IN THE SUPREME COURT OF PAKISTAN
(APPELLATE JURISDICTION)

PRESENT:
MR. JUSTICE TASSADUQ HUSSAIN JILLANI
MR. JUSTICE AMIR HANI MUSLIM

CIVIL APPEAL NOs. 800-L, 801-L & 802-L OF 2013
AND
CIVIL PETITION NOs. 1148/2013 & 1348/2013
AND
C.M.A. NOs. 278-L, 279-L/2013, 285-L/2013, 289-L/2013, 5328 TO 5333/2013, 5378/2013, 5463/2013, 5464/2013 & 5477/2013

(On appeal from the orders dated 24.6.2013 & 9.7.2013 passed by Lahore High Court, Lahore in Writ Petition No. 7253/2013 and judgment dated 15.7.2013 passed by Islamabad High Court, Islamabad in WP No. 2939/2013)

Dossani Travels Pvt Ltd	(CA 800-L/2013)
City Travels (Pvt) Ltd	(CA 801-L/2013)
Super Travels Pvt Ltd	(CA 802-L/2013)
Usman Air Travels through its CEO	(CP 1148/2013)
M/s Golden Travel Services Pvt Ltd	(CP 1348/2013)

... Appellants/Petitioners

VERSUS

M/s Travels Shop (Pvt) Ltd and others	(CAs 800-L, 801-L & 802-L/2013)
Federation of Pakistan through Secretary M/o Religions Affairs and others	(CPs 1148/2013 & 1348/2013)

... Respondents

For the Appellants:	Mr. Afzal A. Haider, ASC **(In CAs 800-L to 802-L/2013)**
For the Petitioners:	Mr. Muhammad Ikram Ch, Sr. ASC **(In CPs 1148 & 1348/2013)**
For the Applicants:	Mr. Waseem Majid Malik, ASC **(In CMA 278-L/2013)**
	Mr. A.K. Dogar, Sr. ASC **(In CMA 279-L/2013)**
	Mr. Saeed Ullah Khan, ASC **(In CMA 285-L/2013)**

Mr. Azhar Siddique, ASC
(In CMAs 5328 to 5333/2013)

Mr. Mir Adam Khan, AOR
Mr. Nek Nawaz Khan Awan, ASC
(In CMA 5378/2013)

Qari Abdur Rasheed, ASC
(In CMAs 5515 to 5520/2013)

For FBR: Syed Arshad Hussain Shah, ASC

For SECP: Mr. Naveed Ihsan, Departmental
                       Representative

For CCP: Mr. Muhammad Bilal, Sr. ASC
                       Mr. Babar Bilal, ASC

For NADRA: Mr. Saqib Jamal, Manager Legal

On Court Call: Mr. Abdul Hayee Gillani, Additional
                       Attorney General
                       Mr. Dil Muhammad Alizai, DAG
                       Mr. Jahanzeb Wahla, Standing Counsel
                       Mr. Shahzad Ahmed, Joint Secretary,
                       Ministry of Religious Affairs
                       Mr. Farid Khattak, Deputy Secretary,
                       Ministry of Religious Affairs

For the Respondents: Mr. A.K. Dogar, Sr. ASC
                       Mr. Azhar Siddique, ASC
                       Qari Abdur Rasheed, ASC

Date of Hearing: 27.08.2013

ORDER

      For reasons to be recorded later in the detailed judgment, Civil Appeal Nos. 800-L to 802-L/2013 are allowed, Civil Petition Nos. 1148 & 1348 of 2013 are converted into appeals and allowed and C.M.A. Nos. 278-L, 279-L/2013, 285-L/2013, 289-L/2013, 5328 to 5333/2013, 5378/2013, 5463/2013, 5464/2013 & 5477/2013 are disposed of and we hold and declare as under:-

    i)   that the order of the learned High Court dated 24.6.2013 passed in Writ Petition No. 7253/2013 is violative of the principle of trichotomy of powers, which is one of the

foundational principles of the Constitution of Islamic Republic of Pakistan;

ii)   that it is not the function of the High Court exercising jurisdiction under Article 199 of the Constitution to interfere in the Policy Making Domain of the Executive;

iii)   that the learned High Court in the exercise of its Constitutional jurisdiction directed selection of Hajj Group Organizers through bidding process and thereby substituted the criterion laid down in the Hajj Policy framed by the Ministry of Religious Affairs without hearing the appellants / Hajj Group Organizers and others who had already been allocated quota and had made arrangements for intending Hujjaj, which is not tenable in law;

iv)   that the High Court can under Article 199 of the Constitution annul an order or a Policy framed by the Executive, if it is violative of the Constitution, law or is product of *mala fides*. However, nothing has been placed before this Court to indicate that the Hajj Policy challenged before this Court seriously suffered from any of these infirmities; and

v)   that Ministry of Religious Affairs shall continue to regulate the operation of Hajj i.e. enrollment,

registration and allocation of quota every year in the light of a fair and transparent policy and the guidelines to be laid down by this Court in the detailed judgment.

JUDGE

JUDGE

Islamabad, the
27th of August, 2013
Approved For Reporting
Khurram