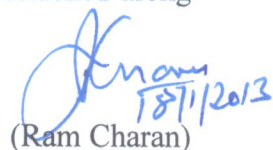


No. M(Haj)/1184/56/2011  
Ministry of External Affairs  
(Gulf & Haj Division)

Subject: PTO Policy for Haj-2013

The Hon'ble Supreme Court, vide its interim order dated January 14, 2013, directed the Government of India to place Affidavit and the draft PTO Policy-2013 on the websites of MEA & HCOI for general information to enable the parties to address the Court on the next date of hearing in the matter.

2. In compliance of the Court directive, HCOI is requested to put up the affidavit and the draft PTO policy-2013 on the website of the HCOI at the earliest. Copy of Affidavit and the draft PTO policy -2013 are attached along with the note.

  
18/1/2013

(Ram Charan)

Administrative Officer ( Haj)

Dated January 18, 2013

Chief Executive Officer  
Haj Committee of India  
Mumbai.

(राम चरण)  
(RAM CHARAN)  
प्रशासनिक अधिकारी (हाज)  
Administrative Officer (HAJ)  
विदेश मंत्रालय, नई दिल्ली  
Ministry of External Affairs  
New Delhi

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

SPECIAL LEAVE PETITION (CIVIL) NO.28609 OF 2011

UNION OF INDIA

....

PETITIONER

VERSUS

RAFIQUE SHAIKH BHIKAN & Ors.

....

RESPONDENTS

**AFFIDAVIT ON BEHALF OF THE MINISTRY OF  
EXTERNAL AFFAIRS**

I, Vivek Jeph, aged about 50 years, Under Secretary, (Haj), Ministry of External Affairs, Government of India, New Delhi, do hereby solemnly affirm and state as follows:

1. I am authorized to file the affidavit on behalf of Government of India and as such well conversant with the facts of the case from the records maintained in the office. I am thereby competent and authorized to swear in this Affidavit on behalf of the Union of India.

2. That this Hon'ble Court, vide its interim order dated 23.11.2012, directed the Government of India (GOI) to file an Affidavit along with the draft Private Tour Operators (PTO) Policy for Haj-2013. Pursuant to the same, the present Affidavit is being filed.

3. The Government had framed a policy of the Private Tour Operators (PTO's) for Haj 2012, which was examined by this Hon'ble Court and vide order dated 8.5.2012, this Hon'ble Court had approved the said policy. Thereafter, Government of India (GOI) issued a Press

Release dated May 17, 2012 inviting applications from interested PTOs as per the criteria set in the PTO policy-2012.

4. In response, 720 applications were received by the Hajj Committee of India (HCOI), Mumbai. For the selection of PTOs, a Firm of professional Chartered Accountants (Firm) was selected on the basis of an open tender and was given the responsibility of evaluating the applications in accordance with the criteria laid down in the PTO 2012 Policy. A 4-member Committee was constituted comprising one representative each from HCOI, Office of the Principal Chief Controller of Accounts and the Legal & Treaty Division and the Gulf & Haj Division Ministry of the Ministry of External Affairs (MEA) to monitor the work of the Firm. On the basis of the evaluation, 335 out of 720 PTOs qualified for Haj-2012 and they were registered with the Ministry and a quota of 45,000 seats meant for the qualified PTOs was distributed among them.

5. It is submitted that the operations for Haj 2012 concluded by the return of last flight from Saudi Arabia on December 02, 2012. It is submitted that Haj 2012 was smooth and hassle free and the pilgrims who went through PTO's also were reasonably satisfied with the arrangements made in India and Saudi Arabia. This is evident from a survey conducted in Makkah by the Consulate General of India (CGI), Jeddah of about 4,400 pilgrims who performed Hajj 2012 through PTOs. From the Saudi Arabian point of view also, since the number of PTO's was 335, it was less cumbersome and each PTO could be individually monitored in as far as the compliance of services to its pilgrims was concerned. The CGI, Jeddah has received a few complaints in respect of certain PTOs which are being looked into by MEA.

6. It is submitted that the Government has prepared a draft PTO Policy for Haj-2013 taking in to consideration the views of the

Hon'ble Supreme Court in the matter, the interest of the Indian pilgrims, past experience of the PTOs, number of pilgrims handled by the PTOs in the previous years, the track records of the PTOs and quotas allocated to them.

