

ORDER SHEET
IN THE HIGH COURT OF SINDH KARACHI

Const. Petition No. S-678 of 2022

Date	Order with signature(s) of Judge(s)
Disposed of:	

1. For orders as to non-prosecution.
2. For hearing of Misc. No.2420/2024
3. For hearing of Misc. No.9641/2024.

19.01.2026.

Barrister Syed Mustafa Medhi for the Petitioner.

Respondent present in person.

Mr. Abdul Jalil Zubedi, Assistant Advocate General Sindh a/w PI Faisal Raza, PS Malir Cantt: Karachi.

Despite orders passed on several dates of hearing, the petitioner, Muhammad Faraz Shaikh, has failed to cooperate with the Court for arranging a meeting of the minor with mother. Counsel for the petitioner submits that the matter falls outside the jurisdiction of this Court and, therefore, no order can be passed regarding the custody of the minors. However, a perusal of the record reveals that the custody of the minor was handed over by the mother to the father (Petitioner) pursuant to the order dated 25.01.2024 passed by this Court, Petitioner was granted permission to take custody of minor to USA. For the sake of convenience para 20 & 21 of the order dated 25.01.2024 are reproduced herein below:-

“20. During course of hearing, learned counsel for the petitioner filed a statement in which the petitioner father undertook to withdraw the contempt application filed against the respondent mother in the U.S Court and upon his doing so the warrant issued against the respondent mother would become ineffective and that the respondent mother would have rights granted to her by the U.S. Courts. The statement and undertaking dated January 25, 2024 filed by the petitioner father is taken on record and the petitioner is directed to adhere to the same.

21. For the aforementioned reasons and in the presence of concurrent edicts decided in favor of the Petitioner father, the respondent mother is directed to hand out custody of the Minor to the father or the concerned authorities acting on his behalf, so also the concerned authorities to afford all facilities to the father to take the child back to the United States pursuant to the order passed by this Court and the U.S Courts and in case the mother wishes to follow the suit appropriate facilities also to be provided to her as and when requested. The above CMA is decided in these terms.”

2. From a perusal of paragraph 20 of the order, it appears that the petitioner had furnished an undertaking whereby he assured that he would withdraw the

contempt application filed before the U.S. Court within ten days, and upon such withdrawal, the State warrants would become infructuous. It further appears that, after furnishing this undertaking, the petitioner went to the United States, where he filed another undertaking before the U.S. Court, contending therein that the undertaking given by him before this Court was obtained at gunpoint. Since the order of this Court was conditional in nature, the petitioner was obliged to comply with the same. The mother, due to the issuance of State warrants, is unable to travel to the United States; therefore, it is the obligation of the petitioner, who has been residing in the United States for about two years, to produce the minor before this Court for a physical meeting with the mother/respondent No.1. Since January 2024, the minor has been in the custody of the petitioner without a meeting with mother.

3. The respondent No.1, being the mother, duly complied with the order of this Court and handed over the custody of the minor to the petitioner for the regulation of permanent custody in the United States; however, the petitioner himself has failed to comply with the orders of this Court. In these circumstances, this Court is left with no option but to direct the Ministry of Foreign Affairs, Government of Pakistan, to communicate with the Consulate/Embassy in the United States, which shall intimate the General Court of Justice District Court Division (State of North Carolina), seized with matter to look into the conduct of the petitioner, who has deprived the minor of meeting with her mother. Such conduct is in violation of the constitutional rights guaranteed under the Constitution of the Islamic Republic of Pakistan, 1973, as well as the United Nations Convention on the Rights of the Child, 1989, which provides that children shall have equal rights of custody and access to both parents.

4. In case the petitioner fails to arrange a meeting of the minor with the mother within one month from today, it is made clear that the orders dated 25.01.2024 whereby custody of the minor was handed over to the petitioner may be recalled.

Office to send copy of this order to Ministry of foreign affairs for compliance. Copy of the order shall also be provided to the offices of Advocate General Sindh and Additional Attorney General for Pakistan for compliance.

Learned MIT - II to ensure compliance.

To come up on **02.03.2026**.

JUDGE