

Delhi High Court

Bench: S. Ravindra Bhat (Author) – 2007

Panikkarveetil K. Jabir vs Union of India (UoI) And Ors.
(First Writ): WP 4972/1997 follow-up on 19 September, 2007

I. INTRODUCTION

This writ petition challenges the Ministry of External Affairs' (MEA) order dated 29 July 1998, refusing permission under Section 86 of the Code of Civil Procedure, 1908 (CPC) to sue the Government of the United Arab Emirates (UAE) for alleged unlawful detention, deportation, and violations of fundamental rights.

II. FACTS

- Petitioner's Background: Indian national who relocated to UAE in 1979 post-studies. Employed with M/s Cloissal (Dubai, 1979–1982), then moved to Abu Dhabi. Established:
 - Ram Lum Electromechanical Establishment (01 April 1985).
 - M/s Premier General Contracting Establishment (circa 1990).
- Tenancy Dispute: On 09 September 1995, entered tenancy contract with landlord Hassan Saeed for a nine-storey building. Alleged breach prompted civil suit by petitioner.
- Court Intervention: UAE court issued order on 24 October 1995 stopping payment of landlord's cheque.
- Alleged Harassment: On 26 October 1995, landlord allegedly colluded with police; petitioner and brother falsely implicated in charges, leading to detention (October 1995–May 1996, ~7 months).
- Judicial Proceedings in UAE:

- Court of First Instance (Abu Dhabi): On 10 April 1996 declaring him innocent and holding the allegations to be baseless.
 - Prosecution appeal: Appellate court granted bail (13 May 1996); court again upheld the acquittal on 19 May 1996.
 - Deportation: Despite full judicial exoneration, the Petitioner and his brother were not released, but were instead subjected to arbitrary deportation orders issued on 28 September 1996 by the Head of State Security, resulting in the Petitioner being forcibly removed from the UAE without his assets, business holdings, personal belongings, or earnings, all of which he was compelled to leave behind.
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III. PROCEDURAL HISTORY

- Initial Representations: Post-return, petitioner sought Central Government permission under S. 86 CPC to sue UAE Government for:
 - False implication and unlawful detention.
 - Complete acquittal by both the trial and appellate courts.
 - Deportation (arbitrary nature of deportation suffered).
 - Economic losses (denied repatriation of assets)
 - Violations of Article 21 (right to life/liberty/livelihood), UDHR, and ICCPR.
 - Also approached National Human Rights Commission.
- Supreme Court Proceedings: Filed writ under Article 32 (withdrawn 26 August 1997 with liberty to file under Article 226).
- Delhi High Court (First Writ): WP 4972/1997 disposed on 20 November 1997—directed MEA to decide representation within 2 months.
- Follow-Ups: Three representations post-direction.
- Impugned Order (29 July 1998): MEA refusal:

"Permission to sue a Foreign Government in this case, UAE, cannot be granted on the ground that certain injustices were suffered while doing business there. It is to be noted that any business initiatives in any foreign land should respect local laws. Accordingly, Shri Jabir should pursue his legal action as already done by him through the UAE courts. In India he cannot sue a foreign government, i.e. UAE government, as there is no direct cause of action lying against that Govt.

Although permission under Section 86 cannot be granted for suing the UAE Govt. we are taking up the matter with our Embassy in Abu Dhabi once again, requesting them to pursue this case at appropriate levels. These issues in accordance with legal advice given by the L and T Division of the Ministry of External Affairs."

- Current Petition: Challenges order as arbitrary, unreasoned, and violative of natural justice.

IV. ARGUMENTS—Petitioner's Submissions

- Impugned order lacks reasons (Harbhajan Singh Dhalla v. Union of India [1986]: Administrative orders under S. 86 require objective evaluation, natural justice, and explicit reasons).
- Arbitrary refusal ignores: Extreme hardship (7-month illegal incarceration on false charges); deportation despite acquittal; economic losses; invasions of Art. 21 rights and international obligations (UDHR, ICCPR).
- Shanti Prasad Agarwal v. Union of India (1991 Supp (2) SCC 296): Refusal must disclose intelligible reasons.

Respondents' (Union of India) Submissions

- Order reasoned: No cause of action in India (events in UAE); petitioner exhausted UAE remedies (acquitted by local courts).
- S. 86 protects sovereign immunity; suit viable only if cause arises in India (Rahimtoola v. Nizam of Hyderabad [1958]).
- UAE has functional legal system—no impediment alleged.

V. ISSUE—Whether the MEA's refusal under S. 86 CPC to permit suit against UAE Government is arbitrary, unreasoned, and violative of natural justice/Article 21, given the petitioner's UAE ordeal and international rights breaches.

VI. HOLDING

- Refusal Upheld: Writ petition dismissed (no order as to costs).
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VII. REASONING

1. Sovereign Immunity under S. 86 CPC.
 2. Absence of Cause of Action in India.
 3. Sufficiency of Reasons.
 4. No Broader Rights Violations Warranting Override.
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VIII. DISPOSITION

- Petition dismissed.
 - No further directions or costs.
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FULL JUDGMENT

Full judgment accessible at the following official online case law repositories at the URLs provided below for reference and verification.

https://www.reparationlaw.com/statepractices/jabir_vs_mea_india_19_09_2007_delhi_high_court.php

<https://www.lawyersindia.com/outsourcing/b-diary-proceedings-delhi-high-court-wp-6149-1998-2007.html>

<https://indiankanoon.org/doc/1323726/>

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