



2023:DHC:9288-DB



IN THE HIGH COURT OF DELHI AT NEW DELHI
% Judgment delivered on: 22nd December, 2023

+ **W.P.(C) 1284/2020 & CM APPL. 31945/2023**

**GOVERNMENT APPROVED TOURIST GUIDES
ASSOCIATION (GATGA) AND ANR. Petitioners**

versus

UNION OF INDIA & ANR. Respondents

Advocates who appeared in this case:

For the Petitioner : Ms. Smita Maan & Mr. Aakash
Sehrawat, Advs.

For the Respondents : Mr. Bhagwan Swarup Shukla, CGSC,
Mr. Sarvan Kumar, Mr. Saksham Sethi,
Ms. Sunita Shukla & Ms. Priya Shukla,
Advs. for UOI.

**CORAM
HON'BLE MR JUSTICE VIBHU BAKHRU
HON'BLE MR JUSTICE AMIT MAHAJAN**

JUDGMENT

AMIT MAHAJAN, J

1. The petitioners have filed the present petition impugning the guidelines, 'Incredible India Tourist Facilitator (IITF) Certification Programme Guidelines' dated 25.11.2019 (hereafter '**the impugned guidelines**') issued by the Ministry of Tourism, which introduces a new category of service provider, Tourist

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Facilitator. These guidelines were further amended on 28.02.2020, 11.01.2021 and 24.06.2022 by Office Memoranda dated 02.03.2020, 06.03.2020, 12.01.2021 and 18.06.2021 by the Ministry of Tourism to modify the eligibility criteria.

2. It is the petitioner's case that the new category of service providers in the Tourism Industry known as 'Tourist Facilitators' do not possess the equivalent standard of eligibility, qualification and training as that of the existing licensed Regional Level Guides (hereafter '**RLG**') who have been authorised and permitted to discharge the functions of a Tourist Guide and work as a "Tourist Guide".

3. The petitioner submits that the impugned guidelines restrict and curtail the scope of work and operation of RLGs to monuments only and assign all other remaining work to Tourist Facilitators. The petitioner claims that the same is illegal, unlawful and unreasonable and therefore, violates their fundamental rights bestowed under Article 14, 19 and 21 of the Constitution of India.

4. It is also claimed by the petitioner that the addendum dated 24.06.2022 issued by respondent no. 1 whereby, the impugned guidelines were amended to modify the eligibility criteria for Incredible India Tourist Guide (IITG) category, do not address the grievances raised by the petitioner and hence, still remain violative of the fundamental rights of the petitioner.



5. According to the respondents there is a clear distinction between an RLG and a Tourist Facilitator. The respondents submit that, only RLGs are allowed to work as guides within the ASI protected monuments as they have in depth knowledge of history, geography, topography, iconography, art and architecture whereas the Incredible India Tourist Facilitator (IITF) training is limited to communication, personality development and destination information only. Their job is only to assist tourists during visits related to nature trails, cuisine, art and craft, fairs, festivals, heritage walks, rural tourism, ecotourism etc.

6. The principal controversy to be addressed in the present petition is whether the impugned guidelines pass the test of reasonable classification and are constitutionally valid.

Factual Context

7. The petitioners are associations of Government approved Licensed Tourist Guides registered under the Society Registration Act, 1860 formed with a view to represent, promote and safeguard the interest of all RLGs working in their respective regions. The RLGs including the petitioners were earlier governed by the guidelines dated 22.09.2011 titled as ‘Guidelines for the Selection and Grant of License to Regional Level Tourist Guides **RLG-2011 Guidelines** (hereafter ‘**RLG-2011 Guidelines**’) issued by Ministry of Tourism.

8. Respondent no. 2 (Archaeological Survey of India) issued fresh guidelines dated 31.01.2017 titled as “the policy for



archaeological survey of india guides to perform within centrally protected monuments” to replace the RLG-2011 Guidelines. The same were challenged before this Court in several writ petitions being ***Regional Tourist Guides Association v. Union of India & Ors: W.P.(C) No. 3342/2017*** decided on 05.04.2022; ***Approved Guide Association Agra & Ors. Vs. UOI & Ors: W.P.(C) No. 4141/2017*** decided on 15.09.2022; ***Indian Association of Tour Operators & Anr. Vs. UOI & Ors: W.P.(C) No. 4155/2017*** decided on 05.04.2022; ***Fatehpur Sikri Monuments Guide Association Vs. UOI & Ors: W.P.(C) No. 5210/2017*** decided on 07.04.2022; ***Paryatan Tourism Guides Association Vs. UOI & Ors: W.P.(C) No. 6073/2017*** decided on 15.09.2022.

9. In the said writ petition, this Court by orders dated 18.04.2017 and 08.05.2017 had directed the respondent authorities to maintain the *status quo* with regard to the members already holding valid Tourist Guide Licenses under the RLG-2011 Guidelines.

10. Thereafter, respondent no. 2 issued another amended guidelines, dated 20.07.2018. This notification was issued only to amend the policy dated 31.01.2017. The said policy Notification dated 31.01.2017 and further amendment dated 20.07.2018 was withdrawn by Gazette Notification dated 05.02.2020.

11. The Ministry of Tourism felt that among other things, system of RLG licenses was creating a restriction for the new



entrants and faced with a need to generate more employment, replaced them with the impugned guidelines dated 25.11.2019.

