

A UNION OF INDIA & ORS.
v.
RAFIQUE SHAIKH BHIKAN & ORS.
Petition for Special Leave to
APPEAL (CIVIL) NO.28609/2011

B APRIL 16, 2013

[AFTAB ALAM AND RANJANA PRAKASH DESAI, JJ.]

C *Hajj policy – Policy for Haj Committee of India Pilgrims – Held: Practice of framing Hajj Policy on annual basis is ad-hoc and unsatisfactory – Requirement of a policy framework for five years – Proposed Hajj Policy 2013 – 2017 be posted on the website of the Ministry of External Affairs (MEA) inviting objections, comments and suggestions – Final policy to remain valid and operative for five years upto Hajj 2017 and may be amended only in case of any change in arrangements with the Kingdom of Saudi Arabia as per the agreement entered into between the two countries every year.*

E *Hajj policy – Lady pilgrims – Held: Hajj Policy to pay attention to special needs of the lady pilgrims.*

F *Hajj policy – Time bound conduct of Hajj process – Held: Time schedule with regard to the hajj process as fixed by the Haj Committee of India to be strictly adhered to – No authority or court to interfere in the process of submission of applications, scrutiny and allotment of seats by the Haj Committees, in case the interference would lead to disturbing the time schedule.*

G *Hajj policy – Accommodation in Saudi Arabia – Committee constituted by Supreme Court to make arrangements for the pilgrims' accommodation in Saudi Arabia on a long term basis – Committee expected to make arrangements for stay of Indian pilgrims in Saudi Arabia by*

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taking accommodations on lease for a term not less than five years before the commencement of Hajj 2013. A

Hajj policy – Air Fare – Government of India to invite tenders from the three Saudi Airlines and all the Indian registered Airlines besides any other airlines that may be eligible under the Saudi Policy. B

Hajj policy – Grievance redressal – Held: At present a Joint Secretary in the Ministry of External Affairs is in-charge of Gulf and Hajj – But both the Gulf and the Hajj involve huge responsibilities – Government of India to give responsibility of the Hajj alone to an Officer of the level of the Joint Secretary – Hajj cell to also have a permanent and effective grievance redressal mechanism – An officer of the level of Deputy Secretary to be made in-charge of dealing with all grievances concerning Hajj received from any of the Hajj Committees or any individual or group of individuals – Central Government advised to constitute a high powered committee to review the functioning of the Haj Committee of India, the State Haj Committees and the Union Territory Haj Committees and to consider the suggestions or grievances made by those Committees with a view to improving their performance. C
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Hajj policy – Policy for Private Tour Operators (PTOs) – Held: Classification of PTOs to categories 1 & 2 fair and reasonable and strikes a proper balance between needs of the pilgrims and also making provision for new entrants on a calibrated basis – Policy, approved after modifications by Supreme Court – Approved policy to be called Policy for Private Tour Operators for Hajj 2013-2017 – It shall remain valid for five years and shall not be questioned before any court or authority. F
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The instant special leave petition was filed by the Union of India against the judgment passed by the Bombay High Court by which the Government was H

A directed to release 800 seats from the Government quota in favour of the writ petitioners [a group of Private Tour Operators (PTOs)] under the Government's PTO Policy for Hajj 2011.

B Though the special leave petition was on a very limited issue, the Supreme Court decided to treat the case as a public interest litigation and to examine some of the major issues concerning the Hajj Policy of the Government of India. In the past two years, the Supreme Court passed orders on a number of issues concerning the Government Hajj Policy.

C While re-iterating and confirming its earlier orders/directions, some other important issues in the Hajj Policy of the Government of India, viz. i) Policy for Haj Committee of India Pilgrims; ii) time bound conduct of hajj process; iii) accommodation in Saudi Arabia; iv) Air Fare; v) Grievance redressal and vi) Policy for Private Tour Operators were now dealt with by the Supreme Court.

E Disposing of the Special Leave Petition, the Court

HELD: 1. Policy for Haj Committee of India Pilgrims (Policy in regard to pilgrims going for hajj through the Haj Committee of India in distinction to those going through private tour operators): The practice of framing Hajj Policy on an annual basis is quite *ad-hoc* and unsatisfactory and must be replaced by a policy framework made for a period of five years. It is accordingly, directed that the Hajj Policy that is to be framed this year would be for a period of five years and would be called the Hajj Policy 2013 – 2017. The proposed Hajj Policy will be posted on the website of the MEA inviting objections, comments and suggestions within one month from the date it is made available on the website. The policy would be given the final shape after taking into account any objections, comments or

suggestions that may be worthy of acceptance within a further period of one month. The final policy so framed shall remain valid and operative for a period of five years upto hajj 2017 and may be amended only in case of any change in the arrangements with the Kingdom of Saudi Arabia as per the agreement entered into between the two countries every year. The next five year policy will be similarly framed, keeping in view any problems that might have been encountered in following the previous policy and taking into account any improvements, innovations and technological advances in order to add content and quality to the succeeding policy and to make it perform better than the previous policy. It is further directed that the Hajj Policy should pay attention to special needs of the lady pilgrims and it should be aimed at making the pilgrimage for lady pilgrims as smooth and trouble-free as possible. [Paras 8 and 9] [436-H; 347-A-F]