7. One of the primary concerns is to deal with the criticism that a monopoly had been created in favour of the existing operators and new entrants could not enter. Specifically to deal with this aspect, a new category has been created for applicants other than those who have been handling Haj pilgrims in the past. This new category is in relation to PTOs which are engaged in the business of Umra for at least past five years. It is felt that this represents a blend between the experience of the existing PTOs and opportunity to new comers. It will also lead to regeneration in as much as an Operator selected from category III would automatically enter Category II PTOs, registered with the MEA for one to four years, in the following year. Accordingly, there will be category wise movement and more operators will get a chance subject to their experience and track record. The draft Policy thus opens out to new applicants who have been in the business of Umrah for at least past 5 years.

8. Another important feature of the draft Policy is that it intends to freeze the policy for next 5 years. It is submitted that the conditions which were imposed in the PTO policy of Haj 2012 have been retained and in addition certain new conditions based on the observations of the Hon'ble Supreme Court have also been incorporated in to the new Policy. It is submitted that the draft policy will be subject to the Bilateral Haj Agreement to be entered into between Governments of India and Saudi Arabia for Haj 2013. Once this Hon'ble Court approves the draft PTO policy for Haj 2013, the applications could be invited from the eligible PTOs and the entire exercise of selection of PTOs could be completed in a period of about

2 months by early April 2013 which will give a lead time of about six months to ensure that there will be no ambiguity among either the pilgrims or the PTOs in the run up to Hajj in October 2013. A copy of the draft PTO Policy for Haj 2013 is annexed hereto and marked as **Annexure –A.**

DEPONENT

VERIFICATION:

Verified at New Delhi on this            day of January, 2013 that the contents of the above affidavit are true and correct, based on record of the case and nothing material has been concealed therefrom.

DEPONENT

Solemnly affirmed and signed before me by the Deponent, who is personally known to me on this the day of    January        2013 in my Office at New Delhi.

Attesting Officer:

(A.R. Ghanashyam)  
Joint Secretary to Government of India,  
Ministry of External Affairs, New Delhi

MINISTRY OF EXTERNAL AFFAIRS  
(GULF & HAJJ DIVISION)

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**Registration of Private Tour Operators (PTOs) – Haj 2013**

The Government of the Kingdom of Saudi Arabia (KSA) has notified that Private Tour Operators (PTOs) registered with Government of India (GOI) and engaged in the facilitation of Hajj pilgrims will be eligible for grant of Hajj group visas subject to fulfilment of terms and conditions laid down by the Saudi authorities and Government of India.

2. Applications are invited from eligible PTOs for registration for Haj-2013. Eligibility Criteria are at Annexure A and Annexure B. Applications must be submitted in the prescribed format (Annexure C) to - The Liaison Office, Hajj Committee of India, 5028, Bachchon Ka Ghar, 1<sup>st</sup> floor, Darya Ganj, New Delhi-110002, (Tel.No.23240546, 23240547), Website: [www.hajcommittee.com](http://www.hajcommittee.com).

3. For registration and allotment of quota of Hajj seats, it has been decided that the PTOs may apply under the following three categories;

Category-I	PTOs registered with MEA for 5 years or more
Category-II	PTOs registered with MEA for 1 to 4 years
Category-III	PTOs engaged in the business of Umrah for at least 5 years.

4. At the outset, all eligible PTOs under category I will be allocated 50 seats each followed by 50 seats each to eligible PTOs of Category II. Balance, if any, will be provided to eligible PTOs of Category III at the rate of 50 seats per PTO. The remaining seats, if any, will be distributed to qualified PTOs under category I pro-rata on the basis of the number of Hajjis facilitated by each eligible PTO during the last five available years subject to provision of documentary proof.

5. If at any stage, the number of qualified PTOs exceeds the available quota of seats at the rate of 50 seats per eligible PTO, the selection of PTOs will be finalised by random selection. Only 50 eligible PTOs will be finalised under Category-III. In case the number of eligible PTOs exceeds 50 under Category-III, the selection of PTOs would be finalised by draw of lots.

6. This Policy will remain valid for five years – 2013 to 2017. The qualified list of PTOs will also remain valid for 5 years. The allocation of seats to the qualified PTOs will be done every year on the basis of the overall quota of seats allocated to PTOs.

7. Applications which should be addressed to the Chief Executive Officer, Haj Committee of India (HCOI) must reach the Liaison Office, HCOI, No. 5028, Bachchon Ka Ghar, 1<sup>st</sup> floor, Dariya Ganj, New Delhi-110002 latest by .....on..... the .....