12. The guidelines introduced the concept of a 'Tourist Facilitator', which is further classified in two categories. The Tourist Facilitators were to be trained to make tourist spots appealing, explaining intricate stories of history, mythology, culture, nature, cuisine, art, etc. Paragraph 3 of the impugned modified guidelines for the "Incredible India Tourist Facilitator (IITF) and Incredible India Tourist Guide (IITG) Certification Programme" dated 11.01.2021 which categorises the two categories of facilitators reads as under:

" 3. Categories of Tourist Facilitators

There shall be two categories of Tourist Facilitators:

i) Incredible India Tourist Facilitator (IITF) (Basic):

This would be basic category of tourist facilitators, having knowledge of Destinations in India and Experiences that India Offers to the tourists. The institution of tourist facilitators would be a basic component of the infrastructural requirement both for International and Domestic tourism. The tourist facilitators would also facilitate in providing pleasant and satisfying stay for the tourist during their visit to India.

ii) Incredible India Tourist Guide (IITG): *These would be specialized Tourist Guides in different areas of tourism. The IITFC Basic category certificate holder would be eligible to enroll/register for the Incredible India Tourist Guide (IITG) Level Category. The IITG category of tourist Guides would be of two types to start with: -*

a. IITG (Heritage) - *Heritage tourism is broadly defined as travelling to experience the places, artefacts and activities that authentically represent the stories and people of the past and can include cultural, historic and natural resources. India is*



the perfect amalgamation of religions, customs, languages, and traditions and is reflected in its opulent heritage. The country is a treasure trove of art, philosophy, architecture, classical dances, flora, fauna, music and much more making it a destination ideal for heritage tourism. This category of tourist guides would be having specialized knowledge in the field of history, culture & heritage.

b. IITG (Adventure) - Adventure tourism includes a wide range of outdoor activities. Adventure tourists engage in activities that are physically challenging and sometimes dangerous, or perceived to be so. Examples are sports such as trekking, mountaineering, whitewater rafting and scuba diving. India, being a place of diverse terrain with mountains, rocks, forests, beaches, desert and rivers, offers much scope for adventure tourism, making it more exciting for adventure seekers. This category of tourist guides would be having specialized knowledge in the field of adventure tourism activities along with good interpersonal communication skills, critical thinking, planning and organizational skills. The tourist guides under this category must be adventurous, confident and passionate.”

13. The Online Learning Management System was introduced for the training of the Tourist Facilitators through a centralised PAN India Guide e-learning module.

14. This Online Learning system provided for two categories of IITF Certification Program i.e. basic and advanced along with a language course for the purpose of tour facilitation and guiding. The Advance Course was further categorised by OM/Notification dated 12.1.2021, bearing file no. TT-501/1/2020-TT into two



categories named as IITG (Heritage) and IITG (Adventure). The impugned modified guidelines dated 11.01.2021 included a provision to induct the existing RLGs into the system of IITG through a IITF Refresher Course. The existing RLGs were given an additional six months period to complete the refresher course in-order to get their IITG certification.

15. Aggrieved by the fact that the impugned guidelines unjustly reduce the scope and the area of work and services of the already existing RLGs and directly replaces trained government approved licensed RLGs with unqualified Tourist Facilitators, the petitioners have filed the present petition. They also claim that the Tourist Facilitators do not possess the requisite and equivalent standard of eligibility, qualification and training as that of RLGs, yet are kept at the same footing. The petitioners contend that the same is unconstitutional.

Submissions

16. The learned counsel for the petitioners submitted that the impugned Scheme/guidelines, create and introduce a new class/category of service providers in the Tourism Industry, known as Tourist Facilitators, who despite not possessing the requisite and equivalent standard of eligibility, qualification, knowledge, and training as that of licensed Tourist Guides, have been authorised and permitted to discharge the functions and services of a 'Tourist Guide'. The impugned guidelines in doing so, have largely, in a substantial manner, reduced and curtailed



the scope and area of work of the already existing/practising Registered Government Approved Licensed Tourist Guides/ RLGs.

17. Ms. Maan, the learned counsel submitted that the impugned guidelines, as further modified by the guidelines dated 28.02.2020, 11.01.2021 and 24.06.2022, are *ex facie* arbitrary, discriminatory, illegal, unlawful, unfair, unreasonable, irrational and unconstitutional being violative of Article 14, 19 and 21 of the Constitution of India.

18. She submitted that the impugned guidelines seek to cover and govern two different and unequal classes of persons in terms of their eligibility and qualifications, placing the existing RLGs and the newly introduced tourist facilitators on the same pedestal. She contended that Clause 2 and 3 of the impugned guidelines permit the same scope of work and services to the tourist facilitators, as well as the RLGs, despite the tourist facilitators not possessing the equivalent qualifications.

19. It is submitted that as per the preceding guidelines dated 22.09.2011, the eligibility criteria for the RLGs was fixed as a Graduate Degree or a three years Degree in Tourism / Hospitality or a Diploma in archaeology, alongwith other requirements. It is vehemently argued that the impugned guidelines *vide* Clause 5 substantially lowers down the eligibility standards and the criteria.



20. The learned counsel submitted that as per Clause 5 of the impugned guidelines, the eligibility qualification for persons above 40 years of age is a Class 10 certificate, and for persons below the age of 40 years is a 10+2 Certificate. She contended that the same eligibility criteria, for both tourist guides as well as tourist facilitators, defeats the very objective of the impugned guidelines, which is to provide a superior experience for the visitors, be domestic or international.

21. The learned counsel also pointed out that the minimum eligibility requirement under the 1996 guidelines was that of a 10+2 Certificate and a 2 years course in foreign language, which was further enhanced by the Ministry of Tourism to that of a Graduate under the subsequent guidelines of 2003. She placed reliance on the judgment of this Court in **Anuj Johri v. Union of India : 118(2005) DLT 418**, wherein the 2003 guidelines were challenged, and submitted that the Court in its decision had upheld the power of the Government to change the minimum eligibility criteria for the grant of licences to the Tourist Guides, especially when changes are forward looking and not regressive. The enhanced threshold of educational requirements was aimed at ensuring that better qualified persons become guides, and therefore, the challenge was not held to be sustainable.

