BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.07.2016

CORAM

THE HONOURABLE MR.JUSTICE M.VENUGOPAL

W.P(MD)No.9952 of 2016
and
WMP(MD)No.7858 of 2016

M/s.Ameer Travels(P) Ltd.,
Rep. by its Managing Director,
Mr.J.Sharfudeen ... Petitioner

Vs.

1.Union of India,
Through the Director General of Civil Aviation,
Office of the Director General of Civil Aviation,
Aurbindo Marg,
Opposite Safderjung Airport,
New Delhi - 110 003.

2.M/s.Srilankan Airlines Ltd.,
Having Branch Office at
Hotel Femina Complex,
No.14-c, Williams Road,
Cantonment, Trichy. ... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India seeking for issuance of a Writ of Mandamus, directing the 2nd Respondent to confirm the tickets for 249 passengers in 4 Haj Groups allotted under Haj Group PNR.5NB2US, 5NB3FA and PNR.6BEGBA, 6BEGJ4 as per previous confirmation and commitment, dated 06.11.2015 and 17.11.2015 respectively and to arrange the Air travel in their Airlines as per original schedule on 16.08.2016 for 100 pilgrims, on 04.09.2016 for 99 pilgrims and on 05.09.2016 for 50 pilgrims.

For Petitioner : Mr.A.K.Manickam
For R-1 : Mr.S.Jeyasingh, (CGSC)
For R-2 : Mr.M.Sridhar

O R D E R

Heard the Learned Counsel for the Petitioner.

2. According to the Petitioner, the Petitioner Travels is involved in the business of arranging Air Tickets for passengers from India to all Foreign Countries and vice versa, for the past more than two decades. In fact, the Petitioner Travels has earned very good reputation in the society especially among Haj pilgrims.

3. The stand of the Petitioner is that during the first week of November, 2015, its Travels booked 249 Air Tickets(Haj Groups), nine months prior to travel dates, with the second Respondent/Srilankan Airlines Ltd., Trichirappalli. The travel dates are 16.08.2016, 04.09.2016, and 05.09.2016 respectively. Furthermore, the Gross fare at the time of booking for Group-1 is INR 34,425/- per pax + all system taxes during the time of ticket and for Group-2 is INR 34,475/- per pax + all system taxes during the time of ticket.

4. The categorical plea of the Petitioner is that the tax alone is variable and not the tariff already fixed and if any variation in tax occurred, that variation tax is payable. As a matter of fact, the second Respondent/Airlines has fixed the Gross fare for the Air Tickets plus all system taxes during the time of ticketing. Moreover, the Petitioner's Travels and the second Respondent/Airlines, had mutually agreed for the same and allotted under Haj Groups PNR.5NB2US, 5NB3FA and PNR.6BEGBA, 6BEGJ4 and the same were confirmed by the second Respondent on 06.11.2015 and 17.11.2015 respectively.

5. Indeed, the Petitioner Travels paid the Non Refundable Deposit on 12.11.2015 and 19.11.2015 in respect of the aforesaid PNRS respectively. The second Respondent had collected 25% of Non Refundable Deposit, towards part of Air fare for 249 Air passengers from 'Trichy' to 'Jeddah' and vice versa. The cost of deposit alone comes to around Rs.21,49,625/-. At the time of confirmation, it is represented on behalf of the Petitioner that the second Respondent/Airlines never represented that their Travels have to pay any increase in Air Tickets at the time of travel or before the travel. Added further, on the basis of assurances and confirmation of Tickets, the Petitioner Travels had collected Air Fare from Haj pilgrims and in fact, their Company also made arrangements for accommodation both at Mecca and Madhina for accommodating the Haj pilgrims. The travel dates are fixed as 16.08.2016 for 100 pilgrims, on 04.09.2016 for 99 pilgrims and on 05.09.2016 for 50 pilgrims.

6. At this stage, the Learned Counsel for the Petitioner submits that at the cost of Petitioner's reputation, it had booked the tickets with the second Respondent/Airlines on 06.11.2015 and 17.11.2015 well in advance of nine months prior to the actual travel dates with fond hope that the second Respondent does not go back on its promise and assurance.

7. The Learned Counsel for the Petitioner urges before this Court that after receipt of 25% Non Refundable Deposit in this regard, in January 2016, the second Respondent/Air lines orally informed that the Haj Group fare was revised and it comes around Rs.30,00,000/- in addition to the actual amount and in reality, the petitioner/Company expressed that it would not be possible/feasible to pay extra cost as it was already informed the pilgrims regarding the cost of Air Tickets.

