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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.01.2022

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.Nos.1957, 1961, 1966, 2583, 2586, 2587,
3466, 17736 of 2021
and
17440 of 2020

V.G.Saravanan ... Petitioner in W.P.1957 of 2021

SUGAN RICHARD
S/O.RICHARD RAJADURAI L AND T EDEN PARK
CASUARINA 1306 M.R.RADHA ROAD SIRUSERI
CHENGALPET DISTRICT 603 103

... PETITIONER in WP No.1961 of 2021

SREEGANESH N
S/O.NATARAHAJAN K

... PETITIONER in WP No.1966 of 2021

V.SIVAKUMARAN

... PETITIONER in WP No.2583 of 2021

DR.PRIYA SELVARAJ

... PETITIONER in WP No.2586 of 2021

G.A.SUDARKODI

... PETITIONER in WP No.2587 of 2021

K.S.BHUSHAN

... PETITIONER in WP No.3466 of 2021

DR.PANDIAN SUBBIAH I.R.S.
ADDITIONAL COMMISSIONER OF INCOME TAX
NEW NO.19 OLD NO.9 SIVAGANGA ROAD
NUNGAMBAKKAM CHENNAI 600 034.

... PETITIONER in WP No.17736 of 2021

ABISHEK GALADA.S

... PETITIONER in WP No.17440 of 2020

Vs.

1. The Union of India
Rep by its Joint Secretary and PGO cum
Nodal Public Grievance Officer,
Ministry of Civil Aviation,
Rajiv Gandhi Bhawan,
Block B, Safdarjung Airport Area,
New Delhi - 110 003.



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2. The Assistant Director General Cum
Nodal Public Grievance Officer,
Ministry of Tourism,
R.No.23, C-1 Hutments Dalhousie Road,
New Delhi - 110 011.

...Respondents 1&2 in all Writ Petitions

3. Travel Agents Federation of India (TAFI),
Rep. by its President,
509, "The Avenue",
International Airport Road,
Opp Hotel Leela,
Andheri (East), Mumbai,
Maharashtra - 400 059.

...3rd Respondent in WP.No.1957, 1961,
1966, 3466 of 2021, & 17740 of 2020

4. M/s.EdTerra Edventures Pvt. Ltd.,
Represented by its Director,
Mr.Shonu Chandra

...3rd Respondent in WP.No.2583,
2586, 2587, 17736 of 2021

...4th Respondents in W.P.1957,
1961, 1966, 3466 of 2021 &
17440 of 2020

Common Prayer:-

These Writ Petitions are filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents 1 and 2 to consider and pass orders on the petitioner's representation dated 05.10.2020, 05.10.2020, 05.10.2020, 07.10.2020, 03.10.2020, 07.10.2020, 27.12.2020, 07.10.2020 & 01.10.2020 & 05.10.2020 respectively and dispose the same within a reasonable time frame determined by this Hon'ble Court.

For Petitioners : Mr.R.Murugan in all the W.Ps.

For Respondents : Mr.Udaya Kumar for R1 and R2
CGSC
M/s.A.Arasu Sanga Tamil for R3
M/s.Abhinav Parthasarathy for R4
in W.P.1957 of 2021

Mr.V.Udaya Kumar for R1 and R2
and Mr.G.Ilangovan
M/s.A.Arasu Sanga Tamil for R3
M/s.Abhinav Parthasarathy for R4
in W.Ps.1961, 1966 of 2021



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Mr.G.Ilangovan for R1 & R2
M/s.Abhinav Parthasarathy for R3
in W.Ps.2583, 2586 & 2587 of 2021

Ms.A.Anuradha for R1 and R2
ACGSC
M/s.A.Arasu Sanga Tamil for R3
M/s.Abhinav Parthasarathy for R4
in W.P.3466 of 2021

Dr.G.Babu for R1 and R2
M/s.Abhinav Parthasarathy for R3
in W.P.17736 of 2021

M/s.M.P.Jaisha for R1 and R2
CGSC
M/s.A.Arasu Sanga Tamil for R3
M/s.Abhinav Parthasarathy for R4
in W.P.17440 of 2020

C O M M O N O R D E R

Since the issue involved in all these writ petitions are one and the same, they are heard together and disposed of by way of a common order.

2.The case of the petitioners is that M/s.EdTerra Edventures Private Limited arranges educational tours and travels for school students that complement in school training and the school in which the petitioners children are studying informed them that parents interested in enrolling their children in the program could approach M/s.EdTerra Edventures Private Limited [hereinafter referred to as 'Travel Agency']. Accordingly, the petitioners and some other parents approached the Travel Agency and the Travel Agency through one Sumanth discussed with the petitioners and other parents regarding its credibility in arranging Educational Tours and Travels and demanded to make payment in timely manner. The total cost of the educational tour to France and Switzerland was Rs.1,89,000/- per student.

3.The further case of the petitioners is that the Travel Agency issued an agreement to the petitioners and in pursuance of the agreement, the petitioners paid amounts in installment and thereafter the Travel Agency did not send any communications with regard to the arrangements made for the Educational Tour scheduled during the month of May, 2020. From 16.03.2020, the Government of India imposed travel restrictions on International Travel and the Travel Agency became silent. Thereafter, on



25.03.2020, the Government of India imposed lock down to curb the spread of COVID - 19. In the meanwhile, the Ministry of Civil Aviation issued circular for refund of money for the tickets booked for travel during the lock down.

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4.The further case of the petitioners is that the Travel Agency without making any arrangement, remained unreachable and untraceable until September, 2020. Hence the petitioners along with the other parents approached the school in which their children are studying and the school arranged for video conference with the executives of the Travel Agency and the Travel Agency claimed that it had unilaterally cancelled the trip and also denied the petitioners request for the refund of the money withheld by them. In this regard, the petitioners made representation to the official respondents and since the same has not yet been considered, have filed these writ petitions.

5.The learned counsel appearing for the petitioners submitted that this Court may issue direction to the official respondents to take action against the Travel Agency and make arrangement for refund of the amount paid by the petitioners and other parents by considering their representations.

6.The first respondent in W.P.No.3466 of 2021 has filed counter affidavit stating that the petitioner's representation has been disposed of by the competent authority with a reply stating that 'travel agents' are beyond the purview of DGCA and they are regulated by 'Ministry of Tourism'.

7.M/s.EdTerrra Edventures Private Limited [Travel Agency] has filed counter affidavit stating that they issued an agreement with full disclosure of terms and conditions to interested participants as early as on 21.12.2019 and collected a sum of Rs.50,000/- as first installment from each student along with photocopies of their respective passports. Thereafter Mr.Sumanth shared the flight details for the journey with the school on 09.01.2020 and requested for approval of flight options with travel date on 20.05.2020. One Durga was coordinating with the Travel Agency and she sent an e - mail dated 13.01.2020 calling upon the Travel Agency to proceed with the booking as planned.

8.In the counter affidavit it is further stated that subsequently, visa orientation was conducted by the Travel Agency and a sum of Rs.1 Lakh was collected per student as second installment along with necessary documents (photocopies only) for application of Schengen Visa on behalf of each student. It was believed whole heartedly that the trip would be successful, however, unfortunately, a nationwide lockdown was



announced and all travel plans had to be postponed indefinitely. As per Clause 8.2 of the agreement dated 21.12.2019, the Travel Agency holds the right to cancel a journey due to force majeure. Accordingly, the trip had to be cancelled and it was informed to the heads of the school that once normalcy returned, the next travel date will be decided. During the month of March, on suggestion made by the school, the Travel Agency called every parent of the travelling participants and apprised them of the idea of postponing the trip to a future date and subsequently, on 19.05.2020 an e - mail was sent to the school regarding the cancellation of the summer trip for the year 2020 on account of force majeure.

9. In the counter affidavit it is further stated that the Travel Agency gave an option for the parents to roll over of the program to a date when it become safer to travel again and the window was kept open until November, 2020 and subsequently, a follow up e - mail was sent to school heads on 17.09.2020 stating that the roll over period has been extended till June, 2022 and as a second option, the Travel Agency offered to provide a voucher to the parents to utilize the payments made by them.

10. Heard the arguments advanced on either side and perused the materials placed on record.

11. Admittedly, the petitioners along with some other parents paid some amount in installments to the Travel Agency for the Educational Tour of their children scheduled during the month of May, 2020. However, the trip was cancelled by the Travel Agency on account of force majeure.

12. Perusal of the counter affidavit filed by the Travel Agency reveals that the Travel Agency gave an option for the parents to roll over of the program to a date when it become safer to travel again and the window was kept open until November, 2020 and subsequently, a follow up e - mail was sent to school heads on 17.09.2020 stating that the roll over period has been extended till June, 2022 and as a second option, the Travel Agency offered to provide a voucher to the parents to utilize the payments made by them.

13. From the above, it is known that the Travel Agency is not inclined to refund the amount paid by the petitioners and other parents to them. The pandemic situation started during March, 2020 and till date it is not over and we do not know when it will get over. June, 2022 is nearing and we cannot say that the pandemic situation will get over by then.



14.Hence, in the interest of justice, this Court directs M/s.EdTerra Adventures Private Limited [Travel Agency] to refund the eligible amount to the petitioners, within a period of six weeks from the date of receipt of a copy of this order, failing which, The Assistant Director General Cum Nodal Public Grievance Officer, Ministry of Tourism, New Delhi, is directed to take action against M/s.EdTerra Adventures Private Limited, for refund of the eligible amount to the petitioners by considering their representations.

15.These writ petitions are disposed of with the above directions. No costs.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

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To

1. The Joint Secretary and PGO cum
Nodal Public Grievance Officer,
The Union of India
Ministry of Civil Aviation,
Rajiv Gandhi Bhawan, Block B, Safdarjung Airport Area,
New Delhi - 110 003.
2. The Assistant Director General Cum
Nodal Public Grievance Officer,
Ministry of Tourism, R.No.23, C-1 Hutments Dalhousie Road,
New Delhi - 110 011.

+3ccs to Mr.G.Ilangovan, Advocate, S.R.No.5855,5856,5857
+9ccs to M/s.Abhinav Parthasarathy, Advocate, S.R.No.5553
+2ccs to Mr.R.Murugan, Advocate, S.R.No.6133
+1cc to M/s.J.Anitha, Advocate, S.R.No.5975
+2ccs to Dr.G.Babu, Advocate, S.R.No.5980

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and 17440 of 2020

AJB[co]
NSK 16/03/2022