

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).15495/2006

(From the judgement and order dated 25/08/2006 in WP No.3533/1995
of The HIGH COURT OF JUDICATURE AT ALLAHABAD, BENCH AT LUCKNOW)

UNION OF INDIA

Petitioner(s)

VERSUS

B.N. SHUKLA AND ANR.

Respondent(s)

(With prayer for interim relief and office report)

Date: 18/09/2006 This Petition was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE

HON'BLE DR. JUSTICE AR. LAKSHMANAN

HON'BLE MR. JUSTICE C.K. THAKKER

For Petitioner(s)

Mr. Goolam E. Vahanvati, SG.

Mr. Tufail A. Khan, Adv.

Mr. Devdatt Kamat, Adv.

Mr. Hrishikesh Baruah, Adv.

Ms. Sushma Suri, Adv.

For Respondent(s)

Mr. Soli J. Sorabjee, Sr. Adv.

Mr. Rakesh Dwivedi, Sr. Adv.

Mr. S.M.A. Kazmi, AG., UP.

Mr. S.W.A. Qadri, Adv.

Mr. Kamlendra Mishra, Adv.

Mr. Rajeev Dubey, Adv.

Mr. Gaurav Bhatia, Adv.

UPON hearing counsel the Court made the following

O R D E R

Issue notice.

State of Mr. S.M.A. Kazmi, learned Advocate General for the

Uttar Pradesh, accepts notice on behalf of Respondent No.2.

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The learned Solicitor General has brought to our notice the averments made in the affidavit dated 5th September, 2006, filed by the Director (Haj), Ministry of External Affairs, before the High Court, inter alia, pointing out the practical difficulties which would arise in case the arrangement, which has been going on for last number of years, is suddenly to be changed this year. In that affidavit, it has been stated that flights for annual Haj are likely to commence from 25th November, 2006 onwards. The process, in fact, commenced from 30th May, 2006, when Air India submitted the plan of action for Haj programme. Meetings have already been held

with Saudi Arabian Airlines and Air India and invitation to tender for wet lease of aircraft was issued in June, 2006. It is stated that various logistical arrangements have to be made having regard to the Haj Committee quota.

In September/October, 2006, coordination meetings on Haj embarkation will have to take place and in October, 2006, the Haj Committee will be required to pay pilgrim fare, as may be decided. Further, it has been pointed out that the Government has already signed an agreement with the concerned authority in Saudi Arabia for sending 1,47,000 pilgrims for Haj 2006-II. One lakh of these pilgrims will be sent through the Haj Committee of India. Ministry of Civil Aviation and Air India have made arrangements for transportation of these pilgrims. A commitment has been obtained from the Saudi Arabian Airlines for transporting about 60,000 pilgrims to Saudi Arabia. Air India has already issued tender notices and invited bids to wet lease for certain number of aircrafts to India to enable it to transport remaining 40,000 pilgrims.

In short, the contention is that for annual flights to commence around November, 2006, any amount of delay of requisite arrangements, agreements and tender would result in total chaos and huge financial

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liability may be imposed on the Government, besides its reputation in the international arena. We may, however, note that the writ petition has been

directed to be listed for hearing by the High Court for today before the

appropriate Bench for final hearing.

In view of the peculiar difficulties pointed out, we stay for this year only the impugned orders to the extent they restrained the Government from providing funds or giving financial subsidies to Haj yatra. Insofar as its validity and legality of such financial grant is concerned, we make it clear that this order shall not, in any manner, be construed as an impediment in the hearing of the writ petition listed today before the High Court and the decision of the writ petition on merits in accordance with law. In fact, we would request the High Court to hear and expeditiously decide the writ petition so that the legal position is crystallized, at least, before such event of the year 2007.

[T.I. Rajput]

A.R.-cum-P.S.

[V.P. Tyagi]

Assistant Registrar