

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 9594 of 2023**=====
IBRAHIM MUHAMMMADAMIN KHARADI**Versus****MINISTRY OF MINORITY AFFAIRS HAJ DIVISION**
=====

Appearance:

MR MA KHARADI(1032) for the Petitioner(s) No. 1

NOTICE SERVED for the Respondent(s) No. 1,2,4

MR AYAAN PATEL, AGP for the Respondent(s) No. 3
=====**CORAM:HONOURABLE MS. JUSTICE VAIBHAVI D. NANAVATI****Date : 13/06/2023****ORAL ORDER**

1. Heard Mr. M.A. Kharadi, learned advocate appearing for the petitioner.
2. Notice came to be issued by this Court on 07.06.2023 making it returnable on 09.06.2023. After issuance of Notice though served, none appears for the respondent Nos.1, 2 and 4. Mr. Ayaan Patel, learned AGP appears for the respondent No.3.
3. By way of present petition, the petitioner herein has prayed for the following reliefs:

“(A) THIS HON’BLE COURT MAY BE PLEASED TO direct the Respondent authorities more particularly Respondent No.2 to change the embarkation point of the petitioner having cover No. GJF 7044-2-0 to Mumbai embarkation point instead of Ahmedabad embarkation point;

(B) Be pleased to allow this petition by holding that the difference between Hajj Amount of Embarkation Point

Ahmedabad and Embarkation Point Mumbai is unconstitutional, arbitrary and discriminatory and thereby the Respondents may be directed to remove all such discriminations and anomaly in Hajj Amount;

(C) Pending admission, hearing and final disposal of this Petition, THIS HON'BLE COURT MAY BE PLEASED TO direct the Respondent authorities more particularly Respondent no.2 to change the embarkation point of the petitioner having cover No.GJF 7044-2-0 to Mumbai embarkation point instead of Ahmedabad embarkation point.

(D) THIS HON'BLE COURT MAY BE PLEASED TO grant such other and further order/s as the Hon'ble Court may deem fit and proper."

4. Mr. M.A. Kharadi, learned advocate appearing for the petitioner, submitted that on 10.02.2023, online haj application forms were invited for Haj 1444 (H)-2023 by the respondent Nos.2 and 3. The petitioner filled up the online haj application form and submitted on 04.03.2023 upon which cover No.GJF 7044-2-0 came to be generated in petitioner's favour. On 31.03.2023, a draw came to be conducted to select the haj pilgrims and the petitioner's cover number has been provisionally selected. The respondent No.2 issued a circular of even date wherein provisionally selected haj pilgrims were directed to deposit the amount of Rs.81,800/- as first installment, which came to be deposited by the petitioner herein on 10.04.2023. On 14.04.2023, the respondent No.2 issued a circular wherein provisionally selected haj pilgrims were directed to deposit balance amount of Rs.1,70,000/- as a part of first installment, which came to be deposited by the petitioner herein on 24.04.2023.

4.1 Mr. Kharadi, learned advocate, submitted that the petitioner herein has deposited the entire amount towards first

installment i.e. Rs.2,51,800/- and has been selected for Haj 1444 (H)-2023. By circular dated 06.05.2023, the respondent No.2 directed the selected haj pilgrims to deposit the remaining tentative amount. The petitioner was required to pay Rs.1,21,024/-, which came to be deposited by the petitioner herein on 16.05.2023.

4.2 Mr. Kharadi, learned advocate, submitted that the petitioner has paid total amount of Rs.3,72,824/- per person. After the said amount came to be deposited, notice came to issued that though the distance of Jeddah is same from Mumbai and Ahmedabad and the facilities are also equal, there is a huge variation in tentative haj amount per passenger. The difference for Ahmedabad embarkation point is Rs.67,981/- more than Mumbai embarkation point. The flights, which are arranged by the respondent No.2, are chartered flights with whom the respondent No.2 could have negotiated in a better manner in interest of haj pilgrims. The respondent has not given any break up details of tentative haj amount which exhibits arbitrariness on part of the respondents.

4.3 Mr. Kharadi, learned advocate, submitted that in view of the aforesaid variation, on 25.05.2023, the petitioner preferred a representation before the respondents authorities requesting to change his embarkation point from Ahmedabad to Mumbai and sought for refund of the excess/varied amount of Rs.67,981/-. The said representation is duly produced at Annexure – G.

4.4 Mr. Kharadi, learned advocate, submitted that though,

the said representation was filed as back as on 25.05.2023, the same was not responded by the respondents authorities and that the same is in violation of discharging their statutory obligation enumerated under Section 42 of the Hajj Committee Act, 2002.

4.5 Mr. Kharadi, learned advocate, submitted that in a similar situation, the other High Court/s directed the respondents authorities to take appropriate decision taking into consideration the representations duly filed by the pilgrims. Being aggrieved by the inaction on the part of the respondent authorities in not considering/deciding the representation dated 25.05.2023 by which the petitioner herein has requested to change his embarkation point from Ahmedabad to Mumbai, the petitioner has preferred the present petition with the prayers as referred above.

5. Considering the submissions advanced by Mr. M.A. Kharadi, learned advocate appearing for the petitioner, it is apposite to refer to Section 42 of the Hajj Committee Act, 2002, which reads thus:

“42. Redressal of grievances.- Any Haj pilgrim, who is aggrieved by the discharge of any of the duties performed by the Haj Committee or the State Haj Committee, shall make a representation for the redressal of his grievance to the Haj Committee or the State Haj Committee, as the case may be, and the same shall be disposed of by the said Committee, if necessary, after hearing the aggrieved person.”

6. Mr. Kharadi, learned advocate, during the course of hearing submitted that, the flights for Haj commenced from 07.06.2023 and the last flight would be on 23.06.2023.

7. Considering Section 42 of the Hajj Committee Act, 2002 and the submissions advanced by Mr. Kharadi, learned advocate appearing for the petitioner, the representation dated 25.05.2023 preferred by the petitioner herein be decided within a period of two days from the date of receipt of this order.

8. Direct service is permitted today. To be served through electronic mode also.

(VAIBHAVI D. NANAVATI,J)

NEHA