JUDGMENT SHEET

IN THE ISLAMABAD HIGH COURT, ISLAMABAD

WRIT PETITION NO. 819 OF 2020

KARWAN-E-ALFALAK (PRIVATE) LIMITED

VS

FEDERATION OF PAKISTAN & 2 OTHERS

Petitioner by : **Syed Qamar Hussain Sabzwari, Advocate.**

Respondents by : **Raja Zamir-Ud-Din Ahmed & Ms. Asia Batool, A.A.Gs.**

Date of hearing : **02.05.2025**

MUHAMMAD AZAM KHAN, J.

1. Through the instant Writ Petition filed under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973 (hereinafter referred to as the **"Constitution"**), the Petitioner seeks the following directions to the Respondents:-

(i) To revise the assessment process made under the revised "Criteria of Evaluation" and award the correct and actual marks to the Petitioner by considering the past experience of conducting the Hajj by the Petitioner, as per the applicable policy of Ministry of Religious Affairs & Interfaith Harmony, so as to make him eligible for consideration of award of Hajj Quota by the Respondents in Hajj 2020;

(ii) To award Hajj Quota to the Petitioner in the future, while declaring the assessment process as without lawful authority, and of no legal effect; and

(iii) To act in accordance with directions issued by the august Supreme Court of Pakistan in the matter of *"Dossani Travels Pvt. Ltd & Others…vs…M/S Travels Shop (Pvt) Ltd & Others"* reported as **PLD 2014 SC 1** and recommendations made by the august Supreme Court of Pakistan in order dated 27.08.2013.

2. The brief facts of the case, as per the memo of the petition, are that the Petitioner has served as a Master Hajj Trainer approved by the Ministry of Religious Affairs (MORA) since 1993. Between 1993 and 2004, the Petitioner acted as a Group Leader for Hajj pilgrims and managed pilgrim services under the company "Karwan-e-Al-Falak." In 2004, the company facilitated Hajj for 245 pilgrims in accordance with the then-prevailing policy. In 2005, Respondent No. 1 introduced a private Hajj Quota system. Prior to that, Hajj arrangements were

made through Group Leaders, who coordinated essential services such as lodging, food, transport, and Ziarat, either through state-run channels or private organizers. The Petitioner's company functioned under this structure, collecting and submitting pilgrim applications to the Ministry and receiving nomination as Group Leader under standard procedures. The Petitioner, claiming eligibility under the revised framework, applied for quota allocation in 2006. Despite fulfilling the stated criteria, such as SECP registration, minimum paid-up capital, and relevant experience, the Petitioner was not granted a quota. The Petitioner contends that less experienced operators were granted quotas, raising concerns about the transparency and fairness of the process.

3. In 2012, the Respondents issued a "Criteria of Evaluation" for Hajj Quota allocation. The Petitioner submitted an application for evaluation and was assigned Enrollment No. 12276. The Kingdom of Saudi Arabia (KSA) allots annual Hajj Quotas to various countries, including Pakistan. The Respondents subsequently divide this quota between government-run schemes and private HGOs. Over the years, quota allocation has remained a subject of legal and administrative scrutiny. In 2013, following a direction from the Lahore High Court, Respondent No. 1 initiated a public auction process for Hajj Quota distribution. In 2015, the Ministry of Religious Affairs declared that all previous quotas stood cancelled. Subsequently, in 2016, the Ministry launched a cost rationalization exercise aimed at identifying service providers offering competitive Hajj packages. The Petitioner submitted a Hajj Package Survey Form offering a competitive rate of Rs. 326,760/- with accommodations in close proximity to the Haram and Masjid-e-Nabwi. However, despite offering more economical terms than other quota holders, the Petitioner was not allocated a quota.

4. In 2018, a revised "Criteria of Evaluation" was introduced by the Respondents, and the Petitioner was again evaluated under the new criteria. Feeling aggrieved by the non-allocation of the quota, the Petitioner filed a Writ Petition No. 2615/2017, which was decided by this Court along with Writ Petition No. 875/2018 on 15.03.2018, wherein this Court issued certain directions to the Respondents in relation to the allocation of the Hajj Quota. Petitioner also filed Writ Petitions No. 2728 and 419/2020, which were disposed of by this Court. Respondent No. 1 has denied the allocation of quota to the Petitioner. Being aggrieved, the Petitioner has filed the instant Writ Petition.

5. The learned counsel for the Petitioner contends that the 2018 assessment and reassessment of the Petitioner under the revised "Criteria of Evaluation" by the Respondents was conducted in bad faith, ignoring prior assessments and constitutional guarantees. The Petitioner seeks rectification of marks unjustly awarded, which denied its qualification for Hajj Quota allocation. The Respondents' actions violated Articles 4, 9, 10A, 14, 18, 25, and 37 of the Constitution, and favored select companies without merit, experience, or required documentation, as noted in a 2013 parliamentary committee report. Despite regular compliance with legal and financial obligations, the Petitioner was unfairly downgraded from Serial No. 384 to 468 on the merit list, while inexperienced companies were unduly favored. This discriminatory conduct, ignoring Supreme Court directives in **PLD 2014 SC 1** and the order dated 27.08.2013, reflects a pattern of illegality and arbitrariness, warranting judicial intervention.