22. It is further submitted that the impugned guidelines enable the underqualified, untrained and unprofessional class of persons



to take over the functions and services currently performed by highly qualified existing licensed RLGs.

23. The learned counsel further submitted that the language of Clause 5(iii) of the impugned guidelines is arbitrary as it states that to register under the Incredible India Tourist Guide (IITG) category, a candidate must be an Incredible India Tourist Facilitator (IITF) basic category certificate holder, but the guideline is completely silent on the qualification requirements, process and procedure for a Tourist Facilitator to become a Tourist Guide. The impugned guidelines are also silent on the course, training, modules, experience and other requirements for IITF and IITG.

24. It is also submitted that Clause 8 of the impugned guidelines works in furtherance of abolishing and completely doing away with the institution of Tourist Guides from the Tourism sector, as it provides for the registration of the existing RLGs on the IITF portal, whereby the existing RLGs will be required to induct themselves under the IITF refresher course, after which, they will get the certification of IITG.

25. It is submitted by the learned counsel for the petitioners that in the erstwhile 2011 guidelines, the RLGs used to do all the work / functions inclusive of making tourist spots appealing and eliciting interest of the tourists in social customs, heritage and local folklores of the country.



26. Lastly, she submitted that the impugned guidelines are completely irrational and incomprehensive since they prescribe the requirement for the Tourist Facilitator to undergo only one module related to tourist destinations of any state, and on the other hand, allow them to work as interpreters of places, history, mythology, culture, nature, cuisine and traditions throughout the country on a Pan India basis.

27. Mr. Bhagwan Swarup Shukla, learned Central Government Standing Counsel, appearing on behalf of the respondents submitted that the intent of the impugned guidelines is to enhance the tourism experience of the country and the eco system of tourism industry is much wider than the 'Centrally protected monuments' under ASI.

28. He submitted that the petitioner has misrepresented the facts about the refresher course, falsely stating that it is a new introduction, while the correct fact is that the refresher course has always been an integrated part of the programme. The Additional Director General of Ministry and Tourism, under the delegated powers had been issuing the Regional Level Tourist Guide Licenses, which were also endorsed by the ASI. He stated that, on account of subsequent withdrawal of the said power by the ASI, *vide* notification dated 31.01.2017, the Ministry of Tourism had revisited the guidelines for the issuance of RGL licenses.

29. He submitted that the matter was taken up at the highest level in the Government forum i.e., Inter-Ministerial



Coordination Committee on Tourism Sector (IMCCTS). The 8th meeting of IMCCTS held on 10.08.2018, was chaired by the Cabinet Secretary and in the said meeting the Cabinet Secretary directed Ministry of Tourism, Ministry of Culture (ASI), to consider certification programme for the tourist guide in the place of existing licensing system.

30. He submitted that the existing RLGs having valid licenses have also been integrated in the impugned guidelines/ certificate programme, which was initially named as Incredible India Tourist Facilitator Certification (Advanced / Heritage) category, by the impugned policy document dated 25.11.2019. He submitted that, upon the representations received from various Guides Associations and the consultation process under the chairmanship of the Minister of Tourism on 21.08.2020, the impugned guidelines / scheme were renamed as 'Incredible India Tourist Guide'.

31. He submitted that RLGs have also been given some additional benefits under the New Policy Scheme, for instance, the area of operation has been increased from the Regional Level to Pan-India, the validity of the renewed license will now be for 5 years in place of 3 years. Earlier restriction imposed regarding the non-operation of other areas of work/profession, has also been lifted. The provisions of attending class room Refresher Course, which existed as per the previous guidelines dated 22.09.2011, has now been eased and is replaced with the online refresher



course in the impugned guidelines, and the payment of any fee is also exempted for the refresher course.

32. It is also submitted that with the introduction of the grade of Tourist Facilitator, the Ministry has aimed to create a pool of trained professionals for facilitating the visit of tourists even in the less popular tourist destinations. However, this grade will be the feeder cadre to IITG and therefore, the RLG license holders who are being integrated into the system as IITG, will continue to hold the higher designation. Therefore, their grievances with respect to equating them with tourist facilitator, is baseless.

33. He also submitted that the Ministry of Tourism has already incurred an expenditure of ₹9.12 crores so far on developing the IITFC/ITG online portal, study material and conducting the examination etc. A total number of 3071 students have already passed in the examinations held in February, 2021 and July, 2021. Moreover, 692 RLGs have also got themselves registered for the Refresher Course.

34. He also submitted that in the counter affidavit filed pursuant to the order dated 07.10.2022, it is clarified that the main difference between the allocation of work of IITF and IITG is that the IITGs are allowed to do the guiding work within the ASI protected monuments, whereas the IITFs are not permitted do the same. It is also clarified in another counter affidavit filed on behalf of the respondents, the word “Local Language” mentioned under Para 9.4 of the guidelines “Incredible India Tourist



Facilitator (IITF) and Incredible India Tourist Guide (IITG) Certification Programme” dated 11.01.2021, is a typographical error and the same is being corrected with replacing the word "Foreign Language" in place of the word “Local Language”.

35. It is further submitted that, pursuant to the order dated 16.11.2022, it is classified that the course contents of the programme of Incredible India Tourist Facilitation Certification (IITFC), is different from Incredible India Tourist Guide (IITG). It is submitted that the candidates who complete the course of IITG would be doing the guiding work within the premises of ASI Protected Monuments, explaining the specific details of the Indian Architecture, monuments, iconography etc. The IITGs would need to have a different approach from that of the Tourist Facilitators who are not permitted to work as guides within the ASI monuments. Therefore, a workshop/internship for seven days with Indian Institute of Tourism & Travel Management (IITTM) and approved tour operators have been provided for IITG.

