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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% ***Date of Decision: September 30th, 2026***# **CNR No. DLHC010182582026**+ **W.P.(C) 5740/2026****ANNAGURBANNOVA YAZBIBI HUMMETGULYYEVNA &
ANR.Petitioners****Through: Mr. Shivam Pandey, Mr.
Priyanshu Upadhyay, Mr. Ajay
Singh, Mr. Ankit R. Pandey &
Mr. Srijan Kumar, Advs.**

versus

UNION OF INDIA & ANR.Respondents**Through: Mr. Gaurav Barathi, SPC with
Mr. Vishal Thakur, Ms. Amita
Singh & Mr. Devender Kumar,
Advs. for respondents.****CORAM:****HON'BLE MR. JUSTICE AMIT MAHAJAN****AMIT MAHAJAN, J. (Oral)**

1. The present petition has been filed under Article 226 of the Constitution of India seeking, *inter alia*, a direction to the Respondents to furnish a “*written speaking order*” setting out the reasons for refusal of entry of Petitioner No. 1/Annagurbanova Yazbib Hummetgulyyevna into India on 25.03.2026, and directions permitting her to enter India on the strength of the Business Visa issued to her.

2. Succinctly stated, the Petitioner No. 1 is a citizen of Turkmenistan. It is her case that she was in possession of a valid



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passport and a valid Business Visa issued by the Embassy of India at Ashgabat, Turkmenistan. She arrived at Terminal 3 of the Indira Gandhi International Airport, New Delhi, on 25.03.2026 along with Petitioner No. 2/her husband. Petitioner was travelling on the same flight – Turkmenistan Airlines Flight T5-531 and with a visa of the same category as her husband. However, the Petitioner No. 2 was permitted to enter India, whereas Petitioner No. 1 was stopped at the immigration counter and was thereafter returned to Turkmenistan on the same day, allegedly without furnishing any reasons/document recording the refusal of entry.

3. Thus, the basis of the present challenge is two-fold, *firstly*, she has been denied entry without furnishing any reasons for the same and *secondly*, the fact that Petitioner No. 2 was permitted entry whereas Petitioner No. 1 was denied entry demonstrates discriminatory treatment. Such action on part of the Respondents is violative of Article 14 and 21 of the Constitution of India.

4. The Counter Affidavit has been filed on behalf of the Respondents, whereby it has been stated that a foreign national does not possess any vested or indefeasible right to enter the territory of India merely by virtue of being in possession of a valid visa. The grant of a visa and the permission to enter India are distinct matters, and the latter remains subject to the statutory regime governing immigration and the powers vested in the competent authorities.

5. It has further been placed forth that the Immigration and Foreigners Act, 2025 confers statutory powers upon the Central Government and the immigration authorities to regulate, restrict and,



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where circumstances so warrant, prohibit the entry of foreign nationals. Such powers assume particular significance where considerations of national security, public order and other matters specified under the statutory framework are involved.

6. The Respondents have stated that *adverse inputs* had been received concerning Petitioner No. 1 and that, upon consideration of the said inputs, the competent immigration authority formed the view that her entry into India ought not to be permitted.

7. It has been specifically stated that the decision was taken in the interest of *national security* and *public order*. The travel history of Petitioner No.1. reveals that she had undertaken as many as **47 visits** to India during the calendar year 2025, predominantly for short durations ranging between approximately 1-3 days, and that she had travelled on both business and medical visas. According to the Respondents, the pattern of travel gave rise to concerns which required examination by the immigration authorities.

8. Further, when the Petitioner No. 1 was questioned by the immigration authorities regarding the purpose of her visit, her activities and her business associations, the responses furnished by her were not found satisfactory and, upon consideration of the material available with the authorities, the decision to deny her entry was taken.

9. During the course of proceedings, the Respondents have also placed before this Court, in sealed cover, material and inputs forming the basis of the assessment made in respect of Petitioner No.1. The Court has perused the material placed before it.



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10. The same reflects that there was a mismatch in the details of parentage and spouse; as regards the purpose of visit she does not have a business card or any invitation letter; she failed to provide details related to her business in her country; got issued a Business Visa but has claimed herself to be a “housewife”; the mobile number provided is also invalid; since 2018-2024, about 24 visits were made on the strength of medical visa, while, since November 2024 till December 2025 total 53 visits have been made on the strength of business visa; and due to unavailability of details about her business /company or entity she is associated with, the purpose behind the Petitioner’s visit could not be ascertained.

11. Thus, considering the totality of circumstances and the material placed forth, the Petitioner’s claim is destined to fail because there is no inherent or legally enforceable right of a foreign national to seek entry into India.

12. The issuance of a visa/ refusal of entry/ granting clearance of immigration is a sovereign function of the State that is embedded in considerations of national security, foreign policy and administrative discretion. Section 3 of the Foreigners Act, 1946 [now repealed] as well as Section 7 of the Immigration and Foreigners Act, 2025 authorises the Central Government to make provisions, either generally or with respect to all foreigners, for prohibiting, regulating or restricting the entry of foreigners into India or, their departure therefrom or their presence or continued presence therein. The respondent authorities can therefore or rather are entitled to take into consideration all the relevant factors that may warrant scrutiny.



