continue until September 2026.

BRIEF FACTUAL MATRIX

7. On 14.06.2022, the Consulate General of India, New York, issued a Show Cause Notice (“**SCN**”) to the Appellant, calling upon him to show cause as to why the Overseas Citizen of India (“**OCI**”) Card issued to him in terms of the Citizenship Act, 1955 (“**Citizenship Act**”) ought not be cancelled on the ground of his alleged ‘*involvement in anti-India activities*’.

8. On 02.07.2022, the Appellant submitted his reply to the SCN, stating, *inter alia*, that no material had been furnished to him based on which he was alleged to have been involved in anti-India activities. He accordingly requested that such material be provided to him and also sought an opportunity of personal hearing.

9. On 12.05.2023, the Respondents passed an order cancelling the Appellant’s OCI Card (“**Cancellation Order**”) under Section 7D(e) of the Citizenship Act on the ground of the Appellant’s alleged ‘*anti-India / pro-Pakistan / propaganda inimical to sovereignty, integrity & security of India*’. The Appellant preferred the First Writ Petition before this Court on 27.05.2023 challenging the Cancellation Order. This Court, *vide* order dated 30.05.2023, stayed the operation of the Cancellation Order during the pendency of the First Writ Petition.



10. On 02.08.2023, the Appellant arrived at Indira Gandhi International Airport, New Delhi, but was not permitted to clear immigration and enter India. Pursuant thereto, the Appellant filed C.M. No. 39707 of 2023 in the First Writ Petition, whereupon this Court, *vide* order dated 03.08.2023, permitted the Appellant to enter India, having regard to the stay granted by this Court on 30.05.2023 in respect of the Cancellation Order. Accordingly, the Appellant entered India on 04.08.2023 and departed on 20.10.2023.

11. On 20.03.2024, the Appellant addressed a letter to the Respondents stating that he intended to visit India, tentatively from the second half of June 2024 until around the end of September 2024. The Appellant sought an assurance that he would not face difficulties encountered during his previous visit and also requested a copy of the alleged order/notice under the Foreigners Act, 1946 (“**Foreigners Act**”), as referred to by the Respondents during the hearing of the First Writ Petition held on 03.08.2023. On 22.04.2024, the Appellant addressed another letter to the Respondents seeking a response to his letter dated 20.03.2024.

12. On 30.04.2024, the Appellant filed C.M. No. 25799 of 2024 in the First Writ Petition, seeking directions to the Respondents to permit him to enter India during his proposed visit from 23.06.2024 to 12.09.2024 by using his OCI Card.

13. On 27.05.2024, the Respondents filed their Reply to C.M. No. 25799 of 2024 in the First Writ Petition, stating that a blacklisting order had been passed against the Appellant under the Foreigners Act on the ground of ‘*pro Kashmiri separatist activities & anti-India propaganda / lobbying*’.

14. *Vide* order dated 10.06.2024 passed in the First Writ Petition, the statement made by learned Counsel for the Respondents was taken on record



to the effect that the Reply of the Respondents to C.M. No. 25799 of 2024 be treated as the blacklisting order under Section 3 of the Foreigners Act (“**Blacklisting Order**”).

15. On 20.06.2024, the Appellant filed the Second Writ Petition seeking, *inter alia*, setting aside of the Blacklisting Order, along with CM APPL. 36058/2024 seeking urgent interim relief in the nature of stay of the Blacklisting Order and consequential permission to visit India by virtue of the Appellant’s OCI Card, on account of the demise of the sister of the Appellant’s wife.

16. *Vide* order dated 03.07.2024 passed in the Second Writ Petition, the learned Single Judge dismissed CM APPL. 36058/2024, whereby permission to travel to India had been sought, after perusing the material placed on record in a sealed cover by the Respondents based on which the Blacklisting Order had been passed. The learned Single Judge observed that the matter would require consideration before passing any order permitting the Appellant to visit India.

17. On 12.11.2024, the learned Single Judge, *vide* the Impugned Judgment, set aside the SCN, the Cancellation Order and the Blacklisting Order, and further directed the Respondents to issue a fresh notice to the Appellant clearly specifying the grounds for any intended restrictions or cancellations.

18. Being aggrieved by the Impugned Judgment, the Appellant has filed the Appeals along with the Applications seeking interim relief. The Respondents have also challenged the Impugned Judgment by filing LPA 1245/2024 and LPA 1246/2024 (“**Respondents’ Appeals**”). The Appeals



filed by the Appellant and the Respondents' Appeals are coming up for final hearing on 24.08.2026 and are directed to be listed '*High on Board*'.

