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At the Supreme Court Sitting as the High Court of Justice

HCJ 176/12

Before:

**Honorable President A. Grunis
Honorable Justice Y. Danziger
Honorable Justice N. Solberg**

The Petitioners:

**1. _____ al-Batash
2. _____ 'Anati
3. Adi Lustigman
4. HaMoked: Center for the Defence of the
Individual, founded by Dr. Lotte Salzberger**

v.

The Respondents:

**1. Senior Division Manager, Population Authority
2. General Manager of the Employment Service
3. Supervisor of the Government Housing
Administration**

Petition for *Order Nisi*

Session date:

5 Nisan 5762 (March 28, 2012)

Representing the Petitioners:

Adv. Sigi Ben Ari; Adv. Noa Diamond

Representing the Respondent:

Adv. Nachi Ben Or

Judgment

President A. Grunis:

1. Before us is a petition directed against the waiting and public reception conditions at the entrance of the Population Administration Office in East Jerusalem (hereinafter: the **office**).
2. In 2006, following the decision of this court in HCJ 2783/03 **Jabra v. Minister of Interior** (December 3, 2003) the Population Administration Office in East Jerusalem was moved to a new complex, located in Wadi Joz Street in the eastern part of the city (hereinafter: the **complex**). A

few months later, the Employment Service has also started to operate in a small part of the complex, and automated machines used by job seekers to report to the employment office, were installed in the complex (the **Hityazvumat**). It should be noted that representatives of the Social Services also operate in this complex, however not many visitors come to see them.

According to the petitioners, entering the complex, and especially the population administration office, involves waiting for a security check in difficult conditions, and the visitors are subjected to improper treatment by the security guards on the scene. As to the difficult conditions, the petitioners describe, *inter alia*, that due to the long lines the visitors are required to wait outside the complex, even in harsh weather conditions; that in the waiting corridor between the entrance to the complex and the security counter there is no room to sit and there are no restrooms despite the heavy congestion and despite the fact that the visitors may stand on line for a long time; and that the entrance gates leading into the corridor, which are remote controlled, sometimes put the visitors at risk because of the density and congestion. The load is mostly caused, according to the petitioners, due to the fact that the same complex is used by those who seek the services of the population administration office as well as by those who seek the services of the employment service. The petitioners claim that the waiting and public reception conditions are unreasonable and that they violate the fundamental rights of those who visit the complex. Therefore, the petitioners request in their petition that we order the respondents to find a solution to the heavy load and congestion, and that we also order that restrooms, drinking fountains and benches be installed in the waiting area. The petitioners have further requested that we order to geographically separate the population administration office in East Jerusalem from the employment service office in East Jerusalem to alleviate the load, and have alternatively requested that we order to remove the "Hityazvumat" machines and place them outside the complex. The petitioners emphasize that the population administration office in East Jerusalem is of a special importance in view of the frequent need of the residents of East Jerusalem, some of whom are not Israeli citizens, to obtain the services which are provided by the office.

To complete the picture it should be noted that before the filing of the petition the petitioners wrote to the respondents and requested them to find a solution to the problem raised by the petition. The correspondence between the parties indicates that the respondents agreed to remove the "Hityazvumat" machines and place them outside the complex, but that the approvals required for this purpose have not yet been obtained. As time has elapsed and the conditions were not improved, including in connection with the relocation of the "Hityazvumat" machines, the petition was filed on January 5, 2012.

3. On March 21, 2012 the respondents submitted their response to the petition. The respondents claimed that the conditions in the complex constituted an improvement relative to the conditions at the site in which the office was located before 2006, but agreed that the conditions in the present complex should also be improved. The respondents noted that one of the solutions which they intended to implement to alleviate the load was the removal of the "Hityazvumat" machines from the complex (on the other hand, the respondents advised that officials in the employment services have expressed doubts as to the contribution of this act to the alleviation of the load). However, the respondents claimed that a controversy arose between the various authorities concerning the payment of the costs associated with the relocation and installment of security measures in the new location, and that therefore the relocation has not yet been carried out. The respondents have further claimed that they intended to take action to change the public reception hours in a manner that would regulate the load. It should be noted that according to the respondents, a geographical separation between the population administration office and the employment services was not possible, due to the fact that there was no alternative suitable site in

East Jerusalem. The respondents further claimed that the installation of benches and water fountains and restrooms in the waiting corridor was not feasible due to space limitations, but noted that solutions were and would continue to be provided in urgent cases, on an individual basis (it should be noted that in the office itself, past the security counter, there are restrooms, sitting accommodations and water fountains). In any event, the respondents were hopeful that after the removal of the "Hityazvumat" machines and the change of the public reception hours, the congestion problem described in the petition would be solved.

