



# Liquidated companies liable to pay outstanding salaries



**LEGAL VIEW**  
ASHISH MEHTA

**I was working as an accountant general in a company, which has defaulted, and one of the partners is in jail and the other can't be reached. I left the company about five months ago and lodged a complaint with the Labour Department against them. Yesterday, the local sponsor's secretary called me to say that the local sponsor wanted to cancel the license of the company. They will cancel all visas in the company's name. She also told me that he will not pay any outstanding dues. The company has not paid me five months' salary. I refused to take this offer. Please advise if there is any legal action which the sponsor can take against me. Can the company's license be cancelled without cancelling my visa?**

It is understood that you were working in the capacity of 'Accountant General' at a company where one of the shareholders is facing imprisonment while the other shareholder is absconding. And subsequently, the local shareholder now wishes to liquidate the company, cancel the licence of the company and visas of all employees under its sponsorship, without providing outstanding salary and end-of-service benefits to the employees of the company.

Pursuant to your question, it has been noted that you have already registered your complaint with the Ministry of Labour. It may therefore be advised that you may continue to follow-up on your complaint at the ministry, as you are rightfully entitled to receive payment of your outstanding salary and end-of-service benefits, irrespective of any

changes occurring within the share-holding of the company. The company is liable to pay you; not its shareholders. So, it may be advised that you do not have any obligations to accept the offer made by the local shareholder and in this regard the latter will not have a bona-fide reason to take any legal action against you if you refuse to accept his offer to cancel your visa without payment of your entitlements.

Usually at the departments of economic development throughout the UAE, the trade/business licence of a company cannot be cancelled unless the visas of all employees under the sponsorship of the company have been cancelled and all documentation in this regard has been duly submitted. Pursuant to this, it may be advised that without cancellation of your visa, the licence of the company, where you were working, also may not be cancelled.

## **Company can't file case against absconding employee's wife**

**My sister has been living in Sharjah for six years under her husband's sponsorship. Her husband, however, has been out of the country for 11 months without cancelling his visa and her sponsorship. She is working in Ajman and has an NOC from him. She is staying in Sharjah with her two children. Her husband's sponsor filed a case against my sister that she is a runaway. Does the sponsor have any legal right to file a case against her since she is not working for him? If the answer is yes, what can she do to remain in the**

**country? What are the requirements for her to sponsor her children in Ajman if she can be employed by another company?**

It is understood that your sister is living in the UAE under the sponsorship of her husband who has been out of the country for a continuous period of eleven months as of now. Subsequently, the husband's employer has filed an absconding case against your sister. It is not clear how the employer of your sister's husband filed an absconding case against your sister. Your sister has no direct relationship with the employer of her husband as she is not holding a visa from the employer of her husband.

Further it may be advised that the employer of your sister's husband does not have a bona fide reason to initiate an absconding case against your sister because she is not an employee of the employer of your sister's husband and is working on an NOC obtained from her husband, which was given by her husband in his personal capacity. So presumably the employer of your sister's husband has no merit to initiate a legal action against your sister as your sister neither has any contractual nor legal relationship with the employer of her husband.

However, as your sister's husband is already outside the country for a continuous period of 11 months, it is assumed that her husband's visa is automatically invalidated; although the validity of his visa may not have necessarily expired. In such an event she may obtain the signatures of her husband on certain documents to cancel the visas currently held by them in order to obtain new visa from her employer. Cancellation of her and her children's visa sponsored by her husband will facilitate the employer of her husband to cancel the visa of her husband.

Therefore, if your sister wishes to continue to live in the UAE, along with her children, she may now proceed to cancel the visa sponsorship under her husband and request her employer to provide her an employment visa which will enable her to stay on in the UAE and also sponsor visas for her children, provided she fulfills the criteria to sponsor her children.

Your sister should be able to sponsor visas for her children subject to the approval of the General Directorate of Residency and Foreigners Affairs in the emirate of Ajman. The criteria for a lady to sponsor her children may vary from one emirate to another emirate. Therefore your sister should check the prevailing criteria to sponsor her children with the office of the General Directorate of Residency and Foreigners Affairs in the emirate of Ajman.

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