Conclusion:

36. The short question which is to be considered by this Court is whether the policy of Incredible India Tourist Facilitator (IITF) certification programme notified *vide* notification dated 25.11.2019 and further amended *vide* notifications dated 28.02.2020, 11.01.2021 and 24.06.2022 and the Office Memorandums dated 02.03.2020, 06.03.2020 and 12.01.2021



and 18.06.2021, issued pursuant thereto, are unconstitutional on the ground of violation of Articles 14, 19(1)(G) and 21 of the Constitution of India.

37. The development in the tourism industry is an activity assigned to Ministry of Tourism. In pursuant to the same, the respondents have from time to time issued various guidelines in regard to issuing licences to Regional Levels Tourist Guides (RLG). It was recognized that the guides play a vital role in bringing satisfaction to tourists visiting country / region / state. Various guidelines have thus been issued from time to time and the eligibility qualifications have also been prescribed. The process of selection, entrance test, training courses etc., are also specified from time to time in relation to the grant of licence to a person to work as a Tourist Guide.

38. The respondents in the year 2018, deliberated on the issue pertaining to the licenses issued to the Guides and it was considered that the Guides are required to cover a wide ambit of the tourism industry, beyond the monuments under the Archaeological Survey of India. The minutes of 8th Meeting of Inter-ministerial Coordination Committee for tourism sector have been placed on record by the respondents. It is noted that a new system of accreditation for Guides should be introduced in place of existing system of licences. It was discussed in Inter Ministerial Coordination Committee for Tourism Sector that the Ministry of Culture and Ministry of Tourism may jointly workout



a suitable mechanism for implementation of accreditation system. It is also stated that the RLG licence is restrictive in nature. The new entrants are not easily allowed which has created a bottleneck for additional employment generation in the field of tourism.

39. In pursuance thereof, the impugned notifications were issued and the Online Learning Management System for Tourist Facilitator and Tourist Guides was operationally launched on 01.01.2020 in order to provide online training and accreditation to the Tourist Facilitators through a centralised Pan India Guide e-learning Module. The two categories of IITF Certification Programme being Basic and Advanced were introduced, which were divided into different modules. The candidate once registered, is required to go through the contents of the course as uploaded on the web portal and complete the assignment / questionnaire.

40. Initially, the existing RLGs were given an opportunity to get themselves registered on the portal of IITF. After the registration, they were to get the certification for a period of six months and in that period were required to undertake a refresher course of two weeks. The guidelines were superseded by the guidelines dated 28.02.2020. The guidelines were further modified on 11.01.2021 and category of Tourist Facilitators, who were divided in two categories, being Incredible India Tourist Facilitators Basic (IITF Basic) and Incredible India Tourist Guide



(IITG). IITGs were further categorised as IITG (heritage) and IITG (Adventure). IITF Basic were described as basic category of Tourist Facilitators having the knowledge of the destinations in India and the experiences that India offers to the tourists. Their role was defined to provide pleasant and satisfying stay for the tourists during their visit to India.

41. The role of IITG is that of specialised tourist guide in different areas of tourism and the IITF Basic category certificate holder was eligible to enrol in the IITG level category. The eligibility criteria are also provided. The existing valid RLG licence holder such as the petitioners were given an opportunity to be listed on the portal. It was provided that on completion of IITF Refresher Course, RLGs will be given the IITG category certification, which would enable them to continue guiding and facilitating the tourists at ASI protected monuments and heritage sites on Pan India Basis.

42. The affidavit filed by the respondents and the perusal of the impugned guidelines indicates that the guidelines were notified by the Government of India in their endeavour to build capacity of all stakeholders with whom the tourists are likely to interact. Keeping in mind the changing times, the course module has been introduced. The affidavit filed by the respondents also indicates that the objective was also to generate additional employment in the field of tourism. The impugned guidelines have been issued after detailed deliberations between the concerned ministries.



43. The introduction of such policies, which entails grant of licence and prescribes the criterion for such licences, is a policy matter. The scope of judicial review in this regard is limited. It is settled that the Court while exercising power under Article 226 of Constitution of India, does not interfere with the policy unless the same is arbitrary, discriminatory or is based on irrelevant consideration. It is for the policy makers to decide, which policy should be adopted after considering all the relevant aspects. Unless it is shown that the policy infringes the Fundamental Rights, the Courts are not to interfere. A Court cannot substitute its own judgment for the judgment of the executive in such matters.

44. It has been held that minimal interference is called for by the Courts while exercising its power of judicial review in matters of policy. The policy is an outcome of deliberations of the experts in the field. The domain is best left to the discretion of the executive. Therefore, unless a policy is demonstrably capricious or arbitrary or suffers from the vice of discrimination and infringes the Fundamental Rights, the Court ought not to question the propriety of such policy. The Court is not concerned whether a more comprehensive decision could have been taken by the Government.

45. It is alleged by the petitioners that the impugned guidelines have placed the two un-equals in the same category. Those Tourist Facilitators and the Tourist Guides are permitted to



operate within the same sphere and scope of work, despite the Tourist Facilitators not possessing the equivalent eligibility and qualification. It is submitted that the minimum eligibility criteria fixed as per the guidelines dated 22.09.2011 was a graduate degree or three years diploma in tourism / hospitality or a diploma in Archaeology along with other requirements, whereas in terms of the impugned guidelines, the qualifications have been substantially lowered, which has no reasonable nexus with the stated objectives sought to be achieved, that is, providing a superior experience for the visitors, as compared to the international standards in the field of tourism.