8. Furthermore, on 25.01.2016, the second Respondent/Airlines informed the Petitioner that they have to pay the difference in Fare or otherwise, the seats would be released to other travel Agency. Subsequently, there were exchanges of so many e-mails between the Petitioner/Company and the second Respondent/Airlines as regards the revised tariff fare and their request were not considered by the second Respondent.

9. The Learned Counsel for the Petitioner strenuously projects an argument that the present claim of the second Respondent, is against the Circular No.9/9/2009-IR, dated 11.05.2009 issued by the first Respondent/Government of India through the Director of Regulations & Information for Director General of Civil Aviation to implementation of Rule 135(Tariff) of the Aircraft Rules 1937. It is also represented on behalf of the Petitioner/Company that now it is not possible to collect the extra fare from all Haj pilgrims and such, a demand at the 11^{th} hour, is not only an excessive one, but a predatory in character. Moreover, the second Respondent/Airlines is indulging in oligopolistic practices by booking tickets in one term and then demand higher amount and this is nothing but a cheating.

10. Apart from that, it is the version of the Petitioner that the second Respondent/Airlines wants to monopolies the Haj service and indirectly forced the pilgrims to travel at excessive and predatory tariff. After making every arrangements, the traveller has no other way except to meet the higher demand of the second Respondent and to oblige the same. In this regard, the act of the second Respondent/Airlines, is a clear case of oligopolistic practice and against the Aircraft Act, 1934 and Rule 135 of the Aircraft Rules, 1937.

11. The Learned Counsel for the Petitioner comes out with a contention that the Petitioner/Company received an E-mail from the second Respondent/Airlines that seats that were allotted to their Company would be finalized to other Travel Agency, if difference in fair was not paid. In this regard, the stand of the Petitioner is that the Haj pilgrims are insisting them to travel in the second Respondent/Airlines as per the original schedule on 16.08.2016 for 100 pilgrims, on 04.09.2016 for 99 pilgrims and on 05.09.2016 for 50 pilgrims, that too on the previous agreed tariff alone.

12. Besides the above, the Learned Counsel for the Petitioner brings it to the notice of this Court that the Petitioner/Company had submitted a representation to the 1st and 2nd respondents on 21.05.2016 for consideration and for passing an order in directing the 2nd Respondent to confirm the tickets for 249 passengers in 4 Haj Groups allotted under Haj Group PNR.5NB2US, 5NB3FA and PNR.6BEGBA, 6BEGJ4 as per previous confirmation and commitment, dated 06.11.2015 and 17.11.2015 respectively and to arrange the Air travel in their Airlines as per original schedule as stated supra. Also that, it is the duty of the first Respondent/Authority to take necessary action in accordance with Law against the second Respondent. The real grievance of the Petitioner is that the first Respondent/Union of India has not considered its request and no action has been taken so far on their representation, dated 21.05.2016. Under such circumstances, the petitioner has filed the present Writ Petition.

13. In response, the Learned Standing Counsel for the first Respondent/Union of India submits that the subject matter in issue relates to the Petitioner/Company and the second Respondent/ Airlines and as such, the first Respondent has no role to play.

14. Controversially, it is the submission of the Learned Counsel for the second Respondent/Srilankan Airlines, Trichirappalli, that the Writ Petition filed by the Petitioner is not maintainable because of the simple reason that the Second Respondent is a Foreign Airlines incorporated under the Laws of Srilanka having its registered office at Airline Centre, Bandaranaike International Airport, Katunayake, Sri Lanka. The shares of the Airline is held by the Government of Srilanka to the extent of 99.11% and others hold 0.53% people's bank one share.

15. The Learned Counsel for the Second Respondent/Airlines proceeds to take a legal plea that the second Respondent/Airlines, is not a 'STATE' coming within the ambit of Article 12 of the Constitution of India, for the purpose of application of the provisions contained in Part III of the Constitution of India. Furthermore, 'the second Respondent/Airlines, is not a State within the purview of Article 12 of the Constitution of India, not a Statutory Body, not an Instrumentality, not an agency of the State, not a Company, which is financed or owned by the State, not a private body discharging public duty, not a person or body liable to discharge any function under any statute' to compel it to perform such a duty. Therefore, it is represented that the action of the Airlines, is not amenable to Writ jurisdiction under Article 226 of the Constitution of India.

