

**In the Supreme Court sitting as the High Court of Justice**

HCJ 7960/04

Before: The Honorable Vice-President E. Matza  
The Honorable Justice E. E. Levy  
The Honorable Justice S. Jubran

The Petitioners:

1. Muhammad Musa Alrazi
2. Muhammad Kaid Abu Sif
3. Isma'il Muhammad 'Adwan
4. Osama Mahmud Hamdan
5. Muhammad Yusef Al'aziza
6. Sharf Isma'il Alfaqawi
7. Muhammad Ahmad Abu Rialeh
8. Sima'a Sh'aban Naji
9. Hoda Suliman Abu Alrus
10. Riham Maz'anen

versus

The Respondent: Commander of IDF Forces – Gaza Strip

## Petition for Order Nisi

Date of the session: 11 Tishrei 5765 (26 September 2004)

On behalf of the Petitioners: Attorney A. Iraqi

On behalf of the Respondent: Attorney H. Roitman

## JUDGMENT

The ten petitioners are young men who live in the Gaza Strip and want to study occupational therapy. Lacking a proper framework for studying the aforesaid occupation in their area, the petitioners registered to study in the occupational therapy department of Bethlehem University. The university accepted them, but the respondent, to whom the petitioners submitted a request to permit them to leave the area of the Gaza Strip to go to the area of Judea and Samaria, denied their request. The petition is directed against this decision.

In making his decision not to grant the petitioners' request, the respondent relied on the assessment of security officials that their exiting the area of the Gaza Strip – primarily their intention to remain for the purposes of their studies in Bethlehem – endangers state security and the security of the areas. In a letter sent on his behalf in response to the request, the respondent explained that his position is not based on an individual examination relating to each of the petitioners individually, but to the assessment of security officials that the "risk profile" to which the petitioners belong is sufficient to form a basis for the fear that terrorist organizations operating in the Gaza Strip will exploit their leaving for Bethlehem to carry out terrorist attacks in Israeli territory and in the area of Judea and Samaria. This assessment, it was explained, was based on intelligence information, and with the consent of the petitioners' counsel, representatives of the General Security Service presented before us (in camera) the information they had, and also their professional assessment regarding the nature and magnitude of the dangers inherent in permitting the petitioners to exit the Gaza Strip and go to Bethlehem. It should be mentioned that, regarding four of the ten petitioners, security officials also had intelligence information that disqualifies these petitioners also on an individual basis. But the response of the respondent made it clear that, lacking personal intelligence information regarding any of the other petitioners does not qualify the particular individual to exit. In his written response, the respondent sufficed with mentioning the difficulty in obtaining intelligence information that focuses on each of the petitioners. However, in the closed hearing, representatives of the General Security Service gave us a detailed explanation of the nature of the (group) "risk profile" of the petitioners and the professional grounds for their assessment that permitting their exit from the Gaza Strip would turn them, at a significant degree of probability, into a tool to serve terrorist organizations in carrying out murderous activity against citizens of Israel.

We have concluded that, under the grave circumstances presently prevailing, we should not interfere in the decision of the respondent. We are willing to assume that at least some of the petitioners requested permission to go to Bethlehem for the purpose of studying there, and not for another purpose. However, we are convinced that permitting them to leave the Gaza Strip entails significant danger to public safety in Israel and in the areas. To complete the picture, we note that, in response to our question, counsel for the state explained that, subject to individual checks and setting the relevant conditions, the respondent does not object in principle to the petitioners, or any of them who are so interested, exiting for the purpose of academic studies abroad, including Jordan or Egypt. Any of the petitioners who are interested in this possibility may make the appropriate request to the respondent. It also is to be hoped that, as times change, some of the petitioners, whose sole purpose is indeed to study occupational therapy, will renew their request also regarding plans to study at Bethlehem University.

The petition is denied.

Given today, 14 Tishrei 5765 (29 September 2004).

The Vice-President

Justice

Justice