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**ANNEXURE-A**

**Terms and Conditions for Registration of  
Private Tour Operators (PTOs) for Haj-2013**

Each PTO should establish that it is a genuine and established Tour Operator having experience in sending tourists/pilgrims abroad for which it should produce the following documents:

<b>S.No</b>	<b>Terms and Conditions</b>
i	All documents must be in the name of the applicant PTO. No documents dated after the day of the release of the 2013 Policy will be entertained.
ii	PTO must sign an agreement with each pilgrim indicating the services to be provided to the pilgrim and charges payable. Services should include inter-alia medical insurance, type of accommodation, transport facility, duration of

	stay of the pilgrims in Saudi Arabia, etc.). A copy of model agreement to be signed with the pilgrims must be attached with the application.
iii	Details of service Tax registration and payment made on account of service tax for the last 2 years i.e. 2010-11 and 2011-12.
iv	Minimum Annual Turnover of INR One Crore during the financial year 2010-11 or 2011-12 along with Balance Sheet and Profit & Loss Account –duly audited by the Statutory Auditors, Tax Audit Report and Income Tax Return (ITR) for financial years 2010-11 and 2011-12.
v	Minimum office area of 250 Sq.ft. (Carpet area). (Supporting documents – drawing/lay out plan approved by the competent authority of the State Government/Union Territory). Lay out plan certified by Architects will not be accepted.
vi	Minimum capital/ net worth of Rs. 15 lakhs as on March 31, 2012, duly supported by the latest Balance Sheet- audited by the Statutory Auditors and Audit Report.
vii	Proof of payment made through banking channels towards purchase of tickets and hiring of accommodation in Makkah/Madinah. Payments towards purchase of tickets, hiring of accommodation for pilgrims in Makkah/Madinah, other than banking channel, would not be accepted.
viii	PAN Card details ( PAN Card in the name of Proprietor will be accepted provided the PTO is a Proprietor concern)
ix	PTO with adverse Police report or involved in criminal court cases will not be Considered for registration.
x	Copies of registration Certificate issued to the PTO in support of their claim year wise and PTO category wise.
xi	Contract for hiring of buildings for pilgrims and “Tasreeh” together with English translations PTO category wise.
xii	Copy of Munazzim Card and relevant Hajj visa pages of the Passport of the Proprietor/Owner.
xiii	A security deposit of Rs.25 lacs ( Rs. Twenty five lacs only) in the form of Fixed Deposits with a Nationalised Bank valid till February 28, 2014, in favour of HCOI, Mumbai.
xiv	A Demand Draft of INR 5000/- ( Rs. Five Thousand only) in favour of Haj Committee of India, payable at Mumbai- to be submitted along with the application as non refundable fee.



OTHER IMPORTANT INSTRUCTIONS/ GUIDELINES FOR HAJ-2013

i	Application must be in the prescribed Performa (Annexure-C) and all documents must be serially numbered. An index must be provided at the top of the applications indicating details of documents enclosed.
ii	Applications that furnish wrong information or suppress any relevant information will be summarily rejected and the applicant PTO will be blacklisted and its security deposit forfeited.
iii	PTOs must furnish full information about their pilgrims to the CGI (Consulate General of India), Jeddah and also upload it on the website of CGI- <a href="http://www.jeddah.com">www.jeddah.com</a> before departure of pilgrims to Saudi Arabia.
iv	PTO must ensure vaccination and other medical checks as per requirement of the Government of Saudi Arabia. Details are available on HCOI's website <a href="http://www.hajcommittee.com">www.hajcommittee.com</a> . All Pilgrims must carry health cards.
v	PTO should be fully responsible for the stay, transportation and payment of compulsory charges to the Authorities in the Saudi Arabia. PTO should honour all terms & conditions of the contract signed with the pilgrims and ensure that none of them is left stranded.
vi	PTO should provide good quality Identity card, indicating name of the pilgrim and of the PTO, Passport number and place of stay in Makkah - /Madinah, to each pilgrim to be worn around the neck whenever they leave the building.
vii	PTO should ensure that baggage of all their pilgrims are cleared before they leave the Haj Terminals in India/Saudi Arabia.
viii	If a pilgrim sent by a PTO is found begging in Saudi Arabia or declared Fuqra by Saudi Authorities, the PTO will be blacklisted permanently and its security deposit forfeited.
ix	Selling of Hajj quota seats to any other PTO is strictly prohibited. In case of receipt of any complaint against any PTO indulging in such activity, the PTO would be blacklisted permanently.
x	It may kindly be noted that only one member of the family would be eligible for registration for Haj-2013. Hence, only one member of family should apply for registration. Family will include wife and dependent children and relatives. No applicant can apply in more than one PTO in his/her capacity as Director/Partner/ Proprietor.