46. The arguments raised on behalf of the petitioners are misplaced. The respondents have filed an affidavit specifically stating the comparative chart with regard to the Guides under the erstwhile guidelines dated 22.09.2011 and the impugned guidelines dated 11.01.2021. The same are reproduced as under:

Sl.no	Provision contained in guidelines Dated 22.09.2011	Provision contained in modified/renamed guidelines Dated 11.02.2021
1.	RLGs operational area was confined to a particular region – to say North South East West and North East	Now, RLG/IITG area of operation has been increased to Pan-India
2.	There was a provision of classroom refresher course for a period of two weeks conducted by IITTM and it was a paid course	Provision of offline refresher course has been introduced. The RLGs can undertake the course sitting at their home and as per their convenient time.



		Further, there is no fee for the Refresher Course.
3.	There was a provision of examination and only after successful completion Refresher Course, their licence were renewed.	There is no provision of examination. Instead, there is a mechanism of internal assessment after reading the different chapter of the course module.
4.	RLGs license were renewed for a period of three years	Now, it is extended for 5 years.
5.	RLGs were allowed to do the guiding work with in the ASI protected monuments.	They will continue to do the guiding work with in ASI protected monument
6.	There were restriction on RLGs not to undertake any other profession expect the guiding work.	There is no such restriction RLG/IITG can undertake any profession and to the guiding work as well – even part time, depending upon their convenience.

47. The grievance of the petitioners seems to be that the Tourist Facilitators are eligible to enrol themselves as Tourist Guides and the qualification criteria for a Tourist Facilitator is much lower than the eligibility criteria for Tourist Guide/ RLG, in terms of the policy dated 22.09.2011. The arguments raised are insubstantial for more than one reason. The same cannot be held to be violative of either Article 14 or Article 19(1)(G) of Constitution of India.

48. It is not a case that the right to earn livelihood has been taken away from the petitioners. As noted above, the respondents while introducing the new policy are also trying to create more employment opportunities for the people in the tourism industry.



It cannot be contended that it is not within the power of the legislature to introduce a policy, which would generate new employment opportunities, because it involves lowering the eligibility criteria. As long as the right of a citizen to carry out a profession is not taken away, the policy cannot be called to be violative of Article 19 of the Constitution of India. The policy also cannot be called to be arbitrary or discriminatory.

49. It is not a case where, by the introduction of a new policy, a class of people has been discriminated. The policy also cannot be called as arbitrary as the affidavit filed by the respondents clearly shows that the same has been passed after deliberations between the stakeholders. The decision has been taken at the highest level. Moreover, the facts as affirmed by the respondents also suggest that the grievance raised by the petitioners is misconceived. The guidelines dated 11.01.2021 specifically provides as under:

“5. Eligibility and Registration procedure for joining the Incredible India Tourist Facilitator Course for Basic and Incredible India Tourist Guide (IITG) (Heritage & Adventure) Category:

a) Eligibility criteria:

- i. The candidate must have attained the age of 18 years as on the date of registration to the course on the portal by the candidate (<https://iitf.gov.in>).*
- ii. The candidate below the age of 40 years should have completed 10+2 or equivalent examination whereas the candidates of 40 years of age and above should have completed 10 or equivalent examination conducted by any recognized Board by Government of India/State*



Government on or before the date of registration to the course.

He/she may register himself/herself by uploading all the following documents on the IITFC website/portal:

- a. Document showing age proof (copy of 10th Class Board Certificate/ Passport issued by the authority)*
- b. Address Proof (Aadhaar Card, Passport, Driving License, Ration Card, Voter ID Card or Certificate of Residence proof by the competent authority)*
- c. 10+2 or equivalent Certificate (issued by any recognised Board by Government of India/State Government), and*
- d. Caste certificate (in case of SC/ST candidate) issued by the competent authority.*

iii. To register under Incredible India Tourist Guide (IITG) category a candidate must be an IITFC Basic category certificate holder.

b) Registration process:

- i. Any person aspiring to be an IITF/IITG certificate holder needs to register himself on the IITF portal giving all the details as required therein. In the process of registration, he/she will be creating a User Id. and Password. The registration would be based on Aadhaar Card No. issued by UIDAI or Voter Card Id. No. issued by Election Commission of India along with One Time Password (OTP) based verification using Mobile Number.*
- ii. He/she is required to upload the documents such as age proof, minimum qualification requirement, etc. as specified under Para 5. a) (i) & (ii) above in accordance with the specification given.*
- iii. The candidate is required to pay registration fee of Rs. 2000/- (Rupees two thousand) only (non-refundable),*



*or as modified from time to time, through the payment gateway as specified on the website/portal. The SC and ST candidates, the candidates who are domicile residence of the Union Territory of Ladak, Jammu & Kashmir and the candidates who are the domicile residence of Aspirational Districts as identified by NITI AAYOG (as amended from time to time**) (**Annexure-I**) are exempted from registration fee. The candidates from SC and ST category are required to upload a caste certificate issued by the competent authority and the candidates who are the domicile residence of the Union Territory of Ladak, Jammu & Kashmir and Aspirational Districts as identified by NITI AAYOG are required to upload an address/domicile residence proof issued by the competent authority.*

- iv. The certificate submitted by the candidate at the time of registration would be subject to verification by the concerned authorities. In case, at any point of time, it is found that the candidate had submitted a false or fabricated certificate, his/her IITF/IITG Certification would be cancelled without any prior notice and the fee paid for registration will be forfeited.*
- v. The registration of the candidate would be subject to Police verification of character and antecedents. In case, police verification of character and antecedents of a candidate is found negative, his/her candidature would be terminated forthwith without any prior notice.*
- vi. Registration once done will be valid for three years and it can be renewed for a period of further two years with a payment of 50% fee to be paid by the candidate at the time of initial registration.*

6. Structure of IITF/IITG Certification

6.1 Each course of IITF (Basic) and IITG would be divided into different modules. Once registered, the candidate is



required to go through the contents of the course as uploaded on the IITF/IITG web portal and complete the assignments/questionnaire.

