
(1998) 03 AP CK 0057

In the Andhra Pradesh High Court

Case No : Writ Petition No. 264 of 1998

Mohd. Omer Siddique

APPELLANT

Vs

A.P. State Haj Committee and Others

RESPONDENT

Date of Decision : 20-03-1998

Acts Referred:

Constitution of India, 1950 — Article 12, 226

Citation : AIR 1998 AP 190 : (1998) 3 ALD 33 : (1998) 2 ALT 453

Hon'ble Judges : Bilal Nazki, J

Bench : Single Bench

Advocate : Mr. S. Sharath Kumar, for the Appellant; Government Pleader for Home, for the Respondent

Judgement

Bilal Nazki, J. 1. The petitioner's grievance is that, respondents have ignored the petitioner's claim for being appointed as Khaddim-ul-Hujjaj. It is submitted that the Haj Committee for the State of Andhra Pradesh is constituted by the third respondent on the recommendations of the State Government. The Chairman of the Committee is a Minister of the State Government who hails from the muslim minority community. The Chairman is appointed by the Ministry of External Affairs, Union of India and he is appointed on the recommendation of the State Government. It is submitted that, since the Haj Committee is appointed on the recommendation of the State Government by the Ministry of External affairs, Government of India it is an instrumentality of the State within the meaning of Article 12 of Constitution and amenable to Writ jurisdiction of this Court. It is further stated that the Haj Committee of the State of Andhra Pradesh consists of Vice-Chairman, Secretary, an Ex-Officio member, an Assistant Secretary and few members besides the Chairman. The Ex-Officio member is the Secretary of the Andhra Pradesh Wakf Board. The Chairman is Mr. Basheeruddin Babu Khan, Minister for Higher Education. The Haj being one of the important pilgrimages as far as muslim community is concerned and as is performed by going to Saudi Arabia, the affairs of Haj are conducted by the Ministry of External Affairs. In order to provide facilities to the pilgrims going from India the Ministry

of External Affairs lays down the policy and guidelines with regard to pilgrimage. Certain guidelines have been laid down for 1997 which have been annexed with this petition. There appears to be a practice whereby State Haj Committees of different States depute Khaddim-ul-Hujjaj at the expense of the State Haj Committees to look after the welfare of Haj pilgrims of their respective States. By the guidelines laid down by the Government of India it has been laid down that one Khaddim-ul-Hujjaj for every 750 pilgrims or part thereof should be recommended. Further, the Haj Committees have been directed that, in recommending the names to the Ministry of External Affairs they should be fair. It has been stated in the guidelines itself that instances have come to the notice of the Government of India that once some of the Khaddim-ul-Hujjaj reached Saudi Arabia they did not care for the pilgrims they were indifferent inefficient and not entirely serious in the purpose for which they were sent. The State Governments and Haj Committees have been reminded by this policy to bear in mind the heavy responsibility cast on them in making selection of such volunteers. Further, the guidelines lay down that the individuals who are selected for recommendation should be males between the age of 40 and 50 years. He should be of sound health with experience of dealing with crowds such as in Majid and other religious congregations. The individual selected should not be a Senior official like a member of IAS or other State or Central service, a Political leader like M.L.A. etc., or even a member of the State Haj Committee. It has further been laid down that preference should be given to Government servants such as Block Development Officer, Tahsildar or School Teachers. It has further been stated that such Khaddim-ul-Hujjaj should not proceed to Saudi Arabia accompanied by any member of his family. He should also have not any connection with any Saudi Moallim. It has further been stated that as far as possible he should have performed Haj before so that his experience helps him.

2. In the light of these guidelines the petitioner submits that he was a person who should have been selected. He sought a direction from this Court that the persons who have already been selected should not be allowed to go as Khaddim-ul-Hujjaj and the respondents should be directed to select and send the petitioner. He has given his qualifications and experience and submits that he was selected but kept in waiting list. Certain personal allegations have been levelled against the Chairman of the Haj Committee.

3. Counter has been filed by the Secretary, A.P. State Haj Committee. He has submitted that the petitioner was considered and in terms of the guidelines only four Khaddim-ul-Hujjaj had been selected. The petitioner could not make up in the final selection therefore persons better than him were selected. He submits that on the basis of selection at the interview Sri Mohd. Rahim Khan, Sri Mohd. Abditt Nayeem, Sri S. Muneer Basha and Sri Fiaz Mohammed have been selected. He submits that they are all within the age group of 40 to 50 years and of sound health. It is submitted that the petitioner had submitted his application on 10th December, 1997, he appeared for the interview which was conducted on 24th December, 1997. Out of 38 applicants 12 candidates were short listed but

after the final interview the petitioner could not make up and the four persons referred to above were selected.

4. The record was also produced and I have gone through the record and also heard the learned Counsel for the parties. The record shows that, three out of the selected persons were businessmen one is a journalist. Although several persons who were in Government service had applied, they were not selected, even the petitioner is an Engineer with the Wakf Board he was also not selected. It is true that guidelines issued by Ministry of External Affairs do not bar selection of persons who are not in Government service but at the same time the Government of India guidelines lay down that preference should be given to certain classes of Government servants. Even from private persons I have seen from the record the bio-data of certain persons who appear to be more suitable than the persons selected. Even from the record it is not known as to the four persons who have been selected, in what business they are dealing with. On the other hand I have seen some applicants like one Dr. Hafiz Shaik Ahmed Mohiuddin who is running a school of Arabic who has performed Haj for five times who has gone three times as Moallim-ul-Hujaj on behalf of a Travel agency, but he has not been selected. Since the sole purpose of sending these Khaddim-ul-Hujaj is to secure better facilities for Hajis therefore selecting officers should keep in mind only the welfare of pilgrims. Much can be said about the selection that has been made but the Hajis have already started leaving for the pilgrimage and at this stage if the whole process is reversed it may again be a source of trouble for the pilgrims. Therefore, while not disturbing the arrangements made, this Court thinks it proper to direct the respondents not to appoint any private persons as Khaddim-ul-Hujaj in future. This direction is being given simply on the reason that the private persons like the persons who have been selected now three of whom are businessmen and one is journalist are not subject to any control by the Government. If for instance these persons do any act in Saudi Arabia which is not in the interest of Hajis or the country or omit to do such acts which they are bound to do for the benefit of pilgrims and in the interest of the country, they cannot be made to answer, nobody have control over them. Haj is one of the most important pilgrimage in the whole world where citizens of almost every country of the world meet and these Khaddim-uld-Hujjajs must be of such calibre that they act as Ambassadors of this great country, their primary duty being to provide service to the Hajis, but one cannot forget that they will be representing this great country at a congregation where millions and millions of people from all over the world meet and if such persons do some wrong they must be accountable. Therefore, if a Government servant is deputed and he conducts himself in a way which is not expected of him, he can always be made answerable by the Government. Being a Government servant he will himself conduct in a proper manner because he will be always under the impression that he is subject to disciplinary control of the Government.

5. Therefore, this writ petition is disposed of with a direction to the respondents that in future only Government servants or those persons employed in such

institutions which are subject to Government control should be selected and appointed as Khaddim-ul-Hujjaj. No costs.