6. On the other hand, the learned A.A.Gs. argued that the Petitioner Company was registered with the Securities & Exchange Commission of Pakistan in 2006. Further, the Grievance Committee heard the appeal of the Petitioner on 23.04.2018 in person and regretted as the Petitioner did not provide any valid proof of Hajj and Umrah experience of the company. That as per evaluation criteria, the company's experience on account of Umrah is considered only, with no preference to individual experience. The Petitioner Company has been enrolled with the Respondent Ministry in the year 2012 under Enrollment No. 12276. The Respondent Ministry allocated Hajj Quota to different companies on merit in the years 2013, 2017, and 2018. The Petitioner Company could not come on merit for allocation of Hajj Quota. That the evaluation criteria was formulated by the Hajj Policy Formulation Committee (HPFC) constituted on the directions of the august Supreme Court of Pakistan in the case of *Dossani Travels Pvt. Ltd & Others*. This criteria was applied by a Chartered Accountant Firm during evaluation of profiles of companies including the Petitioner Company. That this Court, Islamabad, has upheld the veracity of these criteria in its order dated 15.03.2018. Lastly, the learned A.A.G. prayed for dismissal of the instant writ petition.

7. I have heard the learned counsel for the Parties and perused the record with their able assistance.

8. The crux of the Petitioner's grievance revolves around the denial of Hajj Quota under the revised "Criteria of Evaluation" introduced by Respondent No. 1 /

Ministry of Religious Affairs & Interfaith Harmony. The Petitioner claims that the said criteria was arbitrarily applied and that his previous experience as a Group Leader, particularly in 2004 when 245 pilgrims were facilitated through the Petitioner's company, i.e., "Karwan-e-Al-Falak," should have been credited to his evaluation.

9. The record reveals that the Petitioner Company was registered with the Securities and Exchange Commission of Pakistan (SECP) in the year 2006, whereas the relevant benchmark set by Respondent No. 1 for consideration of Hajj experience, as per the duly approved evaluation criteria, was experience of organizing Hajj after the introduction of the private Hajj Scheme in 2005. While the Petitioner has attached certain documents indicating individual involvement in the facilitation of pilgrims prior to 2005, there is nothing on record to show his experience of organizing Hajj post-2005, which was a specific condition stipulated in the policy.

10. Furthermore, a Grievance Committee was constituted in pursuance to this Court's Order dated 15.03.2018 in Writ Petition No. 875/2018. The Petitioner was provided personal hearing before the Grievance Committee on 23.04.2018, however, the Petitioner failed to provide valid documents regarding the company's verifiable experience in the field of Hajj/Umrah. The case of the Petitioner was thus rejected by the Grievance Committee. The Petitioner's contention that past individual experience as a Master Hajj Trainer and Group Leader should have been credited is inconsistent with the objectivity, uniformity, and transparency sought to be ensured through the standardized criteria formulated by the Hajj Policy Formulation Committee (HPFC), which itself was constituted on the directions of the august Supreme Court in *Dossani Travels Pvt. Ltd. v. Travels Shop (Pvt.) Ltd* **(PLD 2014 SC 1)**. The said evaluation criteria has been upheld as valid by this Court vide the above said Judgment dated 15.03.2018, therefore, no material irregularity has been demonstrated before this Court.

11. Furthermore, in compliance with order dated 13.02.2019 in Writ Petition No. 2728/2018 titled *"M/S Karwan-e-Al-Falak Vs FOP, etc."*, the Additional Secretary MORA & IH provided opportunity of hearing on 17.04.2019 to the Petitioner, wherein he had requested for awarding 10 marks under the head of Umrah experience and allocation of Hajj Quota to his company. The record reveals that the Petitioner Company was enrolled in the Ministry in the year 2012. The

Petitioner Company, however, failed to provide valid proof of Umrah experience before the Additional Secretary (RA & IH), therefore, the Hajj Quota was not awarded to the Petitioner vide order dated 07.05.2019. This Court, therefore, is not inclined to accept the argument of non-allocation of Hajj Quota on the basis of *mala fide* or discrimination, especially in the absence of cogent evidence showing deliberate exclusion, manipulation of marks, or deviation from the criteria across similarly placed entities. The record instead reflects a consistent and uniform application of the policy framework. Moreover, the Petitioner Company has not attached any documents qua its past experience of Umrah with the instant petition.

12. It is a well-established principle that Courts ordinarily avoid intruding into the executive's domain of policymaking. The allocation of quota also falls within the ambit of policymaking authority of the executive. It is pertinent to mention herein that the policy decisions, involving technical assessments and allocation of limited national quotas, fall within the executive domain, unless shown to be arbitrary, discriminatory, or contrary to law. In the present case, the impugned assessment process does not suffer from any jurisdictional or procedural infirmity, therefore, no judicial interference is warranted under Article 199 of the Constitution. It is further observed that the arrangements of the Hajj are time-bound, and as Hajj Policy 2020 is no longer prevalent, therefore, the instant petition has become infructuous.

13. In view of the foregoing, this Petition is found to be without merit and is accordingly **dismissed**.

(MUHAMMAD AZAM KHAN)
JUDGE

Announced in the open Court on this _____ day of May 2025.

JUDGE

***//Mehboob//**