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No.C.P.1259-1261-L/2013-SCJ
SUPREME COURT OF PAKISTAN
Lahore dated 30-07-2013

From

The Deputy Registrar,
Supreme Court of Pakistan,
Lahore.

To,

The Secretary
Ministry of Religious Affairs
Government of Pakistan,
Islamabad.

**CIVIL APPEAL NO.800 TO 802-L/2013
OUT OF**

Subject:- **CIVIL PETITION FOR LEAVE TO APPEAL NO.1259 TO 1261-L/2013**
Dossari Travels Pvt Ltd. (In CP 1259-L/2013)
City Travels Pvt Ltd. (In CP 1260-L/2013)
Super Travels Pvt Ltd (In CP 1261-L/2013)
.....Petitioners

VERSUS.

M/s. Travels Shop Pvt. Ltd. Etc. (In all cases)
.....Respondents

(On appeal from the judgment dated 24-06-2013 passed by the
Lahore High Court, Lahore in W.P.No.7253/2013)

Dear Sir,


I am directed to enclose herewith a certified copy of this Court's order dated 30-07-2013 passed in the case cited as subject above whereby the Court while granting leave to appeal to the petitioners named above and suspending the impugned order/judgment, has been pleased to direct as under:-

".....
9. Since leave has been granted in all these petitioners, the operation of the impugned order passed by the learned High Court is suspended. The Ministry of Religious Affairs is directed to allocate the entire quota made available to Pakistan strictly in terms of its Hajj Policy, 2013 in a transparent manner and proceed with the Hajj schedule prepared by it. It shall submit a compliance report in this regard by or before 06-08-2013.

2. You are, therefore, required to take immediate necessary action in compliance of the Court's order/direction in letter and spirit as mentioned above and submit a compliance report in this regard by or before 06-08-2013.

3. Kindly acknowledge the receipt of this letter along with its enclosures.

Yours faithfully,


SUPERINTENDENT (IMP)
For Deputy Registrar

Encl:- order dt:30-07-2013

IN THE SUPREME COURT OF PAKISTAN
(APPELLATE JURISDICTION)

PRESENT

MR. JUSTICE TASSADUQ HUSSAIN JILLANI
MR. JUSTICE MIAN SAQIB NISAR

CIVIL PETITION NOs. 1259-L TO 1261-L OF 2013

(On appeal from the judgment dated 24.6.2013 passed by the Lahore High Court, Lahore in W.P. No. 7253/2013)

Dossani Travels Pvt Ltd (In CP 1259-L/2013)
City Travels Pvt Ltd (In CP 1260-L/2013)
Super Travcls Pvt Ltd (In CP 1261-L/2013)
... Petitioners

VERSUS

M/s Travels Shop Pvt Ltd etc (In all cases)
... Respondents

For the Petitioners: Mr. Afzal A. Haider, ASC

For the Respondents: Mr. Azhar Siddique, ASC
Syed Zulfiqar Abbas Naqvi, ASC

On Court Call: Mr. Abdul Hayee Gillani, Addl. Attorney General
Mr. Shahid Khan, Secretary, Ministry of Religious Affairs
Mr. Shahzad Ahmed, Joint Secretary (Hajj), Ministry of Religious Affairs
Mr. Malik Saeed, Director Hajj, Lahore

Date of Hearing: 30.07.2013

ORDER

This order shall dispose of Civil Petition Nos. 1259-L to 1261-L of 2013.

2. Through the afore-referred petitions, petitioners have challenged the order dated 24.6.2013 passed by learned Single Judge in Chamber of the Lahore High Court vide which *inter alia* directed the respondent Ministry of Religious Affairs to allocate the quota retrieved from those Hajj Group Organizers (HGOs) through open auction.

3. We have heard learned counsel for the petitioner, for the respondents and learned Additional Attorney General as also

Superintendent

Lahore High Court of Pakistan

Secretary Ministry of Religious Affairs at some length and have given anxious considerations to the submissions made.

4. Learned counsel for petitioners submitted that they are Hajj Group Organizers since 2002; that they organized successful Hajj operation for their clients for said year; that they were allocated quota for 48 Hujjaj respectively according to Hajj Policy, 2013 via recognition letters; that they started booking Hujjaj/pilgrims who intended to perform Hajj in 2013; that they procured rented places both in Makkah and Madina for the residence of pilgrims and after execution of rent deeds with Saudi citizens have paid huge amount in advance and that notwithstanding the above elaborate arrangements and the expenses incurred the High Court has passed the impugned order without hearing the petitioners.

5. The Secretary Ministry of Religious Affairs Mr. Shahid Khan has placed on record a concise statement to the effect that the Hajj Policy issued by the respondent Ministry of Religious Affairs was challenged in Lahore High Court, in High Court of Sindh and in Peshawar High Court by some potential operators who were aggrieved of not having been issued the Hajj quota. He submitted that as per the Hajj Policy, 2013 revised on account of 20% cut by the Saudi Government, the Ministry has to allocate the quota in the ratio of 60:40 between the Government and private sector; that a major part of the quota available has already been allocated; that the HGOs who were granted licenses have already made elaborate arrangements for Hujjaj and that the first flight for Hujjaj is scheduled for 8.9.2013; that if the Ministry is to comply with the various interim orders passed by the High Court of Sindh or Peshawar High Court and Lahore High Court it would not

Signature of Plaintiff
Word Court of Public

possible for it to organize the Hajj Policy in terms of its settled schedule.

6. Learned counsel for the respondents submitted that he represents those petitioners who have been refused quota and had filed Constitution petition before the High Court on which the impugned order has been passed; that the Hajj Policy issued by the respondent Ministry is violative of Article 18 of the Constitution; that the Policy is also violative of the order of the Lahore High Court dated 6.6.2012 passed in Writ Petition No. 11289/2012. He further submitted that there was apprehension in the minds of the respondents / writ petitioners that the quota made available for allocation to the Ministry was likely to be allocated arbitrarily and on favouritism and that is why the jurisdiction of the High Court was invoked and that the order of the learned High Court has already been given effect to as the bidding process stood completed on 22.7.2013 and there were 19 successful bidders.

7. Learned Additional Attorney General for Pakistan Mr. Abdul Hayee Gillani submitted that the learned High Court had no jurisdiction to interfere in the Policy Making Domain of the Executive; that the bidding process was initiated but before the Ministry could allocate the quota to those 19 bidders, persons affected thereby have challenged the bidding process in various High Courts.

8. We are conscious that the impugned order passed by the learned Lahore High Court is basically an interim order but in substance it has granted main relief sought in the Constitution petition. In that petition the respondents / writ petitioners had challenged the allocation of Hajj quotas under the Hajj Policy

- iv) whether the impugned order passed is violative of the law laid down by this Court in Al-Rahim Travels and Tours (Pvt) Ltd Vs. Ministry of Religious Affairs, Haji, Zakat and Ushr (PLD 2011 SC 1621)? and
- v) whether the petitioners could be condemned unheard?

9. Since leave has been granted in all these petitions, the operation of the impugned order passed by the learned High Court is suspended. The Ministry of Religious Affairs is directed to allocate the entire quota made available to Pakistan strictly in terms of its Hajj Policy, 2013 in a transparent manner and proceed with the Hajj schedule prepared by it. It shall submit a compliance report in this regard by or before 6.8.2013.

Sd. Tasseedeq Hussain Jilani, J
Sd. Mian Saqib Nisar, J



certified to be a true copy
 3/7/13
 Superintendent,
 Supreme Court of Pakistan