

**O U T T O D A Y**

ITEM NO.9

COURT NO.1

SECTION X

**S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS**

**Writ Petition (Civil) No.1155/2017**

**KERALA STATE HAJ COMMITTEE**

**Petitioner(s)**

**VERSUS**

**UNION OF INDIA & ORS.**

**Respondent(s)**

**(With appln.(s) for direction, exemption from filing O.T.,  
permission to file additional document and intervention**

**WITH W.P.(C) No.1182/2017 (X)**

**(FOR ADMISSION and IA No.132432/2017-EXEMPTION FROM FILING O.T. and  
IA No.132430/2017-APPROPRIATE ORDERS/DIRECTIONS)**

**W.P.(C) No. 1178/2017 (X)**

**(FOR ADMISSION and I.R. and IA No.131616/2017-EX-PARTE AD-INTERIM  
RELIEF and IA No.137933/2017-impleading party)**

**W.P.(C) No. 1190/2017 (X)**

**(FOR ADMISSION and IA No.133965/2017-)**

**W.P.(C) No. 1237/2017 (X)**

**(IA No.140188/2017-EX-PARTE STAY)**

**Date : 13-03-2018 This petition was called on for hearing today.**

**CORAM :**

**HON'BLE THE CHIEF JUSTICE**

**HON'BLE MR. JUSTICE A.M. KHANWILKAR**

**HON'BLE DR. JUSTICE D.Y. CHANDRACHUD**

**For Petitioner(s)**

**Mr. Haris Beeran, Adv.**

**Mr. Mushtaq Salim, Adv.**

**Mr. Usman Ghani Khan, Adv.**

**Mr. Dev Prakash, Adv.**

**Ms. Pallavi Pratap, AOR**

**Mr. Prashant Bhushan, Adv.**

**Mr. Manoj V. George, Adv.**

**Mr. Zulfiker Ali P. S, AOR**

Ms. Shilpa Liza George, Adv.  
Lakshmi Sree Puthenpurackal, Adv.  
Mr. Towseef Ahmed Dar, Adv.

Mr. Salman Khurshid, Sr. Adv.  
Mr. Shariq Ahmed, Adv.  
Modh. Wasim, Adv.  
Mr. Sunil Kumar Verma, AOR

Mrs. Astha Deep, Adv.  
Qurralulain, Adv.  
Mr. Anish R. Shah, AOR

**For Respondent(s)**

Ms. Madhavi Divan, Adv.  
Mr. Bhuvan Mishra, Adv.  
Mr. Rohit Bhat, Adv.  
Mr. Hemant Arya, Adv.  
Mr. Somit Goel, Adv.  
Mr. Vinay Kumar Yadav, Adv.  
Mr. Raj Bahadur Yadav, Adv.  
Mr. Nikhil Rohatgi, Adv.  
Mr. D.N. Goburdhan, Adv.  
Mrs. Anil Katiyar, AOR

Mr. G. Prakash, AOR  
Mr. Jishnu M.L., Adv.  
Mrs. Priyanka Prakash, Adv.  
Mrs. Beena Prakash, Adv.  
Mr. Vijay Shankar V.L., Adv.

Ms. Hemantika Wahi, AOR  
Ms. Puja Singh, Adv.  
Ms. Vishakha, Adv.  
Ms. Mamta Singh, Adv.

Mr. Sulaiman Mohd. Khan, Adv.  
Mr. Mohit Prasad, Adv.  
Taiba Khan, Adv.  
Mr. Vishal Arun, Adv.

Mr. Sanjay R. Hegde, Sr. Adv.  
Mr. Inamul Haque, Adv.  
Mr. Sunil Khatwani, Adv.  
Mr. Rajat Bhardwaj, Adv.

Mr. Mohd. Ainul Ansari, Adv.  
Mr. Manoj Kumar Goyal, Adv.  
Mr. Kripa Shankar Prasad, Adv.

UPON hearing the counsel the Court made the following  
O R D E R

The applications for impleadment stand allowed.

