

S. MANIKUMAR, CJ

&

SHAJI P. CHALY, J

W.P.(C) No. 12508 of 2021 (S)

Dated this the 22nd day of June, 2021

ORDER

S. Manikumar, CJ

Seeking to quash Exhibit-P2, order dated 21.05.2021 issued by the Director, Department of Animal Husbandry, Lakshadweep Administration, Lakshadweep, respondent No.4, and Exhibit-P4, minutes of the meeting of Union Territory Level Steering Cum Monitoring Committee and District Task Force on Mid Day Meal held on 27.01.2021, Mr. Ajmal Ahmed R., a practising lawyer and an Executive Member of Lakshadweep Bar Association, has filed the instant public interest writ petition for the following reliefs:

- (i) To call for the entire records leading to Exhibits-P2 and P4, and quash the same by issuing a writ of certiorari or any other writ, order, or direction.
- (ii) To issue a writ of mandamus or any other appropriate writ, order, or direction and thereby command respondents 1 and 3, not to implement any reforms infringing the ethnic culture, heritage, food habit, and effecting the serene and calm atmosphere in the Lakshadweep Islands and also infringing the Constitutional right guaranteed under Articles 19 and 300A of the Constitution of India.

- (iii) To issue a writ of mandamus or any other appropriate writ, order, or direction and thereby command the respondents 1 and 3, not to implement the draft regulations named Prevention of Anti Social Activities Act, 2021 (PASA, 2021), Lakshadweep Animal Preservation Regulation, 2021, Lakshadweep Panchayath Regulation, 2021, Lakshadweep Development Authority Regulation, 2021, etc., are introduced by the 3rd respondent, without publishing such draft regulations in the local language i.e., Malayalam and Mahal in local Vernacular having circulation in the Lakshadweep for facilitating the islanders to understand the prose and consequences and to submit their objections against implementing such regulations.
- (iv) Grant such other reliefs which are just and necessary in the interest of justice.

2. According to the petitioner, the Union Territory of Lakshadweep has ten islands, mostly inhabited by Scheduled Castes and Scheduled Tribes. He also stated that these people are engaged mostly in Government activities, to eke out their livelihood.

3. On the averments made in the statement of facts and inviting the attention of this Court to Exhibit-P2, a message

through e-mail dated 21.05.2021, issued by the 2nd respondent, Mr. Peeyus A. Kottam, learned counsel for the petitioner, submitted that without assigning reasons, the Administrator, Union Territory of Lakshadweep, has directed to close down all the diary farms run by the Department of Animal Husbandry, including Bulls, Calves, Heifers, and Ducks, etc., immediately. The Veterinary Assistant Surgeons of all the Veterinary Units were directed to dispose of the available animals in the presence of Auction Committee Members, by giving wide publicity and observing other formalities as per GFR, including SOP formalities for COVID-19.

4. Learned counsel for the petitioner further submitted that subsequently, Exhibit-P3 letter dated 28.05.2021 has been issued by the Veterinary Assistant Surgeon, Animal Husbandry Complex, Kavaratti, to the Director of Animal Husbandry Department, respondent No.2, requesting to take further necessary action, for disposal of animals by public auction.

5. He further added that an auction was notified for the disposal of all kinds of animals under the dairy farms, but it did not take place, for want of bidders.

6. Inviting our attention to Exhibit-P4, minutes of the Union Territory Steering Cum Monitoring Committee Meeting and District Task Force on Mid Day Meal Programme, held on 27.01.2021, learned counsel for the petitioner submitted that from time immemorial, since Mid Day Meal Scheme was introduced, a menu was implemented in all the schools, and as per the guidelines, meat and chicken were served, and that there is no defect or irregularity noticed by the stakeholders. While that be so, there is a change in the menu, and in that context, reference is made to paragraph (4) of Exhibit-P4 minutes dated 27.01.2021, which reads as under:

"Details of new menu suggested by the members as follows:

Sl. No.	Days	Food Items
1	Monday	Rice, Dhal, fish, green gram, fruits
2	Tuesday	Rice, Dhal, Egg, green gram
3	Wednesday	Rice, Dhal, green gram, fish, fruits
4	Thursday	Rice, Dhal, green gram, Egg / fish
5	Saturday	Rice, Dhal, green gram, egg, fruits / Dry fruits
6	Sunday	Rice, Dhal, green gram, Egg / Fish
Note:- Fruits and Non Veg are provided according to the availability of items in the local market.		

(Action: Director of Education)

7. Learned counsel for the petitioner further submitted that contrary to the National Programme of Mid Day Meal in Schools (MDMS) Annual Work Plan and Budget 2020-21 (Exhibit-P7), wherein, there is a provision, to provide meat and chicken in the menu, to the children of the schools of Union Territory of Lakshadweep, suddenly a decision has been taken not to provide chicken and meat to the children. He also submitted that there is no reason as to why, Union Territory of Lakshadweep has taken a different decision, contrary to Exhibit-P7. At this juncture, reference was made to clauses 2.3.1, 2.3.2 and 2.3.3 of the