2. Time bound conduct of hajj process: It is directed that the time schedule with regard to the hajj process as fixed by the Haj Committee of India should be strictly adhered to and no authority or court should interfere in the process of submission of applications, scrutiny and allotment of seats by the Haj Committees, in case the interference would lead to disturbing the time schedule. This direction is made keeping in view that in appropriate cases individual interest must yield to the larger good and in the larger interest. [Paras 12, 13] [438-E-G]

Mridul Dhar v. Union of India (2005) 2 SCC 65: 2005 (1) SCR 380 – relied on.

3. Accommodation in Saudi Arabia: A Committee comprising of i) Joint Secretary, Gulf and Hajj, Convenor; ii) Consul General of India in Jeddah; iii) Chairman of the Haj Committee of India; iv) Mr. Najeeb Jung, Vice Chancellor, Jamia Milia Islamia; v) Mrs. Syedda Hamid, Member, Planning Commission of India and vi) Mr. Haris

A Beeran, Counsel for the MEA is directed to be constituted
by the Supreme Court to make arrangements for the
pilgrims' accommodation in Saudi Arabia on a long term
basis. The expenses incurred by the non-official members
of the Committee in participating in the Committee's work
B will be borne by the Central Government. The Committee
is expected to make arrangements for stay of the Indian
pilgrims in Saudi Arabia by taking accommodations on
lease for a term not less than five years before the
commencement of hajj 2013. The Joint Secretary Gulf and
C Hajj is directed to give information in regard to the
formation of the Committee for making long term
arrangement for accommodations in Saudi Arabia to each
of its members so that the Committee may start its work
without delay. [Paras 15, 16, 17 and 36] [439-C, D-G, H;
D 440-A-B; 444-E-F]

4. Air Fare: The air fare charged by the Haj Committee
is much higher than the fare charged by private tour
operators. The Government of India is directed to invite
tenders from the three Saudi Airlines and all the Indian
E registered Airlines besides any other airlines that may be
eligible under the Saudi Policy. [Paras 18-19] [440-C, E-F]

5. Grievance redressal: At present a Joint Secretary
in the Ministry of External Affairs is in-charge of Gulf and
F Hajj. But both the Gulf and the Hajj involve huge
responsibilities and it would be better if the responsibility
of hajj alone is assigned to a single Officer. Therefore, the
Government of India is advised to give the responsibility
of the hajj alone to an Officer of the level of the Joint
G Secretary. In any event, the hajj cell should also have a
permanent and effective grievance redressal mechanism
and an officer of the level of Deputy Secretary should be
made in-charge of dealing with all grievances concerning
hajj received from any of the Haj Committees or any
individual or group of individuals. At present the PTOs are
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required to submit their applications before the Haj Committee of India where the applications are scrutinized before those are taken up for registration with the Ministry of External Affairs. However, the Haj Committee has no concern with the Private Tour Operators or their business. The Ministry of External Affairs is directed to receive the applications from the PTOs directly or through any other appropriate agency. The Central Government is also advised to constitute a high powered committee to review the functioning of the Haj Committee of India, the State Haj Committees and the Union Territory Haj Committees and to consider the suggestions or grievances made by those Committees with a view to improving their performance. [Paras 20, 21 and 22] [440-F-H; 441-A-C, D, F-G]

6. Policy for Private Tour Operators (PTOs): The Attorney General presented the policy for registration of Private Tour Operators – Hajj 2013. The policy appears to have been framed with great care and application of mind. It is framed in light of the stipulation made by the Saudi Government that a Private Tour Operator should be allotted a quota of not less than 150 tickets. Further, the policy presented before the Court accommodates most of the suggestions that were made to the Attorney General by counsel representing the different Private Tour Operators over the past months. Most importantly it avoids creation of any monopoly and makes provision for entry of fresh players. The classification of PTOs to categories I & 2 is fair and reasonable and strikes a proper balance between the needs of the pilgrims and also making provision for new entrants on a caliberated basis. The policy, approved after modifications by this Court, is enclosed as Appendix-I and forms part of this order. The approved policy will be called Policy for Private Tour Operators for hajj 2013-2017. It shall remain valid for five years and shall not be questioned before any court or

A authority. [Paras 23, 24, 26 and 28] [441-G-H; 442-A-B, E-H; 443-A]

B 7. The decision of the Government of India that a person can perform hajj through the Haj Committee only once in a lifetime was sought to be assailed. However, it needs to be made clear that the restriction is not on the performance of hajj as such and any person having gone through the Haj Committee may perform hajj as many times as he may like or may be permitted by the Saudi Government, through Private Tour Operators and by his own means. The decision of the Government of India is not only legal and constitutional, but also fair and reasonable. [Paras 29, 31] [443-B-C, G]

Case Law Reference:

D 2005 (1) SCR 380 relied on Para 11
CIVIL APPELLATE JURISDICTION : SLP (Civil) No. 28609 of 2011.