6.2 The Basic IITF certification programme Course is divided into various Modules. The first six modules aim to equip candidate with basic knowledge and skills required by a Tourist facilitator. The last Module is related with tourist destinations and experiences of different States of India.

*6.3 It is mandatory for the candidate to complete at least one State for completion of course.
However, more State modules can be taken up to enhance individual knowledge (optional).*

6.4 Each module in the course will have to be completed so as to gain access to the next module. The course will require completion of all modules. After completion of module, an Online Course Completion Certificate (OCC) will be generated. Once generated, OCC will be valid for three years from the date of issuance.

6.5 The candidate must obtain OCC minimum one month before registering for End-of Programme examination.

7. Refresher Course:

7.1 Before completion of five years' validation period, a Tourist Facilitator has to undergo two weeks' online refresher course to be conducted by IITM.

7.2 It would be mandatory for IITF - Basic and IITG to get them registered for refresher programme. The candidate may get themselves registered for refresher courses well before four months of expiry of five years' validity period.

7.3 There would be no registration fee for undergoing refresher course. They will have to get themselves registered using their existing and valid IITF /IITG Certificate and Aadhaar card number given by UIDAI or Voter ID card



issued by Election Commission of India and their mobile number.

7.4 Once they have completed the online refresher course, certified by Ministry of Tourism Govt. of India, the existing IITF / IITG certificate and badge would be renewed by Ministry of Tourism, Govt. of India for a period of further five years.

8. Provision for Existing Valid Regional Level Guide License Holders

8.1 This platform will give an opportunity to the existing valid Regional Level Guides Licenses holders to get listed on the IITF online web portal, once they are inducted under Incredible India Tourist Guide (IITG) Certification Programme.

8.2 All existing valid Regional Level Guide License holders will have to mandatorily undergo the IITF Refresher Course before 30.09.2021 and on completion of the IITF Refresher Course, RLG's will be given the IITG - (Heritage/Adventure) category certification, which would enable them to continue guiding and facilitating the tourist at ASI Protected Monuments and Heritage Sites on Pan-India basis.

8.3 For registration under IITF Refresher Course they have to upload their RLG License issued by the Regional Offices of the Ministry of Tourism, Govt. of India. No fee is payable for this purpose. No pre-qualification or any such other requirement is needed for them.

9. Examination for IITFC (Basic) and IITG (Heritage/Adventure).

*9.1 Once the candidate has successfully completed all the modules of the course and generated Online Course Completion Certificate, he/she may register for the examination by paying an examination fee of Rs 500/- (**non-refundable**) or as modified from time to time. The SC and ST*



*candidates, the candidates who are domicile residence of the Union Territory of Ladak, Jammu & Kashmir and the candidates who are the domicile residence of Aspirational Districts as identified by NITI AAYOG (as amended from time to time**) (**Annexure-I**) are exempted from the examination fee. Examination would be conducted online by the agency so identified by IITTM.*

9.2 Examination Centers would be at identified location as selected by the candidate out of the various given options. No request for change of examination center would be entertained once it is allocated and further training and internships will be conducted in and around this Centre. Centre selection will be done in coordination with Regional Directors and third party examination agency.

9.3 Normally the examination would be conducted twice in the calendar year i.e. June & December. The enrolment for June exams would be closed on 30th April and for December exam on 31st October.

9.4 Examination for spoken languages would also be held in various identified local spoken language. Each candidate is required to secure minimum passing/qualifying marks of 50% (Fifty Percentage) in the spoken test. Candidates can appear any number of times for an examination.

9.5 In case a candidate fails to secure minimum qualifying marks in the first attempt, he/she would be entitled to attempt the end-of-programme examination again till the validity of his/her OCC certificate on the payment of examination fees (if applicable).

9.6 Candidates who have passed the end-of programme examination will be eligible for further Training and Internship. The candidates will undergo a seven days training conducted by IITTM at the same centre selected by candidate for End- of programme examination. The candidates are then required to undertake mandatory internship of seven working days with tour operators



approved by the Ministry of Tourism, Govt. of India at the selected centres. Regional Directors India Tourism offices will support in arranging internships for candidates.

9.7 After completion of all the above formalities i.e. qualifying the examination, internship, behaviour skill training, verification of documents and police verification, the candidates would be awarded IITF Basic/IITG (Heritage/Adventure) certificate.

9.8 The IITF Certificate would be a unique ID along with “Incredible India Badge (अतुल्यभारत चिन्ह)- 1 (Basic) & Badge - 2 (अतुल्यभारत चिन्ह) (IITG (Heritage/Adventure))” / issued by Ministry of Tourism, Govt. of India. The spoken language certification would be specified on the “Incredible India Badge”. All certified badge holders would be listed on Incredible India website where a data base of certified Tourist Facilitator would be maintained by Ministry of Tourism, Govt. of India. This would be available for use by all interested stakeholders.”

50. The candidate once enrolled under the IITF Certification Programme, is required to go through the contents of the course which is divided into different modules. The contents of the course are uploaded on the IITF / IITG web portal. The candidate is required to complete the assignment / questionnaire. It is only when a candidate is granted an IITF Certificate that he becomes entitled to enrol for the IITG level category and after such enrolment and training, he is required to go through the contents/ modules of the course meant for IITG. Therefore, the IITF certificate holder is thus a feeder cadre to IITG. The RLGs such as petitioners are only required to undergo the IITF refresher course after which they are given the IITG certification, which



would enable them to guide and facilitate the tourists at ASI protected monuments.

