

ITEM NO.4

COURT NO.4

SECTION XI

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

Petition(s) for Special Leave to Appeal (Civil) No(s).14778/2009

(From the judgement and order dated 27/02/2009 in CMWP No.68499/2006 of The HIGH COURT OF JUDICATURE AT ALLAHABAD)

GOVT.APPROVED TOURIST GUIDES ASSOCIATION Petitioner(s)

VERSUS

STATE OF U.P.& ORS.

Respondent(s)

(With appln(s) for c/delay in filing addl. documents and with prayer for interim relief and office report)

WITH

SLP(C) NO. 33637 of 2009

(With appln(s) for c/delay in filing SLP and intervention and permission to file supplementary additional counter affidavit)

Date: 05/12/2012 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.S. SINGHVI

HON'BLE MR.JUSTICE SUDHANSU JYOTI MUKHOPADHAYA

For Petitioner(s) Mr. P.S. Patwalia, Sr. Adv.  
Dr. Chaudhary shamsuddin Khan, Adv.

For Respondent(s) Mr. P.P. Malhotra, ASG  
Mr. Sahajpal, Adv.  
Ms. Prachi Bajpai, Adv.  
Ms. Rashmi Malhotra, Adv.  
  
Mr. Pallav Shishodia, Sr. Adv.  
Ms. Anjana Gosain, Adv.  
  
Ms. Shobha Dixit, Sr. Adv.  
Mr. D.K. Goswami, Adv.  
  
Mr. A.D.N. Rao, Adv.  
Ms. Neelam Jain, Adv.

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

These petitions are directed against order dated 27.2.2009 passed by the Division Bench of the Allahabad High Court dismissing the writ petitions filed by the petitioners for quashing Advertisement dated 21.11.2006 and Corrigendum dated 30.11.2006 issued by Director General, Directorate of Tourism, U.P. (respondent No.2) and for restraining the State of Uttar Pradesh and respondent No.2 from making selection for recruitment of State Level Guides for Varanasi Region.

The main ground on which the petitioners had questioned the advertisement issued by respondent No.2 was that no State Level Guide can be selected for places where India Tourism Offices are located and approved

Regional Tourist Guides are already operating. According to the petitioners, the advertisement issued by respondent No.2 was ultra vires the provisions of the Ancient Monuments and Archaeological Sites and Remains Act, 1958 (for short, 'the 1958 Act') and the Rules framed thereunder in terms of which only Regional Tourist Guides can operate at Agra and Varanasi.

During the pendency of the special leave petitions, the Government of India, Ministry of Tourism framed fresh guidelines for the selection and grant of guide license to Regional Level Tourist Guides. The same were circulated vide Memo No.7-TT.II(07)/2000-GD-Vol.II dated 22.9.2011, the relevant portions of which are extracted below:

"The Guidelines for the selection and grant of guide license to Regional Level Tourist Guides (RLG) - 2011.

#### Introduction and Objectives:

Guides play a vital role in bringing satisfaction to tourists visiting a country / region / state. The opportunity of direct interaction with the tourists makes them all the more responsible for projecting the correct image of the country / region, giving factually correct information about the destination, ensuring the safety and well being of the tourists as well as pleasant and satisfying stay for them during their visits. The institution of guides is a basic component of the infrastructural requirement both for International and Domestic tourism. There has been a steady increase in the international tourist arrivals. Further, as a result of increasing affluence, there is also a significant increase in domestic tourist movement. The last Guidelines for selection, training and licensing of Regional Level Tourist Guides were issued in February 2007. The Government of India has decided to continue the Regional Level Guide training course, including the refresher course, on a regular basis in order to meet the increasing demand for guides both for the international and domestic tourists. The Archaeological Survey of India, vide its Gazette notification dated the 20th May 2010 has amended the Ancient Monuments & Archaeological Sites and Remains Rules, 1959, in exercise of the powers conferred by clause (c) subsection (2) of section 38 of the Ancient Monuments & Archaeological Sites and Remains Act, 1958 (24 of 1958) in the Official Gazette of India as required by sub-section (1) of section 38 of the said Act. As per the amendment in the Ancient Monuments & Archaeological Sites and Remains Rules, 1959 in rule 8, clause (d), after the words "archaeological officer", the words "or the Additional Director General, Department of Tourism, Ministry of Tourism, Government of India to the extent of showing a visitor round" shall be inserted.

Therefore, using the delegated powers under the said Act and Rules and in supersession of all the previous Guidelines / clarifications issued by the Ministry of Tourism from time to time, the Government of India, Ministry of Tourism, hereby, notifies the new Guidelines for the selection, training and licensing of the Regional Level Tourist Guides, 2011. These Guidelines would become operational from the date of notification.

#### 2. Scope:

2.1 There shall be four categories of Regional Level Tourist Guides as per the following details:-

i) General: There would be regional level guides who would be authorized to work in their respective regions on a full time basis.

ii) General - Linguistic: Linguists with fluency in foreign languages (apart from English), such as French, German, Spanish, Korean, Russian, Japanese, Thai, Arabic, Hungarian, Polish, Hebrew, Chinese etc., as identified by the Ministry from time to

time would be approved under this category.

iii) Expert Guides: In order to encourage scholars, specialists etc., in the fields of Tourism, Indian History, Architecture, Culture, Wild Life and other related fields of tourism, there would be a special category of Regional Level Tourist Guides known as Expert Guides.

iv) Expert - Linguistic: This category of Regional Level Tourist Guides would be scholars, specialists etc., in the fields of Tourism, Indian History / Architecture / Culture/ Archaeology / Wildlife or other related fields of Tourism with fluency in foreign languages (apart from English), such as French, German, Spanish, Korean, Russian, Japanese, Thai, Arabic, Hungarian, Polish, Hebrew, Chinese etc., as identified by the Ministry from time to time would be approved under this category.