19. In the meanwhile, the Appellant approached the Hon'ble Supreme Court by filing Special Leave to Appeal (C) No. 25989/2026, which was disposed of *vide* order dated 03.08.2026 as under:

"1. Against the cancellation of his OCI card and blacklisting, the petitioner approached the Delhi High Court and his writ petition was allowed by a learned Single Judge vide judgment dated 12.11.2024. The Union of India as well as the petitioner challenged that judgment in intra-court appeal(s), which is now listed on 24.08.2026. Meanwhile, the petitioner, who is a resident of the USA, wants to visit India to attend a family function, for which the instant Special Leave Petitions have been filed.

2. Since the prayer for interim relief sought by the petitioner is pending consideration before the High Court in intra-court appeal(s), we request the High Court to take a decision on the interim relief expeditiously and preferably within one week."

20. In view of the above, the Applications were mentioned by the learned Senior Counsel for the Appellant on 05.08.2026 and were directed to be listed on 06.08.2026, on which day the learned Senior Counsel for the Appellant made submissions, and the matter was listed on 10.08.2026 for the submissions on behalf of the Respondents. Accordingly, the orders were reserved on the Applications on 10.08.2026.

SUBMISSIONS ON BEHALF OF THE APPELLANT

21. Mr. Parag Tripathi, learned Senior Counsel appearing for the Appellant made the following submissions:

21.1. The Appellant is an OCI Cardholder and a medical practitioner based in the United States of America, with family members residing in Srinagar, Kashmir, including his sisters, their



children, and grandchildren. The Appellant was born and brought up in Kashmir and left India at the age of 31 years. The Appellant has a close connection with, and deep roots in, Indian society, and that he has a fundamental right under Article 21 of the Constitution of India, 1950 to enter and visit India.

- 21.2. The Appellant seeks interim relief permitting him to enter India for the purpose of visiting his family and attending family weddings in Srinagar during August-September 2026, pending adjudication of the cross-appeals challenging the Impugned Judgment.
- 21.3. The Appellant has been wrongly denied entry into India despite the Impugned Judgment having set aside both the Cancellation Order and the Blacklisting Order. The Appellant having rights and status of an OCI Cardholder cannot be equated with those of an ordinary foreigner. The statutory scheme confers upon an OCI Cardholder rights and privileges which are not available to an ordinary foreigner.
- 21.4. Such statutory rights and privileges cannot, therefore, be rendered nugatory by treating an OCI Cardholder as an ordinary foreigner. Reliance was placed upon **Anushka Rengunthwar and Others vs Union of India and Others**, 2023 11 SCC 209, to contend that the rights of an OCI Cardholder constitute a ‘*midway right*’ in the absence of dual citizenship.
- 21.5. The Citizenship Act contains a specific statutory mechanism for cancellation of the registration of an OCI Cardholder. Section 7D(e) of the Citizenship Act empowers the Central Government



to cancel such registration, *inter alia*, on grounds relating to the sovereignty and integrity of India, the security of India and the interests of the general public. However, the proviso to Section 7D of the Citizenship Act mandates that no such order shall be passed unless the OCI Cardholder has been afforded a reasonable opportunity of being heard.

- 21.6. The statutory requirement of affording a reasonable opportunity of being heard under Section 7D of the Citizenship Act cannot be reduced to an empty formality, particularly where the person concerned has not been made aware, at least in substance, of the case that he is required to meet.
- 21.7. Reliance was placed upon ***Ramesh Ganeriwal v Union of India***, 2017 SCC Online Del 10082, ***Mohammad Abdul Moyeed v Union of India***, 2018 SCC Online Del 9959, ***Gorkha Security Services v. GNCTD***, (2014) 9 SCC 104 and ***Triveni Engineering & Industries Ltd. v. State of U.P.***, Neutral Citation- 2025 INSC 1060, to submit that even prior to the amendment introducing the proviso to Section 7D of the Citizenship Act, cancellation of an OCI Card required prior compliance with the principles of natural justice.
- 21.8. The Respondents have never pleaded that the material relied upon for passing the Cancellation Order is distinct from the material relied upon for passing the Blacklisting Order. Having proceeded against the Appellant under Section 7D of the Citizenship Act on allegations of involvement in anti-India activities and pro-Pakistan propaganda, and having thereafter



passed the Cancellation Order, the Respondents could not rely upon the same material and grounds to separately pass the Blacklisting Order under the Foreigners Act without complying with the procedural safeguards under Section 7D of the Citizenship Act, including the requirement of affording a reasonable opportunity of being heard.