4. On March 28, 2012 a hearing was held in the petition, upon the termination of which we have ordered the respondents to submit an updating notice. From the date of the hearing and until this present day several updating notices have been submitted by the respondents. We shall summarize the developments. A notice dated July 3, 2012 indicated that the public reception hours were changed and that currently there were more days per week and more dates per month in which services were provided by the employment services. The respondents pointed out that this alleviated the load and shortened the waiting periods. A notice dated October 29, 2012 indicated that the financial dispute concerning the relocation of the "Hityazvumat" machines has been resolved and that consequently, more than 50% of those who sought the services of the employment services would not have to enter the complex. As to the benches, the water fountains and the restrooms, the respondents notified again that there was no intention to install additional facilities other than those which already existed in the office itself (past the security counter). Respondents' notice dated March 21, 2013 indicated that the installation process of the "Hityazvumat" machines outside the complex was completed and that the machines were in operation and provided service to the public in their new location.
5. On March 21, 2013 a decision was rendered which stated that "in view of respondents' notice it seems that the petition became redundant." The petitioners were requested to notify whether they agreed to have the petition deleted. On April 12, 2013 the petitioners notified that the expected alleviation of the load has not yet been achieved. The petitioners claimed further that in view of the reservations expressed by various parties concerning the effectiveness of the relocation of the "Hityazvumat" machines, the respondents should have thoroughly examined the efficiency of the measure prior to its implementation (it should be pointed out that the petitioners have already argued, during the earlier stages of the petition, that the efficiency of this measure should be examined).

In view of petitioners' notice, it was held, on April 15, 2013, that an updating notice should be submitted by the petitioners. Such notice was submitted on May 30, 2013. In their updating notice the petitioners noted that the load at the entrance to the office has indeed been alleviated and expressed their appreciation of the relocation of the "Hityazvumat" machines. The notice also indicates that the waiting periods for the security check have shortened significantly. However, the petitioners claim that notwithstanding the improvement, sometimes the visitors are still required to endure long waiting periods, and therefore they are of the opinion that the additional remedy which was requested in the petition and which has not yet been materialized – the installation of restrooms, water fountains and benches in the waiting area – can not be waived.

6. In view of the above, we are of the opinion that the petition has been exhausted and that it should be deleted. The petition was directed against the heavy load and congestion at the entrance into the complex and against the difficult waiting conditions. From the notices which were submitted since the petition has been filed we learn that the waiting conditions have significantly improved, as far as the number of daily visitors and the waiting periods are concerned, for instance. The main problems which were raised by the petition have been handled by the respondents and even

the notices submitted by the petitioners themselves indicate that the main remedies which were requested in the petition became redundant. Indeed, the respondents failed to install benches, water fountains and restrooms in the waiting area, However, during all stages of the petition the respondents claimed that this could not be practically done due to space limitations. The respondents further claimed on many occasions that individual solutions were provided in urgent cases. Presumably, this mostly concerns cases in which elderly people, babies, pregnant women or handicapped people encounter significant difficulties while standing on line. It should also be noted that inside the office water fountains, restrooms and sitting accommodations are available, and that in view of the fact that the waiting periods have been significantly shortened, the need to install additional facilities particularly in the waiting area has decreased.

7. The petition has mainly, if not entirely, served its purpose. Therefore the petition is deleted. Needless to say that nothing herein shall prejudice petitioners' arguments and their right to petition again if the conditions are not sufficiently improved or if the circumstances on the scene deteriorate.

The respondents will bear the petition's fee and attorneys' fees in the sum of ILS 7,500.

Rendered today, 2 Tamuz 5773 (June 10, 2013).

President

Justice

Justice