### 3. Eligibility:

#### 3.1 Educational qualification(s):

The following educational qualifications are prescribed for the selection of tourist guides and all applicants should have fulfilled the criteria on or before the date of publication of the first advertisement for selection and training.

##### 3.1.1 General:

- (a) (i) A Graduate of a recognized University or
  - (ii) Holder of three year Degree in Tourism / Hospitality or
  - (iii) Diploma in Archaeology from an Institute recognized by UGC, Association of Indian Universities (AIU), AICTE or any other State / Central Government body.
- (b) Fluency in English language is essential. Candidate should have studied English as a subject at 10 plus 2 levels.

##### 3.1.2 General Linguistic:

- (a) (i) A Graduate of a recognized University or
  - (ii) Holder of three year Degree in Tourism / Hospitality or
  - (iii) Diploma in Archaeology from an Institute recognized by UGC, Association of Indian Universities (AIU), AICTE or any other State / Central Government body.
- (b) Candidates should have knowledge and fluency in a foreign language (apart from English). The fluency shall be tested at the time of written examination which shall be given in the foreign language selected by the Candidate for which he / she aspires to become a linguistic guide.

##### 3.1.3 Expert Guides:

- a) Doctorate in the field of Tourism, Indian History / Architecture / Culture/ Archaeology / Wildlife or other related fields of Tourism.
- b) Fluency in English language is essential.

##### 3.1.4 Expert - Linguistic:

- (a) Doctorate in the fields of Tourism, Indian History / Architecture / Culture/ Archaeology / Wildlife or other related fields of Tourism.

(b) Candidates should have knowledge and fluency in a foreign language (apart from English), in terms of reading, writing and speaking. The fluency shall be tested at the time of written test which shall be given in the foreign language selected by the Candidate for which he / she aspires to become an Expert Linguistic guide.

#### 3.1.5 Eligibility of State Level Guides:

The State level Guides under guidelines approved by any of the States / Union Territory Administrations would also be eligible to apply for licenses to work as Regional level Guides provided they qualify (a) the common selection process based on merit as detailed above for the selection of various categories of RLGs and (b) the examination and viva voce after the training.

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#### 4. Process of selection:

4.1.1 The assessment of the requirement of Tourist Guides, region-wise, could be as per the inbound tourist arrivals etc., availability of assignments to guides etc., and would normally be done once in two years by the Ministry through a pre-defined process involving the stake holders.

4.1.2 The process of selection would be undertaken by the Indian Institute of Tourism & Travel Management (IITTM), Gwalior or any other Institute designated by the Ministry of Tourism for conducting this process.

4.1.3 The applications shall be invited through open advertisement specifying the seats available for training, region wise. Applicants shall submit their applications in the prescribed Proforma along with photocopies of all documents required as proof of their eligibility and in no case, applicants would be allowed to submit any additional documents as proof at a later stage.

#### 4.2 Entrance Test:

4.2.1 An entrance test would be conducted to evaluate the general intelligence and suitability of applicants for admission to guide training. The entrance test would be of three hours duration and cover the following subjects:

(a) Knowledge of monuments / tourism destinations In the region - 100 marks

(b) Indian history & Indian Culture- 100 marks

(c) General Knowledge - 100 marks

#### Note:

(i) For Linguist Guides, the written test would be conducted in the concerned foreign language.

(ii) All applicants shall obtain at least 150 marks out of total marks of 300 for qualifying the written test.

#### 4.3 Preparation of Merit List:

4.3.1 A merit list of all applicants who pass the entrance test would be prepared on the basis of aggregated marks."

At the hearing, learned Additional Solicitor General made a statement that all future selections for recruitment of Regional Level Tourist Guides

will be made strictly in accordance with the guidelines issued on 22.9.2011 and no person will be allowed to work as Regional Guide unless he passes the prescribed test.

Shri P.S.Patwalia, learned senior counsel appearing for the petitioners submitted that notwithstanding the statement made by the learned Additional Solicitor General, the Court should decide the issue relating to legality of the advertisement issued by respondent No.2 and restrain the State Level Guides from operating in the areas governed by the provisions of the 1958 Act.

In our view, after the issuance of 2011 guidelines it is not necessary for this Court to adjudicate upon the correctness or otherwise of the impugned order and the entitlement of the State Level Guides to operate in the areas to which the 1958 Act is applicable, more so because, legality of the authorisation given to the State Level Guides to operate at Agra and Varanasi has not been decided by the High Court.

In the result, the special leave petitions are disposed of as infructuous with liberty to the petitioners to challenge the authorisation of the State Level Guides to operate in the areas governed by the 1958 Act and the Rules framed thereunder by availing appropriate remedy.

(Parveen Kr. Chawla)  
Court Master

(Phoolan Wati Arora)  
Court Master