- 21.9. Reliance was placed upon the decisions of the Supreme Court in ***State of West Bengal v Anwar Ali Sarkar***, (1952) 1 SCC 1 and ***Maganlal Chhaganlal vs Municipal Corporation of Greater Bombay***, (1974) 2 SCC 402, to submit that where two procedures are available for determining liability, the law providing for the more prejudicial procedure is liable to be condemned as discriminatory and void. It was, therefore, submitted that the Respondents cannot invoke the Foreigners Act on the same material and grounds to blacklist the Appellant under Section 3 thereof, when action has already been taken under Section 7D of the Citizenship Act, so as to circumvent the statutory safeguards available to an OCI Cardholder under Section 7D of the Citizenship Act.
- 21.10. So long as the Appellant remained a valid OCI Cardholder, he could not be treated as a ‘foreigner’ *simpliciter*. Therefore, for the Appellant to be blacklisted under Section 3 of the Foreigners Act, his OCI Card was required to be validly cancelled in accordance with the procedure prescribed under Section 7D of the Citizenship Act.



- 21.11. The material relied upon for passing the Blacklisting Order was also not disclosed to the Appellant. Even assuming that the Respondents were entitled to claim privilege in respect of certain material, the nature of the allegations and such particulars as could be disclosed ought to have been made known to the Appellant, so as to enable him to effectively meet the allegations relied upon for passing the Blacklisting Order. Reliance was placed upon ***Madhyamam Broadcasting Ltd v Union of India***, (2023) 13 SCC 401, to submit that the validity of a claim founded on national security considerations must be assessed on the tests of: (i) whether there exists material to conclude that non-disclosure of information is in the interest of national security; and (ii) whether a reasonable and prudent person would draw the same inference from the material on record.
- 21.12. Reliance was placed upon the judgment of this Court in ***Mohd. Javed v. Union of India***, 2019 SCC OnLine Del 8741, and ***Hassan Ali Raihany v Union of India***, (2006) 3 SCC 705, to submit that the relevant question is not whether the power is exercised upon or against a foreigner, but whether unguided power has been vested in an authority.
- 21.13. While an OCI Cardholder does not acquire Indian citizenship, the statutory scheme governing OCI Cardholders confers upon them a distinct status, together with certain rights and privileges.
- 21.14. Reliance was placed upon the notifications dated 05.01.2009 and 04.03.2021 issued under Section 7B of the Citizenship Act by the Respondents to highlight the rights and privileges available to



OCI Cardholders, and to submit that OCI Cardholders enjoy parity with non-resident Indians in respect of various professions, including those of doctors, dentists, nurses, pharmacists, advocates, architects and chartered accountants.

- 21.15. The Appellant had not engaged in any of the activities alleged by the Respondents during his previous stay in India from 04.08.2023 to 19.10.2023 and is willing to furnish an undertaking that he would not participate in any such activities. In any event, the Respondents would have remedies available in law in the event of any breach of such undertaking by the Appellant.
- 21.16. During the pendency of the First Writ Petition, the Appellant was permitted to visit India from 04.08.2023 to 19.10.2023 and there was no complaint made by the Respondent of the Appellant being involved in any alleged anti-India activities. As both the Cancellation Order and the Blacklisting Order having been set aside by the Impugned Judgment, the Appellant is placed in a more favourable position than he was during the pendency of the First Writ Petition.
- 21.17. Accordingly, the Appellant has a strong *prima facie* case for grant of interim measure of permitting the Appellant to visit India to attend family wedding during the pendency of the Appeals.
- 21.18. The balance of convenience is in favour of the Appellant as he is 81 years old and would like to spend time with his siblings who live in India at an advanced age in his lifetime. Accordingly, the Appellant would suffer irreparable loss if he is not allowed to



visit India during the pendency of the Appeals as he would not be able to participate in the family wedding festivities.

- 21.19. The learned Single Judge had directed the Respondents to produce the alleged incriminating material against the Appellant in the sealed cover during the pendency of the Second Writ Petition. The Impugned Judgment records that despite perusal of material by the learned Single Judge, both the Cancellation Order and the Blacklisting Order were set aside, and the Respondents were directed to issue of a fresh show cause notice to the Appellant in relation to the cancellation of OCI Card. Accordingly, had the contents of the sealed cover disclosed any grave or serious objectionable conduct on the part of the Appellant, the learned Single Judge would not have set aside both the Cancellation Order and the Blacklisting Order by directing to issue a fresh show cause notice.
- 21.20. Despite the passage of nearly twenty months since the Impugned Judgment, the Respondents have neither taken any action against the Appellant nor taken steps to issue fresh show cause notice in compliance with the directions contained therein. The Appellant does not wish to file a contempt as no purpose would be served since the Appeals and Respondents' Appeals are being considered finally.
- 21.21. However, the Appellant is entitled to travel to India during the pendency of the cross-appeals on account of his advanced age as final hearing of the appeals would take considerable long time.



