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SYED ASHWAQ AHMED

v.

JT. SECRETARY AND CHIEF PASSPORT OFR. AND
ANR.

(Special Leave Petition (C) No. 22936 of 2008)

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SEPTEMBER 09, 2010

[ALTAMAS KABIR AND A.K. PATNAIK, JJ.]

Constitution of India, 1950 – Article 226 – Travel agents de-recognized from carrying out passport work in July, 1992 – Fresh scheme promulgated on 18th July, 2000, which provided a one-time concession to travel agents provided they were working as travel agents from before July, 1992 – Petitioner, who commenced business as a travel agent in 1997, was denied the benefit of the scheme promulgated on 18th July, 2000 – He filed writ petition which was dismissed by the High Court – On appeal, held: Since the policy of recognizing travel agents for the purpose of carrying out passport work was discontinued after July, 1992, the petitioner, who had begun his travel agency much after July, 1992, was not entitled to the benefit of the fresh guidelines issued on 18th July, 2000 – No reason for interference with the order of High Court.

In July, 1992, travel agents, who were not members of the Travel Agents' Association of India (TAAI), were de-recognized from carrying on the work of submitting passport applications and receiving the same on behalf of their clients. The said de-recognition of travel agents for purpose of passport work was challenged in various courts, including the Supreme Court, whereafter a fresh scheme was promulgated on 18th July, 2000, by providing a one-time concession to travel agents, who were not members of TAAI, provided they were working as travel agents from before July, 1992.

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The petitioner, who was not a member of TAAI, but commenced business as a travel agent only from 1997 i.e. he was not recognized as a travel agent prior to July, 1992, was denied the benefit of the scheme promulgated on 18th July, 2000. He filed a writ petition seeking a Mandamus upon the respondents to allow him to perform passport work as a travel agent. The writ petition was dismissed by the High Court. A B

Dismissing the special leave petition, the Court

HELD: The reasoning of the High Court that the petitioner could not be recognized as a travel agent since he had started his business in 1997, long after the system had been withdrawn, is in keeping with the said scheme and does not require any interference. Once the policy of recognizing travel agents for the purpose of submitting passport applications and receiving the same on behalf of a client, was discontinued after July, 1992, the petitioner, who had begun his travel agency after the said date, was not entitled to the benefit of the fresh guidelines which came to be issued on 18th July, 2000, by providing a one-time concession for all travel agents who were working prior to 1992, even though they were not members of TAAI. The policy is neither irrational nor unreasonable and appears to have been made to streamline the system of applying for and receiving passports. [Paras 8, 9] [111-A-F] C D E F

CIVIL APPELLATE JURISDICTION : SLP (Civil) No. 22936 of 2008.

From the Judgment & Order dated 23.6.2008 of the High Court of Karnataka at Bangalore in W.P. No. 14078 of 2007. G

Manohar Lal Sharma, Debasis Misra for the Petitioner.

D.K. Thakur, Deepak Jain, Yogita Yadav, Asha G. Nair, Anil Katiyar for the Respondents. H

A The Judgment of the Court was delivered by

B **ALTAMAS KABIR, J.** 1. This Special Leave Petition is directed against the judgment and order dated 23rd June, 2008, passed by the Karnataka High Court in W.P. No.14078 of 2007, dismissing the Petitioner's writ petition seeking a Mandamus upon the Respondents to allow him to perform passport work as a travel agent, though he was not a member of the Travel Agents' Association of India (TAAI).

C 2. The Petitioner claims to have been working as a travel agent, without being a member of TAAI, and has been acting on behalf of various clients since 1997 for submitting applications for obtaining passports on their behalf. It is also the Petitioner's case that he was issued with a Travel Agent Code number by the Passport Officer, Government of India, in D the Ministry of External Affairs, the Respondent No.2 herein, to whom the applications would be submitted and after the applications had been accepted, the same would be processed by the said Officer upon payment of the prescribed service charge. According to the Petitioner, guidelines were E issued from time to time, but the said Respondent withdrew the entire system of recommending travel agents to deal with passport work and issued instructions that in respect of travel agents who were present before the passport office earlier, even if they were not members of TAAI, they would be F permitted to continue to do the work which they had been performing. In order to avail of the said benefit, the travel agents, who were similarly placed as the Petitioner, filed applications for permission to continue the work which they had been performing. However, since the said applications were rejected by the authorities, the Petitioner was compelled to file this G Special Leave Petition.