E From the Judgment & Order dated 05.10.2011 of the High Court of Judicature at Bombay in Writ Petition (L) No. 1945 of 2011.

WITH

F T.C.(C) Nos. 90, 91 of 2012, W.P.(C) Nos. 330, 336 of 2012 & T.C.(C) Nos. 92, 94 & 93 of 2012.

G Goolam E. Vahanvati, A.G., Huzefa Ahmadi, Indu Malhotra, Dr. Rajeev Dhawan, R. Venkataramani, Colin Gonsalves, Dushyant Dave, Ejaz Maqbool, Mrigank Prabhakar, Rohan Sharma, Haris Beeran, Mohd. Nizamuddin Pasha, Amer Musthaq Salim, B.K. Prasad, Tarique Siddiqui, Anas Tanvir Siddiqui, Irshad Hanif, Rajshekhar Rao, Chandra Bhushan Jha, Ananda Handa, H.S. Mohamed Rafi, Kush, Nishta Shakil Ahmad Syed, Mohd. Parvez Dabas, Shuaib-uddin, B.V. Deepak (for T.T.K. Deepak & Co.) Ramesh Babu M.R., K.K. H Mani, Abhishek Krishna, Dave, Bobby Augustine, Pravin Satale,

Rajiv Shankar Dvivedi, C. Paramasivam, P. Ramesh, Rakesh K. Sharma, Ainul Ansari, Chandra Bhushan Prasad, M.Z. Chaudhary, Nilofar Qureshi, Khushi Mohd., Rehnuma, Manju Jana, R. Nedumaran, Vinay Navare (for Abha R. Sharma), Yanmi, Jyoti Mendiratta, Khalid Arshad, Tarun Gupta, Sudhanshu S. Choudhary, Anil Katiyar, Gaurav Agarwal, Sridhar Potaraju, Nikhil Goel, Irshad Ahmad, Puja Sharma, Dr. Vipin Gupta, Vikash Singh, Neeraj Shekhar, Suddarshan Rajan, C.N. Sree Kumar, P. George Giri, Praveen Agrawal, Abhijeet Sinha, P. Narasimhan, Usha Nandini V., V.N. Raghupathy, V. Ramasubramanian, Ranjan Mukherjee, Shiv Sagar Tiwari, Renjith B., K.A. Qureshi, Ananga Bhattacharyya for the appearing parties. A
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The Judgment of the Court was delivered by

AFTAB ALAM, J. 1. This special leave petition was filed by the Union of India against the judgment and order passed by the Bombay High Court by which the Government was directed to release 800 seats from the Government quota in favour of the writ petitioners (a group of private tour operators) under the Government's PTO Policy for hajj 2011. Though the special leave petition was on a very limited issue, this Court by order dated February 17, 2012 decided to treat the case as a public interest litigation and to examine some of the major issues concerning the Hajj Policy of the Government of India. D
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2. In the past two years this Court has passed orders on a number of issues concerning the Government Hajj Policy. By order dated May 8, 2012, the Court dealt with the issues of Hajj Subsidy and the Goodwill Hajj Delegation and passed necessary directions in that regard. The directions on those issues are reiterated and confirmed and directed to be followed strictly. F
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3. By the same order, the Court also approved the Government's PTO Policy for Hajj 2012.

4. By order dated July 23, 2012, the Court dealt with the H

A quota of pilgrims that the Central Government kept reserved for allotment at its discretion and made directions in that regard. Those directions too are reiterated, confirmed and directed to be followed strictly.

B 5. By order dated July 27, 2012, the Court pointed out to the Attorney General that the PTO Policy for hajj 2012 did not allow the entry of anyone without past experience and asked him to ensure that future PTO policies should have sufficient room for the entry of fresh PTOs every year.

C 6. We now propose to deal with some other important issues in the Hajj Policy of the Government of India.

D 7. Mr. Huzefa Ahmadi, senior advocate, who was appointed as *Amicus Curiae* by order dated July 23, 2012, has painstakingly collected detailed information from the Haj Committee of India and the Haj Committees of different States. After scrutinizing the collected information with discernment he presented for consideration the following issues that need to be addressed by the Court:

E (i) Policy for Haj Committee of India Pilgrims.

(ii) Time bound conduct of hajj process.

(iii) Accommodation in Saudi Arabia.