21.22. Since the Appellant has established a *prima facie* case and the balance of convenience lies in his favour, and that he would suffer irreparable loss, if urgent interim relief is not granted. Accordingly, the Appellant be permitted to visit India during the pendency of the present Appeals by allowing these Applications.

SUBMISSIONS ON BEHALF OF THE RESPONDENTS

22. Mr. Chetan Sharma, learned Additional Solicitor General and Mr. Apoorv Kurup, learned Senior Counsel made the following submissions:

- 22.1. The interim relief sought by the Appellant to permit him to travel to India at this stage during the pendency of the Appeals would, in substance, amount to grant of the final relief. The question of grant of interim relief must, therefore, be considered having regard to the nature of the relief sought in the Appeals.
- 22.2. The Appellant is a foreigner within the meaning of Section 2(a) of the Foreigners Act, which provides that '*foreigner*' means a person who is not a citizen of India. The definition is framed with reference to citizenship and does not exclude an OCI Cardholder from its ambit.
- 22.3. The notification dated 04.03.2021 by the Respondents in exercise of powers conferred under sub-section (1) of Section 7B of the Citizenship Act is relevant for determining the rights and privileges available to an OCI Cardholder. The said notification makes it clear that an OCI Cardholder is a foreign national holding the passport of a foreign country and is not a citizen of India.



- 22.4. Although the Citizenship Act confers certain rights and privileges upon an OCI Cardholder, it does not exclude an OCI Cardholder from the operation of the law governing foreigners. The Appellant, therefore, continues to be a person who is not a citizen of India and falls within the definition of ‘foreigner’ under Section 2(a) of the Foreigners Act.
- 22.5. Section 3 of the Foreigners Act is a standalone provision and operates in a field distinct from Section 7D of the Citizenship Act. The exercise of power under Section 3 of the Foreigners Act is, therefore, neither dependent upon nor does it emanate from an order passed under Section 7D of the Citizenship Act.
- 22.6. Section 16 of the Foreigners Act further clarifies that the Foreigners Act is in addition to, and not in derogation of, any other law concerning foreign nationals. Consequently, the existence of the statutory scheme under the Citizenship Act does not exclude the operation of the Foreigners Act in respect of an OCI Cardholder.
- 22.7. The proceedings under the Foreigners Act and the Citizenship Act were initiated in parallel. Merely because the Cancellation Order came to be challenged before the Blacklisting Order, it cannot lead to the inference that the Blacklisting Order emanated from, or was dependent upon, the Cancellation Order.
- 22.8. The Appellant, not being a citizen of India, cannot claim those rights under Part III of the Constitution of India, 1950 which are available only to citizens. Reliance was placed on ***Louis De Raedt v. Union of India***, (1991) 3 SCC 554 to submit that the



fundamental rights available to foreigners are limited in scope. Further, the principles of natural justice relied upon by the Appellant arise in the context of Section 7D of the Citizenship Act and cannot be imported into an action taken under the Foreigners Act.

- 22.9. The legislative intent is also evident from the Immigration and Foreigners Act, 2025, wherein Section 7 of the said Act is *pari materia* to Section 3 of the Foreigners Act. While enacting the said legislation, the legislature has retained the power contained in Section 3 of the Foreigners Act, without incorporating the safeguards contemplated under Section 7D of the Citizenship Act. The Immigration and Foreigners Act, 2025, being a subsequent enactment to the Foreigners Act and the Citizenship Act, therefore, does not support the contention that the safeguards under Section 7D of the Citizenship Act are required to be read into an action taken under the law governing foreigners.
- 22.10. The Respondents possessed distinct material to pass Blacklisting Order independent of the Cancellation Order, which was placed before the learned Single Judge in a sealed cover and after perusing the material, the rights and contentions of the parties with respect to the validity of the reasons for blacklisting were expressly reserved in the Impugned Judgment.
- 22.11. In the Second Writ Petition, the Respondents had submitted that the Appellant has an alternate remedy to approach the Review



Committee against the Blacklisting Order by making a representation but did not avail the said remedy.