H 3. On behalf of the Petitioner it was also contended that the aforesaid question had been considered by the Karnataka High Court and had been decided in Writ Petition No.40360

of 2004, and, ultimately, the impugned restrictions came to be quashed and all travel agents who were carrying on business earlier became entitled to continue to do the work and the endorsements dated 14th March, 2006, issued by the Respondent No.2 were quashed. A

4. According to the Respondents, however, the system of recommending travel agents to carry on the work of applying for and receiving passports on behalf of their clients was dispensed with in July, 1992. Although, the said de-recognition of travel agents in July, 1992, was challenged in various courts, including this Court, the scheme was ultimately upheld and the Ministry of External Affairs, Government of India, gave the benefit thereof to the travel agents who were not members of TAAI, provided they were recognized as travel agents before July, 1992, when the recognition of travel agents was dispensed with. Since the petitioner had started operating as a travel agent only in 1997, after such derecognition, he was not entitled to the benefit of the Scheme promulgated on 18th July, 2000. B C D

5. The matter was considered in some detail by the High Court which took the view that travel agents, who were not members of TAAI, had been recognized by the Department for the issuance of passports on behalf of their clients. Ultimately, all the matters which were filed before this Court were transferred to the various High Courts and fresh guidelines came to be issued on 18th July, 2000. As a one-time concession, agents who were working prior to 1992 were given the benefit of the scheme, even though they were not members of TAAI. The scheme was formulated on 18th July, 2000, and under the scheme travel agents who had been working from before 1992 continued to be recognized as travel agents, although, they were not members of TAAI. Based on the aforesaid reasoning, the High Court held that once the scheme came into operation and a one-time concession was made in respect of travel agents who were working from before 1992 but were not members of TAAI, the Petitioner who commenced business as a travel agent from 1997, was not entitled to the E F G H

A benefit of the scheme. The High Court dismissed the Petitioner's writ petition upon holding that since the Petitioner was not a member of TAAI and was not also recognized as a travel agent prior to 1992, he was not entitled to the benefit of the scheme promulgated on 18th July, 2000.

B 6. Mr. Manohar Lal Sharma, learned Advocate who appeared for the Petitioner, urged that since the Petitioner had been awarded a Code Number by the Ministry of External Affairs, Government of India, it must be deemed that he was an accredited agent, notwithstanding the fact that he was not a member of TAAI. Mr. Sharma submitted that pursuant to the decision taken by the Ministry which came into effect from the month of August, 2000, all travel agents who were then recognized by the passport office under the previous dispensation, would continue to be recognized even if they were not members of TAAI. However, no new non-TAAI recognized travel agent could be added to the earlier list in future. Mr. Sharma submitted that since the Petitioner was an accredited agent, the aforesaid provisions would govern the Petitioner as well, despite the fact that he was not a member of TAAI. He also submitted that when the scheme was promulgated and the Petitioner was already functioning as a travel agent, it would be highly arbitrary to prevent him from continuing to function as a travel agent in view of the new policy whereunder only those travel agents who were members of TAAI would be entitled to perform the work of submitting applications on behalf of Indian citizens applying for passports.

G 7. As indicated hereinbefore, the Respondents took the stand that when the entire system of recognizing travel agents to deal with passport work had been withdrawn in February, 1992, the Petitioner, who was not a member of the TAAI at that point of time, could not get the benefit of the scheme floated by the Respondent.

H 8. The controversy in this Special Leave Petition hinges on the question as to whether the Petitioner had been unjustly

prevented from carrying on business as travel agent since he was not a member of TAAI and, therefore, not entitled to the benefit of the scheme promulgated on 18th July, 2000. The reasoning of the High Court that the Petitioner could not be recognized as a travel agent since he had started his business in 1997, long after the system had been withdrawn, is in keeping with the said scheme and does not require any interference. Once the policy of recognizing travel agents for the purpose of submitting passport applications and receiving the same on behalf of a client, was discontinued after July, 1992, the Petitioner, who had begun his travel agency after the said date, was not entitled to the benefit of the fresh guidelines which came to be issued on 18th July, 2000, by providing a one-time concession for all travel agents who were working prior to 1992, even though they were not members of TAAI.

9. The new policy adopted by the Government has not been questioned by the Petitioner, whose grievance is confined to his exclusion from the scheme which came into operation in August, 2000. We are not, however, inclined to accept the submissions made on the Petitioner's behalf since a decision had been taken by the Central Government to derecognize travel agents who were not members of TAAI, giving a one-time concession to those travel agents who were not members of TAAI but had been performing passport work for clients prior to 1992. The policy is neither irrational nor unreasonable and appears to have been made to streamline the system of applying for and receiving passports.

10. We, therefore, find no reason to interfere with the decision of the High Court and the Special Leave Petition is, accordingly, dismissed.

B.B.B.

SLP dismissed.