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Lost in Transit- The Story of Nyla Imaan Samee

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On 17th March, 2020 a Mumbai High Court bench consisting of *RI Chagla, J.* and *S.J. Kathawalla, JJ* disposed off an extraordinary and unusual Writ Petition [*Sabah Manal Colabawalla v. Union of India, WP (L) No. 871 of 2020 – Mumbai High Court*] under Article 226 of the Constitution of India .

The Writ Petition was filed by (Ms. Sabah Manal Collabawalla) the mother of a 19 Year girl (Ms. Nyla Imaan Samee) who had been stranded at the Dubai International Airport since the past 6 days- without any help whatsoever. The same was alleged to be due to a gross misinterpretation of the Circular regulated by the Ministry of Health and Family Welfare dated 11th of March with the title “*Consolidated Travel Advisory for Novel Coronavirus Disease (COVID-19)*” read in consonance with the *Bureau of Immigration’s Travel Advisory for travellers arriving to India from COVID-19 affected nations.*

The girl, who had been born in the United States (and held an American Passport) out of the first marriage of the Petitioner, had since moved with the Petitioner to India and had obtained an Overseas Citizen of India (OCI) Card as well as an Aadhaar Card, both of which are considered proof of the fact that she is an Indian citizen. The girl subsequently completed her International Baccalaureate (IB) degree from Mumbai and was now pursuing her Bachelor’s degree from Tufts University in Boston, Massachusetts.

Upon the outbreak of COVID-19 in the United States, the University authorities instructed her on the 10th of March (via email) to return home and to vacate the campus by 16th of March. She subsequently boarded an Emirates Airlines flight from Boston to Delhi via Dubai. However, she was denied boarding due to a misinterpretation of the aforementioned advisory confusing the port of *transit* as the ‘initial’ port of departure. Although her port of departure (Boston) was supposed to be considered for the time limitation as mentioned in the advisory, the officials misconstrued the same as the airport (Dubai) from which the girl had immigrated into India, paying no heed to the fact that the Dubai to Mumbai sector was in fact a connecting flight. The High Court thus immediately issued a writ of Mandamus and made sure that the girl was brought home. The Hon’ble Court was also careful to note that the girl would be subjected to the same immigration procedures as all other citizens once she arrives

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at the Mumbai International Airport.

The judgement has been lauded throughout legal circles in India for the promotion of human rights and its effective usage of the Judicial Review mechanism (*enshrined under Article 32 of the Constitution of India*) during the period of the lockdown by safeguarding the Right to Free and Fair Treatment, which is enshrined in numerous international conventions such as the Universal Declaration of Human Rights (UDHR) and the International Covenant for Civil and Political Rights (ICCPR), along with Article 14 (Right to Equality) of the Constitution of India as it brings to the fore the importance of grassroots education and awareness regarding all COVID-19 related protocols to all relevant stakeholders across the government.

We must note the fact that Nyla is indeed one of the lucky few to have been bestowed the privilege of coming back home. Not everyone affords the privilege of approaching the Court, and applications for Free Legal Aid (*enshrined under Article 39A of the Constitution of India and the Legal Services Authority Act, 1986*) are practically impossible to entertain in such circumstances. Numerous Indians remain stuck across the globe with no help whatsoever from the government or their families. Many of them (*such as those working in State owned enterprises in Oman*) have had their work permits cancelled, with nothing but a few days' salary, coupled with meagre savings to live on. Such incidents must provoke the conscience of the ruling establishment to rethink about the welfare of its citizens and to make efforts in order to repatriate them.