F (iv) Air Fare

(v) Grievance redressal

(vi) Policy for Private Tour Operators.

G We propose to take up all the issues in seriatim.

(i). **Policy for Haj Committee of India Pilgrims.**

H 8. This relates to the policy in regard to pilgrims going for hajj through the Haj Committee of India (in distinction to those

going through private tour operators). We accept the suggestion of the *Amicus* and hold that the practice of framing Hajj Policy on an annual basis is quite *ad-hoc* and unsatisfactory and must be replaced by a policy framework made for a period of five years. We, accordingly, direct that the Hajj Policy that is to be framed this year would be for a period of five years and would be called the Hajj Policy 2013 – 2017. The proposed Hajj Policy will be posted on the website of the MEA inviting objections, comments and suggestions within one month from the date it is made available on the website. The policy would be given the final shape after taking into account any objections, comments or suggestions that may be worthy of acceptance within a further period of one month. The final policy so framed shall remain valid and operative for a period of five years upto hajj 2017 and may be amended only in case of any change in the arrangements with the Kingdom of Saudi Arabia as per the agreement entered into between the two countries every year. The next five year policy will be similarly framed, keeping in view any problems that might have been encountered in following the previous policy and taking into account any improvements, innovations and technological advances in order to add content and quality to the succeeding policy and to make it perform better than the previous policy.

9. We further direct that the Hajj Policy should pay attention to special needs of the lady pilgrims and it should be aimed at making the pilgrimage for lady pilgrims as smooth and trouble-free as possible.

10. Mr. E.N.S. Anam, who addressed us in course of hearing of the matter, seems to have some positive and constructive ideas that deserve to be taken into consideration. Mr. Attorney General helpfully stated that he would ask Mr. Haris Beeran to arrange a meeting between Mr. Anam and the concerned officer in the MEA so that Mr. Anam's suggestions may be taken into consideration in the preparation of the draft Hajj Policy 2013 - 2017.

A (ii). Time bound conduct of hajj process.

B 11. Mr. Ahmadi submitted that the entire hajj process must be completed in a time bound manner with permissible grace periods where practicable. He submitted that the schedule for making applications, scrutiny etc. should be published in advance with firm cut off dates in the Hajj Policy itself so that the public at large is informed, well in advance, about those dates which should be treated as inflexible and should not be extended at any cost. Mr. Ahmadi further submitted that in order to complete the hajj process satisfactorily and effectively while dealing with applications running into lakhs it was imperative to adhere to the fixed time schedule, as in the case of admission to medical courses. He invited our attention to a decision of this Court in *Mridul Dhar v. Union of India*¹. In that decision this Court fixed a time schedule for post graduate and super specialty course admissions (vide paragraph 31 of the judgment) and in paragraph 35 of the judgment directed for complete adherence to the time schedule for grant of admission for post graduate courses.

E 12. We accept the submission of *Amicus* and direct that the time schedule with regard to the hajj process as fixed by the Haj Committee of India should be strictly adhered to and no authority or court should interfere in the process of submission of applications, scrutiny and allotment of seats by the Haj Committees, in case the interference would lead to disturbing the time schedule.

G 13. This direction is made keeping in view that in appropriate cases individual interest must yield to the larger good and in the larger interest.

(iii). Accommodation in Saudi Arabia.

14. Mr. Ahmadi submitted that the arrangement of

H ¹. (2005) 2 SCC 65.

accommodation of pilgrims in Saudi Arabia made on an annual basis is both expensive and inconvenient for the pilgrims and the arrangement for accommodation must be made on a long term basis, at least for a period of five years, if not for ten or more years. Mr. Ahmadi further submitted that though the proposal in that regard was made long ago, nothing tangible has been achieved so far. He, therefore, requested the Court to constitute a Committee to make arrangements for the pilgrims' accommodation in Saudi Arabia on a long term basis.

15. The learned Attorney General informed the Court that a Committee was already constituted for the purpose of securing accommodations on a long term basis. However, the Committee alluded to by the Attorney General consists only of Government officials and apparently it has not been able to do any thing so far. We feel that a Committee with some non-official members may be more effective in this regard. We, accordingly, constitute a committee of the following persons:

- (i) Joint Secretary, Gulf and Hajj, Convenor;
- (ii) Consul General of India in Jeddah;
- (iii) Chairman of the Haj Committee of India;
- (iv) Mr. Najeeb Jung, Vice Chancellor, Jamia Milia Islamia;
- (v) Mrs. Syedda Hamid, Member, Planning Commission of India;
- (vi) Mr. Haris Beeran, Counsel for the MEA;

16. We are informed that the position of the Chairman, Haj Committee of India, is at present vacant. We direct that the rest of the Committee shall start their work without awaiting the appointment of the Chairman, Haj Committee of India and the Chairman would join the Committee as and when someone is appointed to that office. The expenses incurred by the non-

A official members of the Committee in participating in the
Committee's work will be borne by the Central Government.