51. It was also contended by the petitioners that the scope of work of IITF and IITG is similar. It has been clarified by the respondent that the candidate who complete the course of IITG is the one who would be permitted to do the guiding work within the ASI protected monuments, whereas Tourist Facilitators are not permitted to do the guiding work within the ASI protected monuments. It is also clarified that the course contents of the IITF is different from IITG.

52. Therefore, the assumption that the un-equals have been treated equally is misconceived. The IITF is a feeder cadre for IITG and has been assigned a different role than IITG. It cannot be argued that the Government while exercising its executive functions cannot formulate a policy, which it considers best for a particular purpose. As obvious, much deliberation has gone into, in introducing a whole new scheme for the purpose of enhancing the experience of the tourists visiting India.

53. The Court while exercising its power of judicial review is not required to get into the realm of policy making. The impugned policy does not appear to be arbitrary or discriminatory or violating the Fundamental Rights of the members of the petitioners' associations.

54. As noted above, the right of the members of petitioner associations to practice their profession has not been taken away



and it does not foul of Article 19(1)(g) of the Constitution of India.

55. The Constitution Bench of the Hon'ble Apex Court, in the case of **Harman Singh v. RTA : (1953) 2 SCC 539**, in relation to the policy for grant of license to small taxis in the streets of Calcutta, which allegedly had the effect of stoppage of taxi business of large taxi owners in commercial sense, held as under:

“9. Article 19(1)(g) declares that all citizens have the right to practise any profession, to carry on any occupation, trade or business. Nobody has denied to the appellants the right to carry on their own occupation and to ply their taxis. This article does not guarantee a monopoly to a particular individual or association to carry on any occupation and if other persons are also allowed the right to carry on the same occupation and an element of competition is introduced in the business, that does not, in the absence of any bad faith on the part of the authorities, amount to a violation of the fundamental right guaranteed under Article 19(1)(g) of the Constitution.”

56. It is settled law that the Court cannot substitute legislative or executive policy with a judicial policy especially in matters wherein there is high possibility of conflicting claims. The judicial forums are held to be ill-suited to entertain challenges to legislative policy and give its value judgments on efficacy and justiciability of the same. In the case of **Dr. Ashwani Kumar v. Union of India and Another : 2019 SCC OnLine SC 1144**, it was held as under:

“24. From the above, it is apparent that law-making within certain limits is a legitimate element of a Judge's role, if not inevitable. [Lord Irvine: “Activism and Restraint : Human



Rights and Interpretative Process”, (1999) 4 EHRLR 350.] A Judge has to adjudicate and decide on the basis of legal provisions, which when indeterminate on a particular issue require elucidation and explanation. [Aileen Kavanagh: “The Elusive Divide between Interpretation and Legislation under the Human Rights Act, 1998”, (2004) 24 Oxford Journal of Legal Studies, 259-285.] This requires a Judge to interpret the provisions to decide the case and, in this process, he may take recourse and rely upon fundamental rights, including the right to life, but even then he does not legislate a law while interpreting such provisions. Such interpretation is called “Judge-made law” but not legislation. Aileen Kavanagh, in explaining the aforesaid position, had observed:

“... If there has not been a case in point and the Judge has to decide on the basis of legal provisions which may be indeterminate on the issue, then the Judge cannot decide the case without making new law... This is because Parliament has formulated the Act in broad terms, which inevitably require elaboration by the courts in order to apply it to the circumstances of each new case. Second, even in cases where Judges apply existing law, they cannot avoid facing the question of whether to change and improve it.... Interpretation has an applicative and creative aspect.”

25. Legislating or law-making involves a choice to prioritise certain political, moral and social values over the others from a wide range of choices that exist before the legislature. It is a balancing and integrating exercise to give expression/meaning to diverse and alternative values and blend it in a manner that it is representative of several viewpoints so that it garners support from other elected representatives to pass institutional muster and acceptance. Legislation, in the form of an enactment or laws, lays down broad and general principles. It is the source of law which the Judges are called upon to apply. Judges, when they apply the law, are constrained by the rules of language and by well-identified background presumptions as to the manner



in which the legislature intended the law to be read. Application of law by the Judges is not synonymous with the enactment of law by the legislature. Judges have the power to spell out how precisely the statute would apply in a particular case. In this manner, they complete the law formulated by the legislature by applying it. This power of interpretation or the power of judicial review is exercised post the enactment of law, which is then made subject-matter of interpretation or challenge before the courts.

26. Legislature, as an institution and a wing of the Government, is a microcosm of the bigger social community possessing qualities of a democratic institution in terms of composition, diversity and accountability. Legislature uses in-built procedures carefully designed and adopted to bring a plenitude of representations and resources as they have access to information, skills, expertise and knowledge of the people working within the institution and outside in the form of executive. [D. Kyritsis, "Constitutional Review in a Representative Democracy", (2012) 32 Oxford Journal of Legal Studies.] Process and method of legislation and judicial adjudication are entirely distinct. Judicial adjudication involves applying rules of interpretation and law of precedents and notwithstanding deep understanding, knowledge and wisdom of an individual Judge or the Bench, it cannot be equated with law making in a democratic society by legislators given their wider and broader diverse polity. The Constitution states that legislature is supreme and has a final say in matters of legislation when it reflects on alternatives and choices with inputs from different quarters, with a check in the form of democratic accountability and a further check by the courts which exercise the power of judicial review. It is not for the Judges to seek to develop new all-embracing principles of law in a way that reflects the stance and opinion of the individual Judges when the society/legislators as a whole are unclear and substantially divided on the relevant issues [Lord Browne-Wilkinson in Airedale N.H.S. Trust v. Bland, 1993 AC 789, pp. 879-880 : (1993) 2 WLR 316 (HL)] . In Bhim Singh v. Union of India [Bhim Singh v. Union of India, (2010) 5 SCC 538] , while



observing that the Constitution does not strictly prohibit overlapping of functions as this is inevitable in the modern parliamentary democracy, the Constitution prohibits exercise of functions of another branch which results in wresting away of the regime of constitutional accountability. Only when accountability is preserved, there will be no violation of principle of separation of powers. Constitution not only requires and mandates that there should be right decisions that govern us, but equal care has to be taken that the right decisions are made by the right body and the institution. This is what gives legitimacy, be it a legislation, a policy decision or a court adjudication.

