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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

W.P.No.12257 of 2016

and

W.M.P.No. 10596 of 2016

M/s. Y Son & Co,
Hajj Tours and Travels,
rep. by its Proprietor,
44/8, Jeenis Road,
Saidapet, Chennai-600 015.

... Petitioner

Vs.

1. The Secretary to Government,
Government of India,
Ministry of External Affairs,
South Block, New Delhi.
2. The Additional/Joint Secretary to
Govt. (Gulf & Haj),
Ministry of External Affairs,
South Block, New Delhi.
3. The Under Secretary to Government (Haj),
Ministry of External Affairs,
South Block, New Delhi.
4. The Secretary to Government,
Government of India,
Ministry of Minority Affairs,
Pt. Deenadayal Antyodaya Bhawan,
CGO Complex, Lodhi Road,
New Delhi 110 003.

(R4-impleaded vide order dated 23.03.2022,
made in WMP.No.6048 of 2022 in WP.No.12257 of 2016)

5. Mr.S.Mohamed Yousuf,
Proprietor,
M/s. Al-Arafath Haj Services,
5/53-E, Vinoba Nagar,
Sithalapakkam,
Chennai-600 126.



6. Mrs.C.Fareedha,
Proprietor,
M/s. Al-Fareedha-Al-Hijer,
12/25, Inamdar Street,
Pernampet, Vellore-635 810.

... Respondents

(Respondents 5&6 impleaded vide order dated 23.03.2022
made in WMP.No.6086 of 2022 in WP.No.12257 of 2016)

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the proceedings of the 3rd respondent dated 01.03.2015 made in M (Haj)/551/1/2015 and quash the same, consequently direct the 1st respondent to conduct a large scale enquiry on the allocation of pilgrims quota to the Private Tour Operators during Haj-2015 by engaging independent investigation agency to investigate pilgrims allotment scandal among the PTOs as well as the Officials of the MEA pursuant to petitioner representations dated 24.08.2015, 19.09.2015 and 10.01.2016.

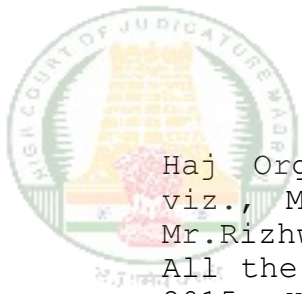
For Petitioner : Mr.S.Thirumavalavan

For Respondents: Mr.B.Rabu Manohar,
Senior Central Govt. Standing Counsel
for R1 to R3

O R D E R

This Writ Petition has been filed challenging the order passed by the 3rd respondent rejecting the complaint regarding the permission granted by the 3rd respondent.

2. The grievance of the petitioner is that, the petitioner is the founder of National Association of Private Tour Operators and they have been dealing with Haj & Umrah operation in order to perform Haj by the Muslims to the Holy Places of Makkah and Madhina, for that, the 3rd respondent is granting permission. As per the policy of the Government, only one member in the family is permitted to run the travel agency for the holy trip. However, one Mr.Ahmed Thambi, owns a concern viz., Dheen Haj Service and he is also one of office-bearer of the Tamil Nadu



Haj Organizers Association. His sons own two other concerns viz., Mubarak Haj & Umra Services Nagar, Madurai, another son Mr.Rizhwan owns M/s.Rizhwan Haj & Umra Services at Thanjavur. All the three concerns were selected from one family in the year 2015. Hence, he has made a complaint before the 3rd respondent along with sufficient materials to show that, three persons of the same family has been granted permission. However, without considering the same, the complaint has been rejected on the ground that no evidence has been produced by the petitioner. Now, challenging the same, the present Writ Petition has been filed.

3. Mr. S.Thirumavalavan, learned counsel appearing for petitioner would submit that, the permission was granted to three members of same family in violation of policy decision of Government. Even though the petitioner has produced all the materials, without considering the same, the 3rd respondent rejected the complaint filed by the petitioner.

4. Mr. Rabu Manohar, learned Senior Central Government Standing Counsel appearing for respondents 1 to 3, on instructions, would content that, even though the petitioner sent a complaint, he has not produced any materials to show that permission has been granted to three members of same family. Hence, the 3rd respondent after considering entire materials, rejected the complaint and there is no infirmity in the order passed by the 3rd respondent.

5. Heard and considered rival submissions made by learned counsel appearing for both sides and perused the records carefully.

6. Considering the materials placed before this Court, it is seen that, the petitioner has produced materials along with the complaint to show that, three persons of same family has been granted permission. However, those materials have not been considered by the 3rd respondent and simply rejected it on the ground that no evidence has been produced. In those circumstances, this Court is inclined to set aside the order passed by the 3rd respondent and the matter is remanded back to the 3rd respondent. Accordingly, this Writ Petition stands allowed and the 3rd respondent is directed to conduct enquiry on the complaint given by the petitioner after issuing notice to the petitioner as well as alleged violators and pass appropriate orders on merits and in accordance with law. During the course of enquiry, the petitioner is directed to produce relevant



materials to substantiate his claim. The above exercise should be completed within a period of eight weeks from the date of receipt of copy of this order. No costs. Consequently, connected Writ Miscellaneous Petition is closed.

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Sd/-
Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

rpp

To

1. The Secretary to Government,
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Ministry of External Affairs,
South Block, New Delhi.
2. The Additional/Joint Secretary to
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Ministry of External Affairs,
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CGO Complex, Lodhi Road,
New Delhi 110 003.

+1cc to Mr.B.Rabu Manohar, Advocate, S.R.No.29497

+1cc to Mr.S.Thirumavalavan, Advocate, S.R.No.29640

W.P.No.12257 of 2016

MG (CO)
SU (23/05/2022)