- 22.12. There is no statutory or administrative requirement for prior intimation of the Blacklisting Order to a foreigner. In the ordinary course, a blacklisted foreigner, upon arrival in India, approaches the Bureau of Immigration and is informed that he has been blacklisted and, consequently, cannot be permitted to enter India. There is, therefore, no requirement of prior intimation of the Blacklisting Order to a foreigner. Reliance was placed on an order dated 28.08.2019 passed by this Court in ***Union of India v. Savitha Kumar***, LPA 219/2019 wherein this Court observed that there is no need of any prior intimation in case of blacklisting under Foreigners Act, which is done for protecting the integrity, sovereignty and safety of India.
- 22.13. Disclosure of the reasons and material forming the basis of Blacklisting Order would itself have implications for national security, as it could reveal the methods of collection and the particulars of intelligence inputs, thereby enabling a blacklisted individual to become more cautious, evade detection, and modify his activities accordingly. Such disclosure could enable a person to circumvent the parameters on the basis of which he had been blacklisted. Reliance was placed upon ***Madhyam Broadcasting Ltd (supra)*** to submit that national security is one of the grounds on which the right to reasonable procedural safeguards may be restricted and upon ***Ex-Armymen's Protection Services (P) Ltd. v. Union of India***, (2014) 5 SCC 409 to submit that the



principles of natural justice may be excluded when on the facts of the case, national security concerns outweigh the duty of fairness.

22.14. In the writ proceedings, three affidavits were filed by the Respondents in relation to the Cancellation Order and the Blacklisting Order, wherein privilege was claimed on oath in respect of sensitive intelligence-based information. The short affidavit dated 15.08.2024 filed by the Deputy Central Intelligence Officer, Bureau of Immigration, Ministry of Home Affairs, stated that the Respondents were privy to adverse inputs concerning the Appellant and would produce the same before the Court in a sealed cover. Based on such inputs, the Respondents had arrived at the conclusion that the Appellant was required to be blacklisted in the interest of national security. Reliance was placed on ***Sublime Software Ltd. v. Union of India***, 2024 SCC OnLine Del 4640 to submit that the decisions taken at the highest level and for the benefit of the security and sovereignty of the country can be kept confidential.

22.15. Reliance was also placed on ***Celebi Airport Services India Pvt. Limited v. Union of India & Ors.*** Judgment dated 07.07.2025 in W.P (C) 6758/2025 to submit that in cases involving national security concerns, the very purpose of the passing the Blacklisting Order would be defeated if the pre-decisional hearing is afforded to the Foreigner. It was further held relying upon ***Madhyamam*** (*supra*) that confidentiality of evidence and national security are legitimate goals recognised by the Constitution for the purpose of procedural rights. When national



security considerations are found to exist, it is not for the Court to “*second guess*” the same.

- 22.16. *Vide* order dated 03.07.2024 passed in the Second Writ Petition, the Appellant’s earlier prayer for interim relief to visit India on account of a demise of his wife’s sister was rejected by the learned Single Judge, observing that grant of such relief would amount to setting aside the Blacklisting Order. The material forming the basis of the Blacklisting Order had been perused by the learned Single Judge while passing the order dated 03.07.2024 in the Second Writ Petition.
- 22.17. The Appellant’s present prayer to visit India for the purpose of attending family wedding festivities does not stand on the same footing as his earlier request to visit India on account of the demise of his wife’s sister. The learned Single Judge had declined permission to the Appellant to visit India after perusing the material placed on record in a sealed cover. Accordingly, the Appellant cannot be said to have the balance of convenience in his favour for seeking permission to travel to India for attending wedding festivities.
- 22.18. The approach adopted in the Impugned Judgment is inconsistent with the approach reflected in the order dated 03.07.2024 passed by the learned Single Judge in the Second Writ Petition. Although the learned Single Judge had earlier perused the material forming the basis of the Blacklisting Order and declined interim relief, the Impugned Judgment records that the contents



of the sealed cover were perused yet refrains from commenting upon the validity of the reasons for blacklisting.

22.19. Accordingly, the Appellant has not be able to establish *prima facie* case in his favour for grant of interim relief to permit him to enter India during the pendency of the Appeals. Also, no irreparable harm is likely to be caused to the Appellant as he can participate in the wedding festivities virtually.

22.20. As the Appeals are in any case coming up for final hearing on 24.08.2026, there is no urgency to grant interim relief in the nature of final relief to permit the Appellant to visit India during the pendency of the Appeals. Accordingly, the Applications deserve to be dismissed.

