



**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Civil Writ Petition No. 11837/2025

Bhaya Lal Bhagriya S/o Shri Fakira Bhagriya, Aged About 32 Years, Resident Of Gomathwara, Sagwara, District- Dungarpur (Rajasthan).

-----Petitioner

Versus

1. Union Of India, Through Secretary, Ministry Of External Affairs, Government Of India, South Block, New Delhi.
2. The Secretary, Home Affairs, Government Of India, New Delhi.

-----Respondents

For Petitioner(s)	:	Mr. Gulab Singh Mr. Tanwar Singh
For Respondent(s)	:	Mr. Rajendra Choudhary

HON'BLE MR. JUSTICE SUNIL BENIWAL (VACATION JUDGE)

Order

13/06/2025

1. The present writ petition has been filed by son of deceased- Shri Fakira Bhagriya who unfortunately passed away on 21.04.2025 in London Borough of Brent.
2. Learned counsel for the petitioner submits that the family of deceased wishes to perform the last rites of the deceased in India considering their religion and beliefs.
 - 2.1 He further submits that it is only on 12.03.2025 that the deceased acquired British citizenship and soon was to apply for Overseas Citizenship of India (OCI) however, unfortunately on 21.04.2025 i.e. approximately one month after acquiring British citizenship, he passed away. submits that due to non-availability of OCI, the respondent Ministry is not providing NOC for bringing the mortal remains of deceased to India from UK.



2.2 Learned counsel urges that the respondents ought to have humanitarian approach and grant NOC considering the fact that deceased was of Indian origin and his family resides in India. Also, the family of deceased cannot be denied their right to cremate the deceased as per their rituals and religious beliefs.

2.3 He further submits that the only formality remaining is grant of NOC from Indian High Commission of London to transmit the mortal remains to India. He has relied upon a judgment passed by the Delhi High Court while dealing with similar circumstances in **Anthony Watts Vs. UOI & Anr.; W.P.(C) 11192/2024** (decided on 16.08.2024).

3. Per contra, learned counsel for the respondents submits that as per the Office Memorandum dated 25.04.2020, issued by the Ministry of Home Affairs, Government of India, the mortal remains of Indian Citizens and OCI Cardholders can be transferred to India and, therefore, the mortal remains of the deceased father of the petitioner cannot be transported from U.K. to India. Learned counsel for the respondents has placed before this Court a copy of the said Office Memorandum before this Court, which is taken on record.

4. I have heard rival contentions and perused the material available on record.

5. The Delhi High Court, in the case of Anthony Watts (supra), after considering the submissions, issued direction to the High Commission of India to give NOC, while observing as under:-

“11. Moreover, from a review of the guidelines issued with regards to transfer of mortal remains, it emerges that there is emphasis on the fact that the deceased should be a person of Indian origin. The fact that late Mr. Watt was a person of Indian Origin has already been confirmed in the present case through documents placed on record.



12. In light of the above, the Court finds it to be a fit case to allow the request of the Petitioner and accordingly, the following directions are issued:

(i) The communication dated 29th July, 2024 passed by Consular section, High Commission of India, London, refusing to grant a No Objection Certificate for the transfer of mortal remains, is set aside.

(ii) A mandamus is issued directing Respondent No. 1 to issue a No Objection Certificate to Petitioner's daughter-in-law/ Ms. Sharon Alphonso for transfer of mortal remains of late Mr. Alfi Richard Watts from United Kingdom to Hyderabad."

6. This Court is in agreement with the above observations as rendered by the Delhi High Court. In the present matter too, the Indian documents like passport and Aadhar have been placed on record therefore, this Court deems it appropriate to grant the prayer as sought for by the petitioner.

7. In view of the above observations, the present writ petition is allowed. The communication dated 19.05.2025 (Annexure 12) given by Under Secretary, (External Affairs Minister's Office) denying issuance of NOC is set aside. The concerned authority/respondents is directed to issue a No Objection Certificate to the petitioner (son of deceased- Shri Fakira Bhagriya) for transfer of mortal remains of late Shri Fakira Bhagriya from United Kingdom to place of residence of the petitioner in India.

8. All pending application (s), if any, also stand(s), disposed of.

(SUNIL BENIWAL (VACATION JUDGE)),J

338-skm/-