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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ LPA 915/2015 & CM Nos.30975-30976/2015

ARUN KUMAR DIXIT & ORS

..... Appellants

Through: Ms. Smita Maan with Mr. Vishal
Maan and Mr. Naresh Maan, Advs.

versus

THE SECRETARY TOURISM

..... Respondent

Through: Ms. Monika Arora, CGSC with
Mr. Harsh Ahuja, Adv. for R-1/UOI with
Mr. Kalyan Sengupta, Officer, Ministry of
Tourism.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE SUNIL GAUR

ORDER

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14.09.2017

1. The appellants are aggrieved by the order of the learned Single Judge who refused to interfere with the suspension of their licenses as Regional Level Tourist Guides for six months from the date each of them submitted their respective licenses or from 12.06.2015. The suspension orders were made against the appellants on account of alleged misbehaviour/misconduct during the inaugural session of the Annual Convention of Tourist Guidance Federation of India (TGFI) on 02nd and 03rd August, 2014, when the President of the Indian Association of Tour Operators (IOTA) delivered a speech. The defence of the respondent i.e. Ministry of Tourism was that the suspension was preceded by an inquiry held in accordance with the 'Guidelines for the Selection and Grant of Guide License to Regional Level Tourist Guides – 2011' dated 22.09.2011.

2. The appellants draw the attention of the Court to the suspension procedure, especially, Clause 12.1.2. It is emphasized that in case complaints are received against a Regional Level Tourist Guide, the concerned head of India Tourism Office should undertake a fact finding inquiry himself or through a subordinate officer and in case of satisfaction in that regard, issue a show-cause notice to the concerned guide. The concerned Regional Level Tourist Guide would then be afforded a chance to furnish a representation which would be considered and after prior approval of the Additional Director General, in case the delinquent is found guilty, suspension of the license would be ordered for six months. Under Clause 12.1.3, in case a guide is held guilty on the second occasion, the suspension period can be above six months but upto one year and in the case of third misconduct, the guide license would be forfeited/cancelled.

3. The appellants argue that the record would show that the procedure prescribed by the guidelines was not followed in this case inasmuch as neither did the concerned Regional Head Officer undertake the inquiry himself nor was it given to an officer. The respondents have denied the allegations generally and also stated that the inquiry was conducted by a Committee comprised of the President, IOTA, Regional Director, North India Tourism and President, TGFI.

4. This Court has heard counsel for the parties and also considered the submissions made. It is evident that the inquiry conducted by the respondents is contrary to the guidelines prescribed inasmuch as the Regional Director had to personally undertake exercise or depute a subordinate officer in that regard. In the present case, the involvement of

the two private entities i.e. IOTA and TGFI, in addition to the Regional Officer, is irregular. More seriously, the complainant or the party aggrieved was IOTA since it alleged that its President had been hackled or suffered misbehaviour during his speech. In these circumstances, the only method in which IOTA or its President could have been involved was as a witness but certainly not as an Adjudicator or as an Inquiry Officer or as a part of the Inquiry Committee that fundamentally violates the first principle of natural justice '*nemo judex in causa sua*'. Such procedure is contrary to law; it cannot be sustained.

5. Having regard to the fact that the appellants have already undergone the period of suspension, the Court hereby directs that since the order was preceded by a procedure contrary to law, the penalty shall not be treated as a first penalty in their cases. In other words, in case of any future misconduct or allegations of misconduct levelled against the appellants, in case they are found guilty, such adverse or final order shall be treated to be the first penalty order.

6. In view of this order, the appellants give up all other claims in respect of the suspension period. Learned counsel for the appellants contends that they would not press any claim for damages.

For these reasons, the impugned suspension order is hereby set aside. The appeal is allowed to the above extent.

S. RAVINDRA BHAT, J

SUNIL GAUR, J

SEPTEMBER 14, 2017/kks