16. The Learned Counsel for the Petitioner/Company refers to Rules 135(2A) and (2B) of the Aircraft Rules, 1937, as amended vide notification No.GSR 254(E), dated 16.04.2009, which reads as under:

" (2A) The tariff to be published under sub-rule (2) or advertised in any other way shall show the following particulars, namely:-

(a) the total amount payable by a passenger; and

(b) a complete break-up of the total amount, indicating the fare, tax, fees or any other charge, if any separately.

Explanation - For the purposes of this sub-rule:-

(a) tax means the amount payable to the Government; and

(b) fees means the amount payable to the service providers for provision of any service or facility to the passengers.

(2B) The particulars mentioned in sub-rule (2A) shall also be mentioned in the passenger ticket.

17. In fact, Rule 135(3) of the Aircraft Rules, 1937 enjoins as follows:

"(3) Every air transport undertaking shall maintain all records relating to tariff established by him under sub-rule (1) in such manner and in such form as may be specified by the Director-General, and on demand by the Director-General shall produce such records before the Director-General for inspection."

18. Furthermore, Rule 135(4) of the Aircraft Rules, 1937 contemplates as under:

(4) Where the Director-General is satisfied that any air transport undertaking has established excessive or predatory tariff under sub-rule (1) or has indulged in oligopolistic practice, he may, by order, issue directions to such air transport undertaking.

19. The Learned Counsel for the Petitioner/Company seeks in aid of the Circular bearing No.9/9/2009-IR, dated 11.05.2009 issued by the first Respondent/Government of India through the Director of Regulations & Information for Director General of Civil Aviation, as reagards implementation of Rule 135(Tariff) of the Aircraft Rules 1937, wherein at paragraph Nos.3 and 4, it is observed as under:

"3. In accordance with the revised rules, the airlines operating scheduled air services-domestic as well as international - to/from/within India shall be required to advise the passenger the consolidated fare as well as complete break-up thereof, and also show the fare on the ticket in the same manner.

4. You are advised to comply with the revised provisions of the Aircraft Rules, 1937, in letter and spirit and for that purpose make suitable modifications in your system upto 10*th *June, 2009. Contravention of these provisions is punishable in accordance with Schedule VI of these Rules."

20. As a matter of fact the aforesaid circular was issued to all the Airlines operating to/from/within India and as such it applies to the second Respondent/Foreign Airlines.

21. The Learned Counsel for the second Respondent/Airlines also brings it to the notice of this Court Section 10 of the Aircraft Act, 1934, which runs as under:

"a [10. Penalty for act in contravention of rule made under this Act- (1) If any person contravenes any provision of any rule made under clause (I) of sub-section (2) of section 5 prohibiting or regulating the carriage in aircraft of arms, explosives or other dangerous goods, or when required under the rules made under that clause to give information in relation to any such goods given information which is false and which he either knows or believes to be false or does not believe to be true he, and if he is not the owner, the owner also (unless the owner proves that the offence was committed without his knowledge, consent or connivance) shall be punishable with imprisonment which may extend to two years and shall also be liable to fine b [which may extend to ten lakh rupees.]

c [(1A) If any person contravenes any provision of any rule made under clause (qq) of sub-section (2) of section 5 prohibiting the slaughter and flaying of animals and of depositing rubbish, filth and other polluted and obnoxious matter within a radius of ten kilometres from the aerodrome reference point, he shall be punishable with imprisonment which may extend to d [three years, or with fine which may extend to ten lakh rupees], or with both.

(1B) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, an offence referred to in sub-section (1A) shall be cognizable.]

a [(2) In making any other rule under section 5 or in making any rule under b [section 4,] section 7, section 8, section 8A or section 8B, the Central Government may direct that a breach of it shall be punishable with imprisonment for a period which may extend to e [two years, or with fine which may extend to ten lakh rupees], or with both.]

[a] Substituted for the original section by the Aircraft (Amendment) Act, 1960 (44 of 1960), S.4(26-11-1960).

[b] Inserted by the Aircraft (Amendment) Act, 2007 (44 of 2007)

[c] Inserted by the Aircraft (Amendment) Act, 1988 (50 of 1988).

[d] Substituted for the words "one year, or fine which may extend to two thousand rupees "by the Aircraft (Amendment) Act, 2007 (44 of 2007)."

[e]Substituted for the words 'three months, or with fine which may extend to one thousand rupees' by the Aircraft(Amendment) Act, 2007 (44 of 2007).'

