

ITEM NO.3

COURT NO.1

SECTION PIL(W)

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

I.As.NO.72-73 & 76-77 in Writ Petition(s)(Civil) No. 653/1994

WASIM AHMED SAEED

Petitioner(s)

VERSUS

UNION OF INDIA & ORS

Respondent(s)

(For appeal against ld. registrar's order dated 14.3.2016 and permission to file additional documents and office report)

Date: 18/11/2016 These applications were called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE ANIL R. DAVE

For Petitioner(s) Mr. Imtiaz Ahmed, Adv. (A.C.)

For Applicant (s) Mr. Pallav Sisodia, Sr. Adv.
Ms. Anjana Gussain, Av.
Mr. Anant Agarwal, Adv.
For M/s. Lambat & Associates

Mr. Kailash Vasdev, Sr. Adv.
Mr. Navin Prakash, Adv.

Mr. Pawanshree Agrawal, Adv.

For Respondent(s)
(ASI)

Mr. Annam D. N. Rao, Adv.
Mr. Sudipto Sircar, Adv.
Mr. Rahul Mishra, Adv.
Mr. Abhinav Goyal, Adv.
Mr. Kushank Sindhu, Adv.
Mr. Annam Venkatesh, Adv.

Mr. R. Nishesh Sharma, Adv.
Mr. Ajay Sharma, Adv.
Mr. Nilesh Sharma, Adv.
Ms. Sushma Verma, Adv.
Ms. Sunita Gautam, Adv.
Mr. Ambrish Kr. Sharma, Adv.
Mr. G.S. Makker, Adv.
Ms. Sushma Suri, Adv.
Mrs. Anil Katiyar, Adv.

Mr. Shadman Ali, Adv.
Ms. Sunita Sharma, Adv.
Mr. A. Dev Kumar, Adv.
Mr. Raj Bahadur Yadav, Adv.
Mr. B. Krishna Prasad, Adv.

Mr. Raghavendra S. Srivatsa, Adv.
Mr. Venkita Subramoniam T.R., Adv.
Mr. Rahat Bansal, Adv.
Mr. Goutham Shivshankar, Adv.

Mr. Vijendra Kasana, Adv.
Mr. Chand Qureshi, Adv.
Mr. M.P. Siddiqui, Adv.
Mr. Aviral Saxena, Adv.
Mr. Samir Ali Khan, Adv.

Mr. Sunil Fernandes, Adv.
Ms. Astha Sharma, Adv.

Mr. Samar Vijay Singh, Adv.
Mr. Sanjay Kr. Visen, Adv.

Dr. Monika Gusain, Adv.
Mr. K.K. Shukla, Adv.

Ms. Sushma Verma, Adv.
Mr. Prashant Chaudhary, Adv.

Mr. P. Parmeswaran, Adv.
Mr. Anuvrat Sharma, Adv.
Mr. Shakil Ahmed Syed, Adv.
Mr. V. K. Verma, Adv.
Mr. Sudhir Kulshreshtha, Adv.
Mr. Ashok Kumar Singh, Adv.
M/s. Equity Lex Associates
M/s. M. V. Kini & Associates
Mr. Arvind Kumar Sharma, Adv.
M/s. A.P. & J. Chambers
Mr. Vishwajit Singh, Adv.

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

Heard.

By our Order dated 8th July, 2016, we had directed Mr.
Annam D.N. Rao, learned counsel for Archaeological Survey of

India (ASI), to place on record a copy of the new Policy which the ASI had promulgated in connection with the licensing of the guides, assisting tourists at historical monuments in the country, along with an affidavit indicating whether the guidelines have been come into force and, if so, whether any examination had been conducted by the ASI over the past years.

Mr. Rao has today filed a copy of the "Policy for Archaeological Survey of India Guides to perform within Centrally Protected Monuments". He has not filed any affidavit, as directed, but submits that the Policy in question is very much in force and that according to the said Policy guide licences, issued by the Additional Director General, Ministry of Tourism (Government of India), have been recognised as valid till such time fresh licences are issued in terms of the new Policy within a period of one year from the date of the notification of the said Policy. New Policy according to Mr. Rao was published on 7th September, 2016. This implies that the licences issued by the Additional Director General, Ministry of Tourism (Government of India), shall remain valid till 6th September, 2017. This also implies that those who held the said licences shall be free to offer their services as "guides" in the centrally protected monuments.

Mr. Pallav Sisodia, learned senior counsel appearing for the applicant-Indian Association of Tour Operator, submits that while members of the applicant-association hold validly issued licences from the Additional Director General, Ministry of Tourism (Government of India), Archaeological Survey of India

(ASI) is not allowing them to offer their professional services at Fatehpur Sikri which is a Centrally Protected Monument. He submits that this Court needs to clarify that in terms of the new Policy, the members of the applicant-association shall be free to offer their professional services in all the Centrally Protected Monuments including Fatehpur Sikri without any let or hindrance from ASI.

Mr. Kailash Vasdev, learned senior counsel appearing for Fatehpur Sikri Monuments Guide Association working in Fatehpur Sikri Monuments, however, opposes this prayer and submits that in terms of order dated 8th April, 2002 passed by this Court, only such guides as are specially licenced for offering professional services in Fatehpur Sikri monument, are entitled to do so. He submits that since the right to practice as a guide is limited to those who have licences to act as guides at Fatehpur Sikri, any change in the policy by the ASI will have no effect till the time the order passed by this Court remains in force.

We have given our anxious consideration to the submissions made at the Bar. We see no real basis for making a distinction between guides who are licensed to offer services at other Centrally Protected Monuments and those licenced to offer their services at Fatehpur Sikri. No such distinction has been brought out either in the new Policy placed on record by Mr. Rao or by reference to any other instruction issued by the Government. Once the new Policy is promulgated by the ASI and licences granted by the Additional Director General, Ministry

of Tourism (Government of India) recognised as valid, there is no reason why such licences should hold good only for Centrally Protected Monuments other than Fatehpur Sikri. We are also of the view that any direction that guides licenced for Fatehpur Sikri alone shall be entitled to offer their professional service at that monument will create an undesirable situation where guides in Fatehpur Sikri would enjoy monopoly in offering their services to tourists. We do not see any justification for creating any such monopoly in favour of any class of licensed guides.

In the circumstances, therefore, we direct that such of the members of the applicant-association as have valid licences issued by the Additional Director General, Ministry of Tourism (Government of India), shall be free to offer their services in all the Centrally Protected Monuments including Fatehpur Sikri. Order dated 8th April, 2002 passed by this Court shall to that extent stand modified.

We make it clear that this arrangement shall continue till fresh licences are issued by the ASI under the new Policy.

With the above modification, applications (I.As.NO.72-73 & 76-77) are disposed of.

(MAHABIR SINGH)
COURT MASTER

(VEENA KHERA)
COURT MASTER