17. We expect the Committee to make arrangements for
stay of the Indian pilgrims in Saudi Arabia by taking
accommodations on lease for a term not less than five years
before the commencement of hajj 2013.

(iv). Air Fare.

18. Mr. Ahmadi stated that admittedly the air fare charged
by the Haj Committee was much higher than the fare charged
by private tour operators. He submitted that the best fare could
be secured by putting out a global tender. The Attorney
General, however, pointed out that in view of the constraints of
the agreement signed between the Government of India and
the Kingdom of Saudi Arabia and the official policy of the Saudi
Government, a global tender may not be possible. On this issue
there is need to find a middle course and on hearing the
Amicus and the learned Attorney General, we think that the
Government of India can make a beginning in this regard by
inviting tenders from the three Saudi Airlines and all the Indian
registered Airlines besides any other airlines that may be
eligible under the Saudi Policy.

19. We, direct, accordingly.

(v). Grievance redressal.

20. We are informed that at present a Joint Secretary in
the Ministry of External Affairs is in-charge of Gulf and Hajj. We
acknowledge that the concerned officer is doing commendable
work. But both the Gulf and the Hajj involve huge responsibilities
and it would be better if the responsibility of hajj alone is
assigned to a single Officer. We, therefore, advise the
Government of India to give the responsibility of the hajj alone
to an Officer of the level of the Joint Secretary. In any event,

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the hajj cell should also have a permanent and effective grievance redressal mechanism and an officer of the level of Deputy Secretary should be made in-charge of dealing with all grievances concerning hajj received from any of the Haj Committees or any individual or group of individuals.

21. Mr. Ahmadi submitted that at present the PTOs are required to submit their applications before the Haj Committee of India where the applications are scrutinized before those are taken up for registration with the Ministry of External Affairs. He submitted that the Haj Committee has no concern with the Private Tour Operators or their business. The Haj Committee is itself burdened with lakhs of applications and it should be relieved of the responsibility of receiving applications from the PTOs. We think the submission made by the *Amicus* is reasonable. We accept the submission and direct the Ministry of External Affairs to receive the applications from the PTOs directly or through any other appropriate agency.

22. Mr. Ahmadi submitted that despite having been provided with very inadequate resources and facilities both the Central Haj Committee and the Haj Committees at the State level are discharging their responsibilities in a highly commendable manner. We endorse the compliments paid by the *Amicus* to the Haj Committees and expect them to work with greater sincerity and efficiency. We also advise the Central Government to constitute a high powered committee to review the functioning of the Haj Committee of India, the State Haj Committees and the Union Territory Haj Committees and to consider the suggestions or grievances made by those Committees with a view to improving their performance.

(vi). Policy for Private Tour Operators (PTOs)

23. The Attorney General presented before us the policy for registration of Private Tour Operators – Hajj 2013.

24. The policy appears to have been framed with great

A care and application of mind. It is framed in light of the stipulation made by the Saudi Government that a Private Tour Operator should be allotted a quota of not less than 150 tickets. Further, the policy presented before the Court accommodates most of the suggestions that were made to the Attorney General by counsel representing the different Private Tour Operators over the past months. Most importantly it avoids creation of any monopoly and makes provision for entry of fresh players.

C 25. Here it may be stated that the certain provisions in the policy that tend to relax the eligibility criteria for the PTOs were strongly opposed by one Sangam Travels (I.A. No. 25 of 2013 and I.A. No. 29 of 2013). It was stated on behalf of the applicant that in paragraph 3 of the PTO policy, category II, that makes facilitating 50 *Umrah* pilgrims in a year for any five years as one of the eligibility criterion is quite illegal. We have heard Mr. D Rafi, counsel appearing for the applicant and we have considered the submissions carefully.

E 26. We are of the view that the classification of PTOs to categories I & 2 is fair and reasonable and strikes a proper balance between the needs of the pilgrims and also making provision for new entrants on a calibrated basis. This fully meets with our approval. We, thus, find no merit in the submissions and the IAs are rejected.

F 27. On other aspects of the PTO policy we have heard, apart from the Attorney General, counsel appearing for many Private Tour Operators represented before the Court and in particular Mr. Dushyant Dave, senior advocate appearing for Rafique Shaikh Bhikan (Respondent No.1).