ANALYSIS AND FINDINGS

23. We have heard Mr. Parag Tripathi, learned Senior Counsel appearing for the Appellant, Mr. Chetan Sharma, learned Additional Solicitor General, and Mr. Apoorv Kurup, learned Senior Counsel appearing for the Respondents, at length on the question of grant of interim relief during the pendency of the Appeals, pursuant to the request made by the Hon'ble Supreme Court *vide* order dated 03.08.2026 passed in Special Leave to Appeal (C) No. 25989/2026, requiring expeditious consideration of the Appellant's prayer for interim relief, preferably within one week.

24. The Appellant seeks interim relief permitting him to visit India during the pendency of the Appeals. The said prayer is required to be examined on the touchstone of the well-settled principles governing grant of interim relief, namely, whether the Appellant has established a *prima facie* case,



whether the balance of convenience lies in his favour, and whether refusal of such relief would cause irreparable injury to the Appellant.

25. The learned Single Judge, *vide* the Impugned Judgment, held that although the Foreigners Act applies to OCI Cardholders, the Citizenship Act confers upon them a unique status, accompanied by distinct rights and procedural protections. The Impugned Judgment has further held that where the grounds for blacklisting an OCI Cardholder mirror those for cancellation under Section 7D of the Citizenship Act, the procedural safeguards contemplated under Section 7D of the Citizenship Act ought to be extended to blacklisting orders issued under Section 3 of the Foreigners Act. It is also held that, in the present case, the Blacklisting Order was bereft of reasons and had been passed without any prior show cause notice, and that the SCN and the Cancellation Order suffered from procedural infirmities under the principles of natural justice embedded in Section 7D of the Citizenship Act.

26. The Impugned Judgment further observes that OCI Cardholders are not Indian citizens but continue to remain “*foreigners*” under the Foreigners Act, and that their OCI status does not alter their nationality.

27. It is pertinent to note that the Impugned Judgment has been assailed both by the Appellant and by the Respondents by filing the Appeals and the Respondents’ Appeals respectively.

28. The Appellant has assailed the Impugned Judgment, *inter alia*, on the ground that while the Foreigners Act deals with foreigners generally, the Citizenship Act constitutes a special statutory scheme in respect of OCI Cardholders and that the special provisions of the Citizenship Act governing the rights and privileges of OCI Cardholders would prevail over the general provisions of the Foreigners Act. It is, therefore, the Appellant’s case that



the safeguards under Section 7D of the Citizenship Act, including the requirement of a reasonable opportunity of being heard, cannot be bypassed while passing a Blacklisting Order under Section 3 of the Foreigners Act, as such an approach would render the safeguards under Section 7D of the Citizenship Act nugatory by treating the Appellant, an OCI Cardholder, as an ordinary foreigner.

29. The Respondents have assailed the Impugned Judgment in Respondents' Appeals, *inter alia*, on the ground that blacklisting has an overriding effect on all categories of visas issued by the Respondents, including an OCI Cards. Further, that the Respondents possess sovereign power to ban, refuse or restrict the entry of a foreigner into India in the interest of national security, peace and public order and a blacklist circular / lookout circular constitutes classified information which cannot be furnished to the person against whom it has been issued. It is further submitted by the Respondents that Section 3 of the Foreigners Act does not require any prior intimation of blacklisting by the Respondents, which is undertaken for protecting the integrity, sovereignty and security of India. It is the Respondents' case that blacklisting an OCI Cardholder under the Foreigners Act and cancellation of OCI Card under the Citizenship Act are two distinct and independent processes.

30. Therefore, the Appeals as well as the Respondents' Appeals raise the following, *inter alia*, important questions of law that require careful consideration:

- a) What is the interplay between the Citizenship Act and the Foreigners Act, and whether the provisions of one enactment would prevail over the other?



- b) Whether the Citizenship Act, insofar as it confers rights and privileges upon OCI Cardholders and provides for cancellation of their OCI registration only after affording a reasonable opportunity of hearing, constitutes a special statutory right in respect of OCI Cardholders, and the extent to which the provisions of the Foreigners Act apply to OCI Cardholders?
- c) Whether an OCI Cardholder, being a person who is not a citizen of India and therefore falling within the definition of ‘foreigner’ under Section 2(a) of the Foreigners Act, is subject to the powers conferred under Section 3 of the Foreigners Act and, consequently, Section 7 of the Immigration and Foreigners Act, 2025, which is *pari materia* with Section 3 of the Foreigners Act?
- d) Whether the safeguards contemplated under Section 7D of the Citizenship Act, including the requirement of an opportunity of hearing, are applicable to an action taken against an OCI Cardholder under the Foreigners Act, and whether such action requires issuance of a notice or grant of an opportunity of hearing under the Foreigners Act?
- e) If an opportunity of hearing is required under Section 7D of the Citizenship Act, what is the scope and extent of such hearing, and whether the material relied upon by the Respondents is required to be disclosed to the OCI Cardholder, particularly where such material is sought to be withheld in the interest of the sovereignty and integrity of India, the security of India, and general public interest?



