

A SUBHAN TOURS & TRAVEL SERVICES

v.

UNION OF INDIA

(Writ Petition No. 239 of 2016 etc.)

B MAY 18, 2016.

[ABHAY MANOHAR SAPRE AND ASHOK BHUSHAN, JJ.]

C *Haj – Writ petition u/Art. 32 of Constitution – By Private Tour Operators (PTO) – Seeking direction to the authorities concerned to consider their application for registration as PTO for conducting Haj tours for the year 2016-17 – Held: Liberty granted to each writ petitioner to make a fresh application on or before 27.5.2016 as prescribed for grant of permission to take the pilgrims for haj for the year 2016 to the prescribed authority – Authority concerned directed to examine, consider and decide each such application on its merit strictly in accordance with law by passing a reasoned order – Writ petitions disposed of – Constitution of India – Art.32.*

D *Union of India & Ors. vs. Rafique Shaikh Bhikan & Ors. 2013 (5) SCR 428 = 2013 (4) SCC 699; Jeddah Travels & Jeddah Hajj Group vs. Union of India 2014 (14) SCC 378 – referred to.*

E Case Law Reference

2013 (5) SCR 428 referred to Para 9

2014 (14) SCC 378 referred to Para 9

F CIVIL ORIGINAL JURISDICTION: Writ Petition (Civil) No. 239 of 2016.

Under Article 32 of the Constitution of India.

WITH

G W. P. NOS. 844 & 845 OF 2015

W. P. NOS. 70, 71, 72, 166, 211, 246, 263, 279, 280, 318, 319, 320, 325, 344, 286, 317, 64, 362, 363, 364, 310, 360, 328, 369, 368, 262 OF 2016.

H V. Giri, Sr. Adv., Nikhil Goel, Marsook Bafaki, Sayid Marzook Bafaki, Zulfiker Ali P. S., Faisal M. Aboo Baiker, Harshad V. Hameed, 768

Dileep Poolakkot, Mrs. Ashly Harshad, Z. U. Khan, Syed Imtiyaz Ali, R. D. Upadhyay, K. Raghavacharyulu, Kailash Pandey, Ranjeet Singh, Arindam Dey, K. V. Sreekumar, Z. U. Khan, Chandra Bhushan Prasad, Mohd. Ainul Ansari, Manoj Kumar Goyal for the Petitioner. A

Neeraj Kishan Kaul, ASG, Bhuban Mishra, Ritin Rai, Ms. Sweta Garg, Siddhartha Jha, Ms. Sadhvi Mohindru, B. Krishna Prasad for the Respondents. B

The Judgment of the Court was delivered by

ABHAY MANOHAR SAPRE, J. 1. This decision shall dispose of all the writ petitions because as stated by the learned counsel appearing for the parties, all these writ petitions essentially involve common issues. C

2. These writ petitions are filed by the writ petitioners under Article 32 of the Constitution of India for claiming following reliefs.

“(a) Issue a Writ, order or direction in the nature of Mandamus commanding and directing the respondents to accept application for registration and issue Registration Certificate as PTO under Category II for conducting Haj Tour, 2016; D

(b) Issue a Writ, order or direction in the nature of Mandamus commanding and directing the respondents to consider the right of first registration to the Petitioner for conducting Haj Tour, 2016-2017; E

(c) Pass such other and further orders as this Hon’ble Court may think fit in the interest of justice and equity.”

3. The writ petitioners are private tour operators (PTOs) who are sending pilgrims for Hajj. According to them, they are duly registered and qualified tour operators who have so far undertaken several tours for Hajj successfully in the past and there is nothing against any of them, which may debar them from undertaking the similar tour this year also which is essentially a tour for the benefit of pilgrims going for Hajj. F G

4. It appears from the reading of the writ petitions that these writ petitioners have a grievance based on some kind of apprehension that their applications, if made or those which are pending with the authorities for grant of permission to undertake Hajj Yatra for the current year H

- A 2016, are likely to be rejected or would be rejected thereby making their apprehension a reality and grievance infructuous. It is essentially with this kind of apprehension asserted in the writ petitions, these writ petitions are filed for grant of aforementioned reliefs.

- B 5. Shri Neeraj Kishan Kaul, learned Additional Solicitor General appearing for the respondent-Union of India at the very outset fairly made a statement that so far no decision has been taken on any of the applications made by these PTOs (writ petitioners) by the authorities. Learned counsel also stated that let each writ petitioner make a fresh application for grant of permission with necessary details and documents as prescribed latest by 27.05.2016 to the concerned
C authorities and each such application once made would be examined, considered and decided in accordance with law on its individual merits by the authorities concerned and reasoned order would be passed on each such application latest by 29.06.2016 under intimation to each applicant.

- D 6. Though learned counsel for the writ petitioners and learned Additional Solicitor General argued the matter with reference to previous orders passed by this Court on the issues sought to be raised, we are not inclined to go into any of these questions because as mentioned above, it is not necessary to go into it at all in the light of the statement
E made by the learned Additional Solicitor General. We, therefore, express no opinion on any of the issues.

7. Learned counsel appearing in three writ petitions namely Writ Petition Nos. 262, 263 and 364 of 2016, however, made attempt to urge that the cases of these three writ petitions involve some different
F point. We have heard the learned counsel and find that at this stage it is not necessary to go into the merits of writ petitions.

8. In the light of aforesaid discussion and keeping in view the statement made by the Additional Solicitor General on behalf of the respondent-Union of India, we dispose of these writ petitions finally
G by granting liberty to each writ petitioner to make a fresh application with all the necessary details with the documents as prescribed for grant of permission to take the pilgrims for Hajj for the year 2016 on or before 27.05.2016 to the prescribed authority.

9. On such application(s) being made, the concerned authority
H would examine, consider and decide each such application on its merit

strictly in accordance with law and keeping in view the law laid down in the decisions of this Court in Union of India & Ors. vs. Rafique Shaikh Bhikan & Ors., 2013 (4) SCC 699, Order dated 07.08.2014 passed in Special Leave Petition (c) No. 20743/2014 entitled Union of India & Ors. vs. All India Hajj Umrah Tour Organizers Association & Ors., Order dated 07.08.2014 passed in Writ Petition (civil) No. 480/2014 etc.etc. entitled Jeddah Travels & Jeddah Hajj Group vs. Union of India, Order dated 12.05.2015 passed in I.A. No. 33 of 2015 in Special Leave Petition (c) No. 28609/2011 entitled Union of India vs. Rafique Sheikh Bhikan and others and Order dated 23.07.2015 in W.P.(civil) No. 344/2015 entitled Alban Hajj Umrah Service vs. Union of India.

10. Let the applications be decided by the concerned authority by passing a reasoned order on each application on or before 29.06.2016 and the order so passed be communicated to each applicant (writ petitioner) immediately.

11. The writ petitions are disposed of.

Kalpana K. Tripathy

Petitions disposed of.