xi	PTO must submit only one application. If it is found that PTO has submitted more than one application in different names, all such applications would be rejected and all such PTOs would be blacklisted.
xii	Without prejudice to the foregoing, all claims, disputes and differences shall be subject to the jurisdictions of the Courts in New Delhi/ Mumbai.
xiii	All terms and conditions in Annexures A & B except for clauses (vii), (x), (xi) and (xii) of Annexure A will also apply to Category-III PTOs. In addition, Category-III PTOs are also required to submit the following documents- (a) Service Tax Payments made for last 2 years i.e. 2010-11 & 2011-12. (b) Proof of payment made through banking Channels towards purchase of tickets and hiring of accommodation in Makkah & Madinah in respect of Umrah pilgrims facilitated by the PTO during the last five years. The Owner/Director/Proprietor/Partner of each Category III applicant PTO should have performed Hajj at least once in the last five years.

**ANNEXURE – C**

**Ministry of External Affairs  
(Haj Cell)**

**Haj 2013 - Application for Registration as Private Tour Operator (PTO)**

1.	Name of Private Tour Operator	
2.	Address of firm/ telephone, fax, e-mail and website address (if there has been any change in address since Haj – 2012 it may also be indicated)	
3.	Name of the firm's representatives along with contact details who would be present in KSA during Haj-2013.	
4.	Number of employees (permanent as well as seasonal with break up), no of computers, and other office equipments.	
5.	Area of Office (Please attach supporting documents with photographs)	
6.	Whether the office is designated specifically for the Haj/ Umrah or any other business is also carried out from that premises.	
7.	(i) Whether earlier registered with Ministry of External Affairs?	Yes/No
	(ii) If Yes, then enclose copy of certificates and copies of "Tasreeh" in support of their claim year wise.	
8.	(i) Whether member of National Association of Haj PTOs?	Yes/No
	(ii) If so, please mention the name, address, Phone/Fax Nos. of the Association.	

	(iii) Also indicate whether application is submitted through an Association	
9.	Total number of Pilgrims/international tourists carried during all the previous Hajj seasons. In support of claim, please enclose contract for buildings hired for the pilgrims and "Tasreeh" with a certified English translation and all other relevant documents (IATA receipts, details of tickets, PNR No., ticket No., name of passengers, payments made towards purchase of tickets through banking channel etc.) (New Applicants are required to submit the number of their overseas tourists during last three years with supporting documents like purchase of air – tickets, payments made through bank transfer etc.)	
10.	Places of stay of pilgrims in Makkah/ Madina for last 3 years.	
11.	Total number of Pilgrims proposed to be sent during Haj-2013.	
12.	Details of Fixed Deposit Receipt– original to be enclosed. In case application is being made through one of the Associations then indicate the details of fixed deposit receipts/Bank Guarantee submitted to the Association.	
13.	Details of bank draft for Rs. 5000/- in favour of Haj Committee of India, payable at Mumbai as non-refundable processing fee.	
14.	Maktab number and the name of the service provider in Saudi Arabia (in case of previously registered PTOs).	
15.	Likely date of arrival of pilgrims in Kingdom of Saudi Arabia.	
16.	Likely date of departure of pilgrims from Kingdom of Saudi Arabia.	
17.	Type of Transport agreement/arrangements to be made for Pilgrims (Coupon rate and route).	
18.	Arrangements for providing Orientation/ Training programmes.	
19.	Name, address and telephone numbers of local correspondent Company in Kingdom of Saudi Arabia.	
20.	(a) Whether the PTO has its branches in other places: (b) if yes, please provide details: (c) Have these branches also applied for registration separately? if yes, please provide details.	
21.	Whether any case/complaint is registered against the PTO with police authorities. Please provide complete details. If there is no such case/complaint, please attach an affidavit in support of the claim.	

**(Seal and signature of the authorized person of the Company)**

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