22. In the reply, dated 30.06.2016 sent by the second Respondent/Airlines addressed to the first Respondent/Government of India, it was inter alia mentioned as under:

" The advance booking was made in November 2015 i.e., 9 months prior to travel with travel date 16th August 2016, 4th September 2016 and 5th September 2016.

Based on the fare a 25% non-refundable amount was collected (base fare) from the agent on 12.11.2015 and 19.11.2015.

The fares were given to collect the non-refundable deposits to protect the scats (Ref PNR-5NB2US 5NB3FA 6BEGBA, 6BEGJ4). The email addressed to the agent clearly specified the fares as per the current rate.

Thus the total amount collected from the agent towards non-refund deposit for four groups amounted to Rs.21,49,625.

Needless to state that the non-refundable deposit amount collected is based on the base fare at the time of booking and the same was collected to avoid last minute cancellation and loss to the airline. In this connection, we wish to state that Sri Lankan Airlines have the sole discretion to revise the fares until the time of ticketing. The normal practice is that Airlines collects the non-refundable deposit to keep the seats after making the booking and then to increase the fare later according to market situation.

The practice of collecting non-refundable deposit is not only by Sri Lankan Airlines (MAA & TRZ) but also other airlines with regard to Haj Group. Suffice it to state that all other agents who have taken Haj Group had agreed to the fare revision excepting Ameer Travels.

Clause 8 of Conditions of Carriage of Sri Lankan Airlines reads as follows:

'The fare for carriage is subject to change prior to commencement of carriage.'

As per the condition of contract the fare for carriage hereunder is subject to commencement of travel.

Fare applies for carriage from point of origin to point of destination unless or otherwise expressly stated.

Fares do not include for transportation service between airports and other terminal. Fares will be calculated in advance with the tariff in effect on the date. Taxes on date of payment of ticket for travel on specified dated shown in the itinerary.

Needless to submit the travel agent has not made any issuance booking of air tickets. The contract is complete only when full payment is made. As such there is no confirmation of air ticket without payment. All the allegations to the contrary in the notice in para 2 are denied as false and misleading.

There was no assurance or confirmation by Sri Lankan Airlines on the ticket fare at any point of time to Ameer Travels. There is no agreement by Sri Lankan Airlines with Ameer Travels for accommodation at Mecca and Medhina for Haj Pilgrims. No tickets were issued by Ameer Travels. There was no contract, no assurance by Sri Lankan Airlines and there is no breach committed of the circular No.9/9/2009-IR, dated 11.05.2009 issued by Government of India.

As per conditions of contract fare is subject to change prior to commencement of carriage. There is no illegal demand made by us. The rule is that fare for carriage is subject to change prior to commencement of carriage.

As such there is no extra fare collected the same is not predatory and we have not indulged in oilgiopostic practices by booking the seats, demanding more or contending if the ticket amount is not paid the ticket will be cancelled. When there is no issuance of tickets, it is meaningless to contend that we have indulged in oilgiopostic practices. There is no cheating. We do not want to have any monopoly in Haj service and we have not indirectly forced the traveler at excessive and predatory tariff. All the allegations in the said para are denied.

There is no violation of law by finalizing the seats to other travel agents. It was conveyed to Ameer Travels that they have to make payment as per revised

fare as per time limit given. There was no confirmation, no commitment on the agreed tariff. Since Ameer Travels did not make the payment we had to inform them that we had to allot the seats to some other agency. As of now the seats are still not allocated to any agents.

In conclusion we wish to state there is no obligation on our part to confirm the ticket for 249 Haj Group allotted under Haj Group PNR 5NB2US, 5NB3FA and PNR 6BEGBA, 6BEGJ4 and / or to arrange for travel in UL flight as per original schedule on 16.08.2016 for 100 pilgrims on 2.9.2016 for 99 passengers and for 50 passengers on 5.9.2016."

23. Also in the aforesaid reply, dated 30.06.2016 of the second Respondent addressed to the first Respondent, the second Respondent/Airlines, had taken a stand that there is no issuance of tickets. As such, it is meaningless to contend that it had indulged in oligopolistic practices and further, there is no cheating and also it had mentioned in a crystalline fashion that they do not want to have any monopoly the Haj service and indirectly forced the pilgrims to travel at excessive and predatory tariff.