G 28. Having heard the Attorney General and the counsel appearing for the different Private Tour Operators, we approve the policy presented by the Attorney General with some slight modifications. The policy, approved after modifications by this Court, is enclosed as Appendix-I and forms part of this order.
H The approved policy will be called Policy for Private Tour

Operators for hajj 2013-2017. It shall remain valid for five years and shall not be questioned before any court or authority. A

29. Before concluding the order, we may state that some parties appearing in-person and some through lawyers also sought to assail before us the decision of the Government of India that a person can perform hajj through the Haj Committee only once in a lifetime. It needs to be made clear that the restriction is not on the performance of hajj as such and any person having gone through the Haj Committee may perform hajj as many times as he may like or may be permitted by the Saudi Government, through Private Tour Operators and by his own means. Mr. Beeran, learned counsel appearing for the MEA, submitted that the decision has been relaxed and exceptions are made out in two cases. He submitted that having regard to the difficulties faced by some lady pilgrims in findings *Mehrams* who had not done Hajj before, "repeaters" are allowed to come in as *Mehrams*, subject to the condition that they would not be entitled to hajj travel subsidy provided by the Government of India. Similarly, keeping in view the problems encountered by pilgrims over 70 years of age in finding specified relatives to accompany them who had not done hajj before, "repeaters" were permitted in their case also subject to the condition that they would not be entitled to the hajj travel subsidy provided by the Government of India. B
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30. However, the decision of the Government was assailed on a number of grounds, even invoking Articles 25 and 14 of the Constitution of India. F

31. We are, *prima facie*, satisfied that the decision of the Government of India is not only legal and constitutional, but also fair and reasonable. We find no substance in any of the grounds challenging the Government's decision. G

32. We have dealt with all the major issues concerning the Hajj Policy of the Government of India. No useful purpose will be served by keeping this matter pending any further. We, H

A accordingly, dispose of the special leave petition and close the proceedings.

B 33. Before putting down the records of the case, however, we would like to state that this Court is indebted to Mr. Goolam E. Vahanvati, the learned Attorney General. It was with his help and cooperation that this Court was able to deal with the issues under consideration to our fullest satisfaction.

C 34. We would also like to put on record our appreciation for the assistance received from Mr. Huzefa Ahmadi, the learned *amicus curiae*, Mr. Haris Beeran, counsel appearing for the MEA and Mr. Khalid Arshad, learned counsel appearing for the Central Haj Committee. We are also thankful to Mr. Dushyant Dave, Mr. Fakhruddin, Mr. Colin Gonsalves, Mr. R. Venkataramani and all other counsel representing the different
D private parties.

35. With the disposal of this Special Leave Petition, all other connected matters, including transferred cases and intervention applications and IAs, are disposed of.

E 36. We direct the Joint Secretary Gulf and Hajj to give information in regard to the formation of the Committee for making long term arrangement for accommodations in Saudi Arabia to each of its members so that the Committee may start its work without delay.

F B.B.B. Matters disposed of.

Appendix

**MINISTRY OF EXTERNAL AFFAIRS
(GULF & HAJ DIVISION)**

Registration of Private Tour Operators - Haj 2013

The Government of Saudi Arabia has notified that Private Tour Operators (PTOs) registered with the Government of India and involved in the preparation of the Hajj Pilgrimage will be eligible for grant of Hajj group visas subject to fulfillment of other terms and conditions as laid down by the Saudi Authorities.

2. Applications are invited from eligible PTOs for registration for Hajj – 2013. The Eligibility Criteria are at Annexures A and B. The applications must be submitted in the prescribed format (Annexure-C) directly to [MEA or any other agency appointed by it]

3. It is to be noted that Government of Saudi Arabia has stipulated that effective Hajj 2013, a PTO should facilitate at least 150 pilgrims. Accordingly, the PTO Policy has been reframed. For registration and allotment of quota of Hajj seats for Hajj 2013, interested PTOs may apply under the following two categories:

Category I	PTOs registered with MEA and facilitated Hajjis at least for 7 Hajj operations or more.
Category II	PTOs registered with MEA and facilitated Hajjis for at least for 1 to 6 Hajj operations and PTOs which have facilitated at least 50 Umrah pilgrims in a year for any five years.

4. 70% of the overall quota of seats will be allocated to eligible PTOs under Category 3 (I) and 30% to eligible PTOs under Category 3 (II). Distribution of seats among qualified PTOs will be done as follows:

A (a) 70% of the Hajj 2013 PTO seats (31,500) will be
allocated to eligible PTOs under category 3(I) at the
rate of 150 per PTO. In case the number of PTOs
exceeds 210, the allocation of seats will be done
on draw of lots. If the number of qualified PTOs is
B less than 210, each PTO will be allocated 150 seats
and surplus seats, if any, will be distributed equally
among them.

(b) 30% of Hajj 2013 PTO seats (9,000) will be
C allocated to eligible PTOs under category 3(II) at
the rate of 150 seats per qualified PTO. If the
number of qualified PTOs exceeds 90, the
allocation of seats will be done by draw of lots. In
D case the number of PTOs is less than 90, each PTO
will be allocated 150 seats. Balance seats, if any,
will be transferred to Category I and distributed
equally among them. A qualified PTO which fails to
get selected under the draw of lots in any year will
be allocated 150 seats in the ensuing year without
Qurrah if it remains a qualified PTO.