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13. The statutory scheme under the Immigration and Foreigners Act, 2025 is relevant in this regard. Section 3 of the Immigration and Foreigners Act, 2025 requires a foreigner seeking to enter India to possess a valid passport or travel document and a valid visa. At the same time, the statutory scheme expressly contemplates circumstances in which, notwithstanding possession of the requisite travel documents, a foreigner may not be permitted to enter India on the grounds specified therein, including considerations relating to national security, sovereignty and integrity of India, relations with a foreign State and public health, besides such other grounds as may be specified by the Central Government.

14. The statutory scheme further contemplates an examination by the Immigration Officer of the passport, travel document and visa of a foreigner at the stage of entry and empowers the Immigration Officer to require such information as may be necessary and appropriate. The statutory framework, therefore, does not treat the possession of a visa as creating an absolute and unconditional right of admission into India.

15. At this juncture, it is pertinent to note that the Hon'ble Apex Court in the case of ***Hans Muller Of Nurenburg vs Superintendent, Presidency : 1955 SCR (1) 1284*** had categorically noted that the Foreigners Act, 1946 vested the Central Government with an absolute and unfettered discretion and since there is no provision fettering this discretion in the Constitution, an unrestricted right to expel remained.

16. Subsequently, in the case of ***Louis De Raedt v. Union of India : 1991 (3) SCC 544***, the Hon'ble Apex Court affirmed that the



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fundamental rights of a foreigner was confined to Article 21 of the Constitution of India in relation to life and liberty and did not include the right to reside and settle in this country. It was noted as follows:

*“13. The next point taken on behalf of the petitioners, that the foreigners also enjoy some fundamental rights under the Constitution of this country, is also of not much help to them. **The fundamental right of the foreigner is confined to Article 21 for life and liberty and does not include the right to reside and settle in this country**, as mentioned in Article 19(1)(e), which is applicable only to the citizens of this country. It was held by the Constitution Bench in *Hans Muller of Nuremburg v. Superintendent, Presidency Jail, Calcutta* [(1955) 1 SCR 1284 : AIR 1955 SC 367 : 1955 Cri LJ 876] that the power of the government in India to expel foreigners is absolute and unlimited and there is no provision in the Constitution fettering this discretion. **It was pointed out that the legal position on this aspect is not uniform in all the countries but so far the law which operates in India is concerned, the executive government has unrestricted right to expel a foreigner.** So far the right to be heard is concerned, there cannot be any hard and fast rule about the manner in which a person concerned has to be given an opportunity to place his case, and it is not claimed that if the authority concerned had served a notice before passing the impugned order, the petitioners could have produced some relevant material in support of their claim of acquisition of citizenship, which they failed to do in the absence of a notice.”*

17. The reading of the aforesaid as well as the statutory framework, thus, make it abundantly clear that the entry of a foreign national in India is not a matter of enforceable right against the State but a matter of sovereign discretion [Ref. ***Randa Chehab v. Union of India & Ors* : 2023:DHC:9126**].

18. Additionally, having perused the material placed in sealed cover, this Court is satisfied that the decision taken by the competent authority cannot be characterised as one which was arrived at without any material or without application of mind.



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19. It is not the function of this Court, in exercise of judicial review, to substitute its own assessment for that of the competent authority in a matter concerning admission of a foreign national, particularly where the decision is stated to have been taken upon consideration of confidential inputs relating to national security and public order.

20. Insofar as the petitioner's challenge to violation of Article 14 is concerned, the same also does not merit acceptance. Merely because Petitioner No. 2, who is stated to be the husband of Petitioner No. 1, travelled with her on the same flight and was permitted to enter India, do not by itself establish that the two petitioners were similarly situated in all material respects. The Respondents have specifically stated that adverse inputs were received concerning Petitioner No. 1. The decision impugned in the present proceedings was thus based upon an assessment pertaining to Petitioner No. 1. There is no material before this Court to demonstrate that the same adverse inputs, concerns or assessment existed in relation to Petitioner No. 2. Article 14 prohibits arbitrary discrimination; it does not require the State to ignore material distinctions relevant to the exercise of a statutory power.

21. As noted above, there is no inherent or legally enforceable right of a foreign national to seek entry into India. It is trite that the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India can be invoked only where there is a violation of a right. In the very dearth of any right, no writ can be issued.

22. Consequently, since the Petitioner has not been able to establish



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that any right vested in her has been infringed, this Court is not inclined to exercise its jurisdiction under Article 226 of the Constitution of India.

23. For the foregoing reasons, the present writ petition is found to be devoid of merit and is, accordingly, dismissed.

AMIT MAHAJAN, J

SEPTEMBER 30, 2026

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