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At the Beer Sheva Court for Administrative Affairs

PP 36242-04-13 'Abbasi (prisoner) v. Israel Police/Israel Prison Service-Prisoners Department September 10, 2013

Before the Honorable Judge Yaakov Persky

The Petitioner: 'Abbasi (Prisoner)

v.

The Respondent: Israel Police/Israel Prison Service-Prisoners Department

Present:

**The petitioner and his counsel Adv. Daniel Shenhar
Respondent's counsel, Adv. Roi Kalifa**

Protocol

Petitioner's counsel:

Reiterates the contents of the petition.

Respondent's counsel:

Reiterates the contents of the response.

Petitioner's counsel:

The problem is that whenever a prisoner submits a request to the Israel Prison Service, the request is lost and we receive negative answers and later on they say that no request was submitted. This is a kafkaic and exhausting method. I am glad to hear that there is no problem with the visits of the father. The only thing which remains is to check when he can visit. The prisoner is visited only by his wife. His young brother does not visit him. He has three

brothers altogether and his older brother does not visit him because the Israel Prison Service does not approve such visits.

Respondent's counsel:

His son, wife and sister visit him. His brother visited him. A discussion was conducted to understand petitioner's claims. He submitted an application only regarding the father's visits. He did not submit an application regarding his brother's visits. The issue of the father's visits is under examination at the district headquarters. His father was released from prison in 2012. He has negative behavior issues which I am not going to get into, and this is enough as far as the father is concerned. With respect to the brother it will be reviewed and examined.

Petitioner's counsel:

The petitioner was held in Rimon and Eshel and his three year old son used to visit him. As of the filing of the petitions by his father and brother, the visits of the son are not approved.

Respondent's counsel:

There is no documentation in the system attesting to such visits. It is not possible that someone who is not an Israeli resident entered prison and the visit was not documented.

Petitioner's counsel:

There were threats against the petitioner and I hope it stops. Petitioner's condition is special. He is a resident of Jerusalem and his wife is a resident of the Occupied Palestinian Territories (OPT). His eldest son was born when he was not incarcerated and was therefore registered in petitioner's identification card. The young son was born after he was put in prison. The respondent does not allow the young son to enter despite the fact that he has approved it in the past. The Ministry of the Interior will not register him for as long as he is in prison. The rules are different. We submitted documents, the identification cards of the son and the father which show that they are married, and the birth certificate too. There is evidence that he is his son. This is the policy of the Minister of the Interior. The prisoner must serve another seven years in prison. Will he be prohibited from seeing his son throughout this period? There is a birth certificate which explicitly states that he is his father, and the Israel Prison Service itself relied on it and allowed the baby's entry.

Judgment

This petition is against respondent's decision not to allow the petitioner to be visited by his father, his brother and his young son, who is currently three years old.

There is no dispute that the petitioner is visited by immediate family members.

The petitioner is a security prisoner who was sentenced to ten years in prison.

With respect to the visits of his father, this is a prisoner who was recently released from prison, and as mentioned in the hearing, other than claims concerning inappropriate behavior of the petitioner himself, the petitioner submitted an application which is being currently reviewed on the administrative level and he would obviously be entitled, subject to

exhaustion of remedies, and to the extent he is of the opinion that respondent's position is unreasonable, to file a petition later on.

With respect to the brother, to the extent the petitioner wishes his brother to visit him, he may submit an administrative application which will be duly examined.

The petitioner claimed that in the past he has already submitted applications with respect to the father and brother, but this issue remained in dispute and as stated above, the petitioner submitted, at least with respect to the father, a new administrative application.

The major dispute concerned petitioner's son, who has allegedly visited him in the past, and whose visits are currently prohibited by the respondent.

As specified in the petition as in respondent's response, a photocopy of a birth certificate was presented. However, the birth certificate does not specify the identification numbers of the father and mother, and is illegible.

The respondent claims that for prison security reasons, the entry of unidentified visitors cannot be allowed.

According to the respondent, the burden to prove the family relation lies on the petitioner.

The petitioner pointed at the possibility that his young son would not be able to visit him for many years since he had not been given an ID No. and he had not been recognized by the Ministry of the Interior as his son. Reference was made to petitioner's special situation, in view of the fact that unlike himself, his wife was not an Israeli resident.

This court examines the reasonableness of respondent's decision.

The respondent has, in fact, stated that to the extent the matter is arranged by the Ministry of the Interior, there would not be any ostensible reason to prevent the young son's visits.

I did not find this position to be unreasonable.

It was argued that the baby had visited him in the past, and this matter was in dispute. In any event, even if it turns out that the baby's entry was mistakenly approved in the past, it does not justify his entry from now on, and in this regard respondent's position makes sense and it mainly concerns compliance with the rule according to which the relation between the visitor and the prisoner must be proved.

Indeed, this is a baby, who, until petitioner's release, is not expected to be a teenager, but rather still a young boy. However, I did not find respondent's persistence on having the procedures complied with, to be unreasonable.

Petitioner's solution may possibly be in filing an administrative petition against the Ministry of the Interior or in taking any other action, such as filing a petition with the High Court of Justice and I did not find that it was necessary to resolve the civil issue within the framework of this prisoner's petition.

Emphasis is placed on the fact that the petitioner is entitled to be visited by immediate relatives, who in fact visit him.

Therefore, I did not find reason to interfere with respondent's decisions and I hereby order to reject the petition.

Given and notified today, 6 Tishrei 5773, September 10, 2013, at the presence of the attending parties.

(signed)

Yaakov Persky, Judge