31. The Appellant contended that, although an OCI Cardholder is not a citizen of India, such status carries distinct statutory rights and privileges under Section 7B of the Citizenship Act, which are not available to an ordinary foreigner and these rights cannot be rendered nugatory by treating an OCI Cardholder in the same manner as an ordinary foreigner. The Appellant further submitted that the Respondents could not have relied upon the same material and grounds which formed the basis of the Cancellation Order to pass the Blacklisting Order under the Foreigners Act without complying with the safeguards contained in the proviso to Section 7D of the Citizenship Act. Learned Senior Counsel for the Appellant also emphasised that the Respondents have never pleaded that the material relied upon for the Blacklisting Order was distinct from that relied upon for the Cancellation Order.

32. The Appellant's submission, in substance, is that Section 3 of the Foreigners Act cannot be invoked so as to circumvent the statutory safeguards available to an OCI Cardholder under Section 7D of the Citizenship Act.

33. *Per contra*, the Respondents submitted that Section 3 of the Foreigners Act does not contemplate issuance of a show cause notice or grant of an opportunity of hearing before passing an order of blacklisting. The Respondents further submitted that, although the Citizenship Act confers certain rights and privileges upon OCI Cardholders, it does not exempt them from the operation of the law governing foreigners. Since the Appellant is not a citizen of India, he falls within the definition of 'foreigner' under Section 2(a) of the Foreigners Act.



34. The interim relief sought by the Appellant would require us to proceed, at this stage, on the premise that he has established a strong *prima facie* case for being permitted to visit India during the pendency of the Appeals, particularly in view of the Impugned Judgment setting aside the Cancellation Order and the Blacklisting Order.

35. However, the Respondents' contention that Section 3 of the Foreigners Act does not require prior notice, hearing, or disclosure of reasons before passing a Blacklisting Order raises issues which go to the root of the controversy. The Appellant's contrary contention, namely that the rights and privileges conferred under Section 7B of the Citizenship Act bear upon the exercise of power under Section 3 of the Foreigners Act, requires careful consideration at the final hearing of the Appeals and the Respondents' Appeals.

36. At this stage, we are of the *prima facie* opinion that the Citizenship Act and the Foreigners Act appear to operate in distinct spheres and that the safeguards under Section 7D of the Citizenship Act cannot, therefore, be automatically imported into proceedings under the Foreigners Act. This position is further supported by Section 7 of the Immigration and Foreigners Act, 2025, which is *pari materia* with Section 3 of the Foreigners Act and does not incorporate the safeguards contemplated under Section 7D of the Citizenship Act, despite being a subsequent enactment. In our *prima facie* view, the procedures contemplated under the Citizenship Act and the Foreigners Act operate under distinct statutory regimes and carry separate consequences. The view taken in the Impugned Judgment on the interplay between the two enactments, therefore, requires careful consideration in the Respondents' Appeals, as such a view may have wider ramifications.



37. The learned Single Judge perused the material placed in the sealed cover but expressly left open the question of its validity, having regard to the direction for issuance of a fresh show cause notice on account of non-compliance with the principles of natural justice. Consequently, the Appellant's submission that the material was not serious in nature, merely because the Cancellation Order and the Blacklisting Order were set aside, does not appear to be *prima facie* persuasive, more particularly when the same learned Single Judge, *vide* order dated 03.07.2024 passed in the Second Writ Petition, had rejected the Appellant's prayer for permission to travel to India after perusing the material placed in the sealed cover during the pendency of the Second Writ Petition. The said order was not interfered with by the Co-ordinate Bench of this Court in LPA 673/2024, as the learned Single Judge was seized of the controversy.

38. The Respondents' submission that the sealed-cover material comprises sensitive intelligence inputs, disclosure of which may affect national security, also requires due consideration. In ***Ex-Armymen's Protection Services (P) Ltd.*** (*supra*), the Supreme Court approved the principle that matters of national security are primarily for those entrusted with such responsibility. In ***Madhyamam*** (*supra*), the Supreme Court further recognised confidentiality and national security as legitimate grounds for limiting procedural rights.

