

IN THE SUPREME COURT OF INDIA  
(CIVIL ORIGINAL JURISDICTION)

Writ Petition (Civil) No.793 of 2017

IN THE MATTER OF:

MOHAMMAD SALIMULLAH & Anr                      ....PETITIONERS

VERSUS

UNION OF INDIA & Ors                      ....RESPONDENTS

ADDITIONAL AFFIDAVIT ON BEHALF OF THE PETITIONER

I, Mohammad Salimullah, S/o Amanullah, R/o Anagaung, Buthidaung, Rakhine, Myanmar, (presently residing at, Plot No. G-15, Gali no. 2, Kanchan Kunj, near Kalandikunj, Madnapur Khadar, Delhi – 110025), do hereby solemnly affirm and state on oath as under:

1. That I am the Petitioner No. 1 in the aforementioned writ petition and being familiar with the facts and circumstances of the case, I am competent and authorized to swear this Affidavit. I have also been authorised to file this affidavit on behalf of Petitioner No. 2. That I would like to file certain additional relevant documents which have an important bearing on the matter in issue and the same are being filed through this additional affidavit.
2. That on the 8<sup>th</sup> of August, the Ministry of Home Affairs, Government of India, issued a letter to all the Chief Secretaries of all the State Governments/UT Administrations, raising a concern regarding the increased illegal immigrants in India that are posing a grave security challenge. The letter further states,

“Detection and deportation of such illegal immigrants from Rakhine State, also known as Rohingyas is a continuous process...All States/UT Administrations are, therefore, advised to sensitize all the law enforcement and intelligence agencies for taking

prompt steps in identifying the illegal migrants and initiate the deportation processes expeditiously and without delay.”

That the petitioners face an imminent danger of being deported vide the government directions in this order which directs the relevant authorities to identify and expeditiously deport illegal Rohingya refugees. This would also be an infringement of the Constitutional guarantees to refugees under Article 21 read with Article 51 (c) as well as the principle of non refoulement, which protects against the arbitrary deportation of refugees who have fled their home country due to the widespread discrimination, violence and bloodshed in their home state. A copy of the government letter No. 24013/29Misc./2017-CSR.III (I) is annexed as Annexure P 13 Page \_\_\_\_\_ of \_\_\_\_\_)

3. That on 7<sup>th</sup> September 2015, the Ministry of Home Affairs issued a notification to amend the Passport (Entry into India) Rules, 1950, and an order on the same date, to amend the Foreigners Order, 1948, whereby persons belonging to minority communities in Bangladesh and Pakistan, namely, Hindus, Sikhs, Buddhists, Jains, Parsis and Christians who were compelled to seek shelter in India due to religious persecution or fear of religious persecution and entered into India on or before the 31<sup>st</sup> December, 2014, without valid travel documents, shall be exempt from the provisions of these Acts and granted valid stay in India. A copy of the Ministry of Home Affairs notification dated 7<sup>th</sup> September 2015 and Order dated 7<sup>th</sup> September 2015 is annexed as Annexure P 14 (Page \_\_\_\_\_ to \_\_\_\_\_)
4. That on 8<sup>th</sup> December 2015, a report in The Hindu reports the Minister of State for Home Affairs, Kiren Rijiju as stating that the government vide its notification dated 7<sup>th</sup> September, 2015, has granted exemption to persons

belonging to minority communities in Bangladesh and Pakistan...in respect of their stay in India without valid documents including passport or other travel document. This position is a stark contrast to the Ministers recent statements quoted in news reports annexed in the writ whereby he is quoted to have stated that all Rohingya regardless of UN registration will be deported and that UNHCR registration was irrelevant. A copy of The Hindu report dated 8<sup>th</sup> December 2015, is annexed as Annexure P 15 (Page\_\_\_\_\_to\_\_\_\_\_)

5. That on the 5<sup>th</sup> May 2015, the Minister of State for Home Affairs in a written reply to a question by Shri Maheish Girri in the Lok Sabha on the views of the Government regarding the refugee determination system followed by the UNHCR, answers that, Refugees are registered under the mandate of the UNHCR who meets regularly with all refugees and their representatives to discuss their concerns and jointly looks for solutions to their problems as much as possible. That this statement of the Minister acknowledging the critical role of UNHCR in India, is again in contrast to the Ministers recent statements that UNHCR registration is irrelevant. A copy of the Ministers reply on 5<sup>th</sup> May 2015 in Lok Sabha is annexed as Annexure P 16 (Page\_ to \_\_\_\_\_)
6. That on 1<sup>st</sup> March 2016, the Minister of State for Home Affairs, Mr. Kiren Rijiju, in a written reply to Lok Sabha on whether the Government has issued notification to provide refugees status to all the illegal non-muslim migrants from nearby countries, answered, that notification dated 7.09.2015, under the Passport (Entry into India) Act, 1920 and Foreigners Act, 1946 have been issued by the Ministry to regularise the entry and stay of persons belonging to Minority communities in Bangladesh and Pakistan, who were compelled to seek shelter in India due to religious

persecution or fear of religious persecution. A copy of the 1<sup>st</sup> March 2016 answer of the Minister in Lok Sabha is annexed as Annexure P 17 (Page\_\_\_\_\_to\_\_\_\_\_)

7. That the latest report from the United Nations Human Rights, Office of the High Commissioner, on “Interviews with Rohingyas fleeing from Myanmar since 9<sup>th</sup> October 2016” give details of the human right violations that are faced by the Rohingya in Myanmar and who then fled to Bangladesh. These include death due to random firing, shooting at close range, stabbing by knife, burning, beating to death, killing of children, enforced disappearances, rape and other forms of sexual violence, etc. A copy of the UNHCR flash report dated 3<sup>rd</sup> February, 2017, is annexed as Annexure P 18 (Page\_\_\_\_\_to\_\_\_\_\_)
8. That stories in the international media continue to highlight the outbreak of violence in the Rakhine province of Myanmar where the military has been accused of atrocities against the persecuted Rohingya minority, who have fled burning villages to neighbouring countries. A Human Rights Watch news stated that new satellite imagery shows several hundred buildings burned in Burma’s Rakhine State and that the Burmese government should urgently grant access to independent monitors to determine the sources of fires and assess allegations of serious human rights violations made by ethnic Rohingya refugees. The UN Secretary General Antonio Guterres has also warned of the risk of ethnic cleansing in Myanmar as he appealed to the country’s authorities to end violence against Rohingya Muslims in Rakhine state. A copy of The Guardian article dated, 4<sup>th</sup> September 2017 “Myanmar blocks all UN aid to civilians at heart of Rohingya crisis”, the Human Rights Watch report dated 2<sup>nd</sup> September 2017, and the Aljazeera report dated 6<sup>th</sup> September 2017

on the UN Secretary General's statements are annexed as  
Annexure P 19 (Page\_\_\_\_\_to\_\_\_\_\_)

9. The annexures are true copies of their respective originals.
10. That I have done whatsoever enquiry that was possible and I state that no relevant facts in my knowledge have been withheld.

DEPONENT

VERIFICATION:

I, the above named Deponent, do hereby verify that the contents of the above Affidavit are true and correct to my knowledge; that no part of it is false and that nothing material has been concealed therefrom.

Verified at New Delhi on \_\_\_\_\_day of August 2017.

DEPONENT