E 5. This Policy is expected to remain valid for five years -
2013-2017 unless there are substantive developments which
affect it. The allocation of seats to qualified PTOs in each
category will be done every year on the basis of the overall
F quota of PTO seats specified in the annual India – Saudi Arabia
Hajj Agreement and the number of qualified PTOs remaining
in each category. The policy envisages cross category upward
movement of PTOs from Category II to Category I. A qualified
PTO shall remain qualified unless it is otherwise disqualified
either by Government of India or by Government of Saudi
G Arabia for valid reasons. It is to be noted that the PTOs who
do not wish to take a minimum of 150 Hajjis or are unable to
do so, need not apply.

H 6. Last date for receipt of applications which should be
addressed to [the MEA or any other agency appointed by it]

ANNEXURE-A A

**Terms and Conditions for Registration of
Private Tour Operators (PTOs) for Haj-2013**

Each PTO should establish that it is a genuine and established Tour Operator having experience in sending tourists/pilgrims abroad for which it should produce the following documents: B

S.No Terms and Conditions

I	All documents must be in the name of the applicant PTO and must be dated prior to the last date for submission of the application.	C
ii	PTO must sign an agreement with each pilgrim indicating the services to be provided to the pilgrim and charges payable. Services should include inter-alia medical insurance, type of accommodation, transport facility, duration of stay of the pilgrims in Saudi Arabia, etc.). A copy of model agreement to be signed with the pilgrims must be attached with the application.	D
iii	Details of registration for service tax.	E
iv	Minimum Annual Turnover of INR One Crore during the financial year 2010-11 or 2011-12 along with Balance Sheet and Profit & Loss Account –duly audited by the Statutory Auditors, Tax Audit Report and Income Tax Return (ITR) for financial years 2010-11 and 2011-12.	F
V	Minimum office area of 250 Sq.ft. (Carpet area). (Supporting documents –drawing/lay out plan approved by the competent authority of the State Government/Union Territory). Lay out plan certified by Chartered Engineers/Architects will also be accepted.	G
Vi	Minimum capital of Rs. 15 lacs as on March 31, 2012 or March 31, 2013, duly supported by the	H

A		latest Balance Sheet- audited by the Statutory Auditors and Audit Report.
B	Vii	Proof of payment made through banking or other authorized channels towards purchase of tickets and hiring of accommodation in Makkah/Madinah. Payments towards purchase of tickets, hiring of accommodation for pilgrims in Makkah/Madinah, by any other means, would not be accepted.
C	Viii	PAN Card details (PAN Card in the name of Proprietor will be accepted provided the PTO is a Proprietor concern)
	ix	PTO with adverse Police report or involved in criminal court cases will not be considered at all.
D	X	Copies of registration Certificate issued to the PTO in support of their claim year wise and PTO category wise.
E	Xi	Contract for hiring of buildings for pilgrims and "Tasreeh" together with English translations PTO category wise. (Please enclose rental receipts and a copy of lease deed, duly signed with the Saudi owners).
F	Xii	Copy of Munazzim Card and relevant Hajj visa pages of the Passport of the Proprietor/Owner.
	Xiii	A security deposit of Rs. 25 lacs (Rs. Twenty five lacs only) in the form of Fixed Deposits with a Nationalised Bank valid till February 28, 2014, in favour of HCOI, Mumbai.
G	Xiv	A Demand Draft of INR 5000/- (Rs. Five Thousand only) in favour of Haj Committee of India, payable at Mumbai- to be submitted along with the application as non refundable fee.

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ANNEXURE- B A

**OTHER IMPORTANT INSTRUCTIONS/ GUIDELINES
FOR HAJ-2013**

I	Application must be in the prescribed Performa (Annexure-C) and all documents must be serially numbered. An index must be provided at the top of the applications indicating details of documents enclosed.	B
li	Applications that furnish wrong information or suppress any relevant information will be summarily rejected and the applicant PTO will be blacklisted and its security deposit forfeited, provided that blacklisting will not be ordered unless an opportunity to show cause against such blacklisting is given to the PTO concerned.	C D
lii	PTOs must furnish full information about their pilgrims to the CGI (Consulate General of India), Jeddah and also upload it on the website of CGI- www.jeddah.com before departure of pilgrims to Saudi Arabia.	E
lv	PTO must ensure vaccination and other medical checks as per requirement of the Government of Saudi Arabia. Details are available on HCOI's website www.hajcommittee.com . All Pilgrims must carry health cards.	F
V	PTO should be fully responsible for the stay, transportation and payment of compulsory charges to the Authorities in Saudi Arabia. PTO should honour all terms & conditions of the contract signed with the pilgrims and ensure that none of them is left stranded.	G
Vi	PTO should provide good quality Identity card,	H

A		indicating name of the pilgrim and of the PTO, Passport number and place of stay in Makkah/ Madinah, to each pilgrim to be worn around the neck whenever they leave the building.
B	Vii	PTO should ensure that baggage of all their pilgrims are cleared before they leave the Hajj Terminals in India/Saudi Arabia.
C	Viii	If a pilgrim sent by a PTO is found begging in Saudi Arabia or declared Fuqra by Saudi Authorities, the PTO will be blacklisted permanently and its security deposit forfeited.
D	ix	Selling of Hajj quota seats to any other PTO is strictly prohibited. In case of receipt of any complaint against any PTO indulging in such activity, the PTO would be blacklisted permanently.
E	X	It may kindly be noted that only one member of the family would be eligible for registration for Haj-2013. Hence, only one member of family should apply for registration. Family will include wife and dependent children. In case more than one member of a family satisfy the eligibility conditions and if one of them is a lady, the lady would be given preference for registration to the exclusion of others and if there is no lady, preference would be given to the member who is the oldest in the business for registration - Haj-2013. No applicant can apply in more than one PTO in his/her capacity as Director/Partner/ Proprietor.
F	Xi	PTO must submit only one application. If it is found that a PTO has submitted more than one application in different names, all such applications would be rejected and all such PTOs would be
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	blacklisted and their security deposit would be forfeited.
Xii	Without prejudice to the foregoing, all claims, disputes and differences shall be subject to the jurisdictions of the Courts in New Delhi/ Mumbai.
Xiii	All the terms and conditions laid down in Annexures A & B will also apply on PTOs that qualify under Category-II by virtue of facilitating a minimum of 50 Umrah pilgrims in a year for any five years, but with the exception of the terms and conditions contained under clauses (vii), (x), (xi), xii of Annexure-A. In addition, these PTOs are also required to submit the proof of payment made through banking or any other authorized Channels towards purchase of tickets and hiring of accommodation in Makkah and Madina in respect of Umrah pilgrims facilitated by them in support of their claim.

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ANNEXURE – C

Hajj 2013 - Application for Registration as Private Tour Operator (PTO)

B	1.	Name of Private Tour Operator	
	2.	Address of firm/ telephone, fax, e-mail and website address (if there has been any change in address since Hajj – 2012 it may also be indicated)	
C	3.	Name of the firm’s representatives along with contact details who would be present in the kingdom of Saudi Arabia during Haj-2013.	
D	4.	Number of employees (permanent as well as seasonal with break up), Number of computers, and other office equipment.	
	5.	Area of Office (Please attach supporting documents with photographs)	
E	6.	Whether the office is designated specifically for the Hajj/ Umrah or any other business is also carried out from that premises.	
F	7.	(i) Whether earlier registered with Ministry of External Affairs?	Yes/No
		(ii) If Yes, then enclose copy of certificates and copies of “Tasreeh” in support of their claim year wise.	
G	8.	(i) Whether member of any Association of Hajj PTOs? If so provide details.	Yes/No
H		(ii) Also indicate whether application is submitted through an Association.	

9.	<p>PTOs should enclose copies of contracts for buildings hired for pilgrims, "Tasreeh" with a certified English translation, IATA receipts, details of tickets, and payments made towards purchase of tickets through banking channel in support of their claim.</p> <p>(New Applicants are required to submit the number of Umrah pilgrims facilitated during last five years with supporting documents - purchase of air – tickets, hiring of accommodation in Makkah and Medinah and proof of payments made through banking channels for this purpose)</p>	
10.	<p>Details of Fixed Deposit Receipt (FDR) – original to be enclosed. In case application is through one of the Associations, indicate the details of fixed deposit receipts submitted to the Association.</p>	
11.	<p>Details of bank draft for Rs. 5000/- in favour of Hajj Committee of India, payable at Mumbai as non-refundable processing fee.</p>	
12.	<p>Maktab number and the name of the service provider in Saudi Arabia (in case of previously registered PTOs).</p>	
13.	<p>Likely date of arrival of pilgrims in Kingdom of Saudi Arabia.</p>	
14.	<p>Likely date of departure of pilgrims from Kingdom of Saudi Arabia.</p>	
15.	<p>Type of Transport agreement/arrangements to be made for Pilgrims (Coupon rate and route).</p>	

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A	16. Arrangements for providing Orientation/ Training programmes.	
B	17. Name, address and telephone numbers of local correspondent Company in the Kingdom of Saudi Arabia.	
C	18. (a) Whether the PTO has its branches in other places: (b) if yes, please provide details: (c) Have these branches also applied for registration separately? If yes, please provide details.	
D	21. Whether any case/complaint is registered against the PTO with police authorities. Please provide complete details. If there is no such case/complaint, please attach an affidavit in support of the claim.	

(Seal and signature of the authorized person of the Company)

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