When the matter was taken up on 19<sup>th</sup> February, 2018,  
the following order came to be passed:-

"In the course of hearing it has been pointed out by Mr. Prashant Bhushan, learned counsel for the petitioners that the remaining seats with Haj Committee of India are 6244. The said position is disputed by Mrs. Pinky Anand, learned Additional Solicitor General appearing for Union of India.

In view of the aforesaid, we would like the competent authority of Union of India to file an affidavit, within two days hence, with regard to the total quota, percentage of seats allotted to Haj Committee of India, how many have been allotted and availed so far and the balance seats.

List on Thursday, the 22<sup>nd</sup> February, 2018.

Copies of the affidavit(s) shall be served on the applicants."

In pursuance of the aforesaid order, a chart was filed and in due course an affidavit came to be filed.

In the course of hearing on 9<sup>th</sup> March, 2018, it was brought to our notice by Mr. Salman Khurshid, learned senior counsel for the petitioner in W.P.(C) No.1178/2017 and Mr. Prashant Bhushan, learned counsel for the petitioners in W.P.(C) No.1190/2017, that there are elderly people who have not been able to get a chance to go for Haj, despite having successively applied five or more times. We were apprised that applicants, who have applied five times and come between the age group of 65 to 69 years, are 1965. At that juncture, a suggestion was given to Ms. Pinky Anand, learned Additional Solicitor General to obtain instructions in the matter.

Today when the matter was taken up, Ms. Madhavi Divan, learned counsel appearing on behalf of Ms. Pinky Anand, learned Additional Solicitor General, submitted a note before the Court, which indicates that a decision has been taken by the Ministry of Minority Affairs to cover the pilgrims in the age group of 65 to 69 years, who are 5<sup>th</sup> time applicants for Haj, 2018. The relevant part of the decision reads as follows:-

"1965 individual pilgrims falling under the category of 5<sup>th</sup> timer applicants within the age group of 65 to 69 years may be accommodated against the additional quota of 3677 seats allocated to Haj Committee of India subject to the following conditions:-

- (i) The additional quota of 3677 seats will be distributed State/UT-wise as per the existing formula of distribution. Thus the State quota so allotted will be the upper ceiling for consideration of these cases from the State.
- (ii) Since the additional quota has been allocated by the Saudi Government with the specific condition of accommodating these pilgrims outside the traditional boundaries of Mina, the pilgrims selected against this quota will have to abide by this condition.
- (iii) This will be one time special dispensation and may not be treated as precedent for similar dispensation in future.
- (iv) This dispensation will not apply to co-pilgrims in the same cover (group) not falling under this category.

Haj Committee of India will be advised to accommodate those out of 1965 individuals who are willing and meeting the criteria as above. The Rest of the seats will be allocated to pilgrims from the general waiting list as per the standard procedure."

In view of the aforesaid, we are sure that 1965 persons who are in the category of 5<sup>th</sup> time applicants shall be extended the benefit of this decision and will be in a position to go on pilgrimage this year. There can be no trace of doubt that the 6<sup>th</sup> time or more than 6<sup>th</sup> time applicants between the age group of 65 to 69 years and who have not been able to avail the opportunity to go on pilgrimage even once, shall also be given the same benefit of the Ministry's decision. We may hasten to add that the people who have crossed the age of 70 years, are, under the policy, entitled to benefit of separate exclusive quota.

Keeping that in view, we direct that the persons who come within the age group of 65 to 69 years and are not successful in going on pilgrimage even once, despite applying for 5<sup>th</sup> time or more, shall also be covered. Needless to say, the conditions shall apply on all fours to such pilgrims.

At this juncture, we must take a note of the submission of Mr. Sulaiman Mohd. Khan, learned counsel appearing for the Federation of Private Tour Operators. According to him, such an allocation will deprive the private tour operators of their quota. We have recorded the said submission so that we can address it at the appropriate time, for the matter does not stand disposed of today.

Let the matter be listed for final disposal on 10<sup>th</sup> July, 2018.

(Chetan Kumar)  
Court Master

(H.S. Parasher)  
Assistant Registrar