27. It is sometimes contended with force that unpopular and difficult decisions are more easily grasped and taken by the Judges rather than by the other two wings. Indeed, such suggestions were indirectly made. This reasoning is predicated on the belief that the Judges are not directly accountable to the electorate and, therefore, enjoy the relative freedom from questions of the moment, which enables them to take a detached, fair and just view. [See observations of Lord Neuberger in R. (Nicklinson) v. Ministry of Justice, 2015 AC 657 : (2014) 3 WLR 200 : 2014 UKSC 38] The position that Judges are not elected and accountable is correct, but this would not justify an order by a court in the nature of judicial legislation for it will run afoul of the constitutional supremacy and invalidate and subvert the democratic process by which legislations are enacted. For the reasons stated above, this reasoning is constitutionally unacceptable and untenable.”

57. In ***Rustom Cavasjee Cooper v. Union of India : (1970) 1 SCC 248*** (commonly known as Bank Nationalisation Case), the Eleven Judge Constitution Bench held that the Court is not a forum where conflicting policy claims may be debated. The Court is only required to adjudicate the legality of a measure which has



little to do with relative merits of different theories. It was observed as under:

“63. This Court is not the forum in which these conflicting claims may be debated. Whether there is a genuine need for banking facility in the rural sector, whether certain classes of the community are deprived of the benefit of the resources of the banking industry, whether administration by the Government of the commercial banking sector will not prove beneficial to the community and will lead to rigidity in the administration, whether the Government administration will eschew the profit-motive, and even if it be eschewed, there will accrue substantial benefits to the public, whether an undue accent on banking as a means of social regeneration, especially in the backward areas, is a doctrinaire approach to a rational order of priorities for attaining the national objectives enshrined in our Constitution, and whether the policy followed by the Government in office or the policy propounded by its opponents may reasonably attain the national objectives are matters which have little relevance in determining the legality of the measure. It is again not for this Court to consider the relative merits of the different political theories or economic policies. The Parliament has under Entry 45, List I the power to legislate in respect of banking and other commercial activities of the named banks necessarily incidental thereto: it has the power to legislate for acquiring the undertaking of the named banks under Entry 42, List III. Whether by the exercise of the power vested in the Reserve Bank under the pre-existing laws, results could be achieved which it is the object of the Act to achieve, is, in our judgment, not relevant in considering whether the Act amounts to abuse of legislative power. This Court has the power to strike down a law on the ground of want of authority, but the Court will not sit in appeal over the policy of the Parliament in enacting a law. The Court cannot find fault with the Act merely on the ground that it is inadvisable to take over the undertaking of banks which, it is said by the petitioner, by thrift and efficient management had set up an impressive and efficient business organization serving large sectors of industry.”

58. It is not the domain of the Court to consider whether a particular public policy is wise or a better public policy can be evolved. Such exercise is best left to the discretion of the



executive and legislative authorities. The challenge to the validity of such policy can only be considered if the same is found to be infringing the Fundamental Rights guaranteed by the Constitution of India. The Court is not to appropriate to itself the task entrusted to the legislative and the policy making which is function of experts. Similarly, the Court also cannot strike down a policy merely because it feels that another decision would have been fairer or logical or wise.

59. In the case of *Meerut Development Authority v. Association of Management Studies and Another* : (2009) 6 SCC 171, the Hon'ble Apex Court held as under:

68. The impugned judgment illustrates “the danger of judges wrongly though unconsciously substituting their own views for the views of the decision-maker who alone is charged and authorised by law to exercise discretion”. With respect, we find that the High Court virtually converted the judicial review proceedings into an inquisitorial one. The way proceedings went on before the High Court suggest as if the High Court was virtually making an inquiry into the conduct and affairs of MDA in a case where the Court was merely concerned with the decision-making process of MDA in not accepting the offer/tender of AMS in respect of the disputed plot on the ground that the offer so made was less than that of the reserved price fixed by MDA.

60. It is also well-settled that the questions relating to the constitution, pattern, cadre, their creation / abolition, prescription of qualifications, etc. pertain to the field of policy within the exclusive domain of the State. The Courts are not to substitute its view for that of the State. The State is well within its competence



to change the rules relating to any service and alter or amend or vary the qualifications, eligibility criteria and other conditions of service as the exigencies may necessitate. Judicial wisdom in the challenge to such policy decisions is judicial restraint. No fault of the respondents can be found in the decision to reframe guidelines for grant of license to operate as a Guide as long as the right of the members of the petitioner association to practice and participate has not been taken away.

61. In view of the above, we find no merit in the present writ petition and the same is, accordingly, dismissed.

62. In view of the peculiar facts that the members of the petitioner association are granted interim protection by this Court, who have the existing licenses as authorised Guides to continue the service on the same terms and conditions as existed under the RLG Guidelines dated 22.09.2011, we consider it apposite to extend the interim protection for a period of four weeks from date. This is to enable the members of the petitioner association to apply under the new policy.

AMIT MAHAJAN, J

VIBHU BAKHRU, J

DECEMBER 22, 2023

"SK"/KDK/HK/AA