24. In short, the pith and substance of the stand taken on behalf of the second Respondent/Airlines is that there is no violation of Law by finalising the seats to other Travel Agency and in fact, it was conveyed to the Petitioner/Company that they have to make payment as per revised fare within the time limit. Moreover, there was confirmation, no commitment on the agreed tariff and inasmuch as the Petitioner/Travels had not made payment, the second Respondent/Airlines had to inform them that they have to allot the seats to some other agency. Adding further, the second Respondent/Airlines had also categorically mentioned in the reply, dated 30.06.2016 that as of now, the seats are still not allotted to any agency and in their reply, they had stated that there is no obligation on their part to confirm the tickets for 249 passengers in 4 Haj Groups allotted under Haj Group PNR.5NB2US, 5NB3FA and PNR.6BEGBA, 6BEGJ4 as per previous confirmation and commitment, dated 06.11.2015 and 17.11.2015 respectively and to arrange the Air travel in their Airlines as per original schedule on 16.08.2016 for 100 pilgrims, on 04.09.2016 for 99 pilgrims and on 05.09.2016 for 50 pilgrims.

25. This Court has heard the Learned Counsel for the Petitioner/Travels, the Learned Standing Counsel for the first Respondent/Union of India and the Learned Counsel for the second Respondent/ Srilankan Airlines, Trichirappalli and noticed their contentions.

26. At the outset, this Court pertinently points out that the second Respondent/Srilankan Airlines (having branch office at Trichirappalli), is not 'State', as per Article 12 of the Constitution of India for the purpose of application of provisions contained in Part III of the Constitution of India.

27. In fact, Section 1 of the Aircraft Act, 1934 reads as under:

"1.Short title and extent: - (1) This Act may be called The [a][xx] Aircraft Act, 1934.

[b][(2) It extends to the whole of India [c][***] and applies also -

(a) to citizens of India wherever they may be ; [d] [***]

(b) to, and to the persons on, aircraft registered in India wherever they may be;]

[e][(c) to, and to the persons on, aircraft registered outside India but for the time being in or over India; and

(d) to an aircraft operated by a person who is not a citizen of India but has his principal place of business or permanent residence in India.]

[a]Word "Indian" omitted by the Aircraft (Amendment) Act, 1960 (44 of 1960), S.1(26-11-1960).

[b]Substituted for the original sub-section (2) by A.L.O., 1950.

[c] Words "except the State of Hyderabad" omitted by Part B States (Laws) Act, 1951 (3 of 1951), S.3 and Sch. (1-4-1951).

[d] Word "and" omitted by the Aircraft (Amendment) Act, 2007 (44 of 2007)

[e] Inserted by the Aircraft (Amendment) Act, 2007 (44 of 2007)

(The Aircraft (Amendment) Act, 2007(44 of 2007) came into force with effect from 01.02.2008 vide Notification No.AV.11012/3/2000-A, dated 21st January, 2008.)"

28. Furthermore, Section 3 of the Aircraft Act, 1934, speaks of 'Power of Central Government to exempt certain aircraft.

29. Section 4 of the Aircraft Act, 1934, enjoins 'Power of Central Government to make rules to implement the Convention of 1944'.

30. Section 5 of the Aircraft Act, 1934, speaks of 'Power of Central Government to make rules'.

31. Section 5A of the Aircraft Act, 1934, speaks of Power to issue directions, which runs as under:

"***(1) The Director-General of Civil Aviation or any other officer specially empowered in this behalf by the Central Government may, from time to time, by order, issue directions, consistent with the provisions of this Act and the rules made thereunder, with respect to any of the matters specified in clauses [b][(aa)], (b), (c), (e), (f), (g), [b][(ga), (gb), (gc)], (h), [b][(I), (m) and [b][(qq)] of sub-section (2) of section 5, to any person or persons using any aerodrome or engaged in the aircraft operations, [b][air traffic control, maintenance and operation of aerodrome, communication, navigation, surveillance and air traffic management facilities and safeguarding civil aviation against acts of unlawful interference], in any case where the Director-General of Civil Aviation or such other officer is satisfied that in the interest of the security of India or for securing the safety of aircraft operations, it is necessary so to do.***

(2) Every direction issued under sub-section (1) shall be complied with by the person or persons to whom such direction is issued.]

[a] Inserted by the Aircraft (Amendment) Act, 1972 (12 of 1972), S.5(20-4-1972).

[b] Inserted by the Aircraft (Amendment) Act, 2007 (44 of 2007)."

32. As far as the present case is concerned, even though the Petitioner/Ameer Travels(P Ltd.,), Trichirappalli, has come out with a prayer for passing of an order by this Court in directing the 2nd Respondent to confirm the tickets for 249 passengers in 4 Haj Groups allotted under Haj Group PNR.5NB2US, 5NB3FA and PNR.6BEGBA, 6BEGJ4 as per previous confirmation and commitment, dated 06.11.2015 and 17.11.2015 respectively and to arrange the Air travel in their Airlines as per original schedule on 16.08.2016 for 100 pilgrims, on 04.09.2016 for 99 pilgrims and on 05.09.2016 for 50 pilgrims, this Court is of the considered view that such a relief sought for by the Petitioner/Travels, cannot be granted because of the simple reason that the second Respondent/Airlines(Foreign Airlines) had collected only 25% Non Refundable Deposit amount, as base fare from the agent on 12.11.2015 and 19.11.2015. In fact, the fares were given to collect the non-refundable deposits to protect the seats (Ref. PNR – 5NB2US, 5NB3FA 6BEGBA, 6BEGJ4). The e-mail addressed to the agent clearly specified the fares as per the current rate. It is

not in dispute that a sum of Rs.21,49,625/- was collected towards Non Refundable Deposits for four groups and the said base fare was collected only at the time of booking mainly with a view to avoid last minute cancellation.

33. Even Clause 8 of the Conditions of Carriage of Srilankan Airlines, which was clearly referred to in the reply, dated 30.06.2016 addressed to the first Respondent, unerringly point out that 'the fare for carriage is subject to change prior to commencement of carriage.'

34. As a matter of fact, the second Respondent/Airlines had come out with a categorical case that there was no assurance or confirmation given by it on the ticket fare at any point of time to the Petitioner/Travels. In fact, in the present case, not only the Petitioner, but also the second Respondent/Airlines had not produced any written agreement between them in connection with the agreed ticket fare for the tickets blocked in advance for 249 passengers. At this stage, it cannot be forgotten that the second Respondent/Airlines had not issued any tickets to the Petitioner/Travels. In the absence of any positive proof for the agreement between the Petitioner and the second Respondent Airlines, it cannot be said that the second Respondent/Airlines had violated the tenor of the Circular No.9/9/2009-IR, dated 11.05.2009 issued by the first Respondent/Government of India.

35. Also that, in the absence of any contract or agreement entered into between the Petitioner and the second Respondent/Srilankan Airlines, Trichirappalli, this Court comes to an irresistible conclusion that there is no obligation on the part of the second Respondent/Airlines, to confirm the Tickets for 249 passengers in 4 Haj Groups allotted under Haj Group PNR.5NB2US, 5NB3FA and PNR.6BEGBA, 6BEGJ4 as per previous confirmation and commitment, dated 06.11.2015 and 17.11.2015 respectively and to arrange the Air travel in their Airlines as per original schedule on 16.08.2016 for 100 pilgrims, on 04.09.2016 for 99 pilgrims and on 05.09.2016 for 50 pilgrims.

36. It is to be aptly pointed out by this Court that 'Mandamus' will not be issued to enforce a private contract and the remedy of a person is to file a suit for damages or specific performance and not a petition under Article 226 of the Constitution of India.

37. It is to be noted that 'A Contract' is based on 'Reciprocal Promise'. 'Reciprocal Promises' are condition precedent for a valid contract. In short, for a contractual obligation, filing of a Writ Petition is not the proper remedy as opined by this Court.

38. In the light of the qualitative and quantitative discussions as mentioned supra and also this Court taking note of the attendant facts and circumstances of the present case, in a conspectus fashion, comes to a conclusion that the Writ Petition filed by the Petitioner/Company is not maintainable in the eye of Law. Therefore, the Writ Petition fails.

39. In the result, the Writ Petition is dismissed leaving the parties to bare their own costs. It is abundantly made clear that dismissal of the present Writ Petition by this Court, will not preclude the Petitioner/Company to seek appropriate remedy against the second Respondent/Airlines, if it desires/so advised in the manner known to Law and in accordance with Law. Consequently, connected miscellaneous petition is closed.

sd/-
Assistant Registrar (AE)

/True Copy/

Sub Assistant Registrar

pm
To
The Director General of Civil Aviation,
Office of the Director General of Civil Aviation, Union of India, Aurbindo Marg, Opposite Safderjung Airport,
New Delhi - 110 003.

+1CC to Mr.S.Jeyasingh, Advocate Sr.No.41449
+1CC to M.Sridhu, Advocate Sr.No.40814

GJM/NGM/MP/8./8.16-13p-4C

W.P(MD)No.9952 of 2016
29.07.2016