39. In ***Celebi*** (*supra*), this Court, relying upon ***Madhyamam*** (*supra*), reiterated that assessments concerning national security are primarily within the executive domain. The order dated 03.07.2024 passed in the Second Writ Petition indicates that the sealed-cover material was treated as



sufficient to decline permission to travel to India at the interim stage. The Impugned Judgment also left open the parties' rights and contentions concerning the sealed cover material, having regard to the limited relief granted therein for issuance of fresh show cause notice prior to cancellation of the OCI Card of the Appellant before the Appellant can be permitted to travel to India.

40. At this *prima facie* stage, particularly when the Appeals are listed for final hearing, it would not be apposite to arrive at any conclusion on the manner and scope of disclosure of material, if any, required to accompany the fresh show cause notice to be issued pursuant to the Impugned Judgment, especially when the Respondents have claimed privilege. The questions as to whether the Respondents are entitled to claim such privilege and procedure for claiming such privilege also require consideration after the parties are heard finally.

41. Accordingly, we have considered it appropriate not to peruse the material submitted by the Respondents in sealed covers at this stage, as the same would be relevant for consideration only at the stage of final hearing of the Appeals and the Respondents' Appeals. Accordingly, the sealed covers containing the said material are returned to the Respondents.

42. Further, the questions concerning procedural safeguards prior to passing the Blacklisting Order and the extent of disclosure required under the Foreigners Act are also matters which merit consideration at the final hearing of the Appeals and the Respondents' Appeals. Pending such adjudication and having regard to the Respondents' assertion that the



material relating to the Cancellation Order and the Blacklisting Order was distinct and bears upon national security, the balance of convenience lies in favour of the Respondents, who are entrusted with safeguarding national security, integrity, sovereignty, and larger public interest.

43. It is settled law that interim relief, which has the effect of granting final relief, ought not to be granted unless an exceptionally strong *prima facie* case, of a standard higher than an ordinary *prima facie* case, is made out, and the considerations of balance of convenience and irreparable injury also weigh decisively in favour of the party seeking such relief.

44. In the conspectus of the facts and circumstances of the present case, and without expressing any final opinion on the merits of the issues raised in the Appeals as well as the Respondents' Appeals, we are of the considered view that the Appellant has not made out such a strong *prima facie* case to persuade us for grant of interim relief permitting him to travel to India pending consideration and determination of the complex issues as discussed above.

45. The Appellant's contention that his position after the Impugned Judgment has improved than it was when he was permitted to enter India in 2023 does not merit acceptance as subsequent to the Appellant's visit in 2023 during the pendency of the First Writ Petition, his subsequent request for permission to travel to India in the Second Writ Petition was specifically rejected after perusal of the material placed in the sealed cover vide order dated 03.07.2024. Further, although the Impugned Judgment has set aside the Cancellation Order and the Blacklisting Order, it specifically observed



that prior to the Appellant is permitted to enter India, a fresh show cause notice and compliance with the principles of natural justice were required. Therefore, the earlier visit in 2023 and passing of Impugned Judgement cannot constitute a basis for grant of interim relief at this stage.

46. The Appellant's submission that the Respondents have taken no steps for nearly twenty months since the Impugned Judgment to issue a fresh show cause notice is misconceived, as the Respondents have challenged the Impugned Judgment in the Respondents' Appeals, which are listed for final hearing. Further, the Appellant, having himself challenged the Impugned Judgment, cannot rely upon the non-initiation of contempt proceedings for alleged non-compliance with the directions contained therein as a basis for seeking interim relief permitting him to travel to India.

47. Since both the Appellant and the Respondents have challenged the Impugned Judgment on issues directly bearing upon the Appellant's entitlement to enter India, those questions must be adjudicated finally before any such permission is granted to the Appellant to visit India. Granting the interim relief at this stage would substantially overlap with the final relief sought by the Appellant and would prejudice the Respondents' Appeals raising specific concerns of national interest, which is paramount.

48. Accordingly, in the absence of an exceptionally strong *prima facie* case in favour of the Appellant and having regard to the nature and effect of the interim relief sought, we are not persuaded that such interim relief to visit India can be granted during the pendency of the Appeals and Respondents' Appeals.



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49. In view of the foregoing, we are of the considered opinion that the Appellant has failed to make out a strong *prima facie* case for grant of interim relief permitting him to travel to India at this stage. The prayer for interim relief is, accordingly, rejected. Consequently, CM APPL. 75597/2024 in LPA 1239/2024 and CM APPL. 75638/2024 in LPA 1243/2024 are hereby dismissed.

TEJAS KARIA, J

DEVENDRA KUMAR UPADHYAYA, CJ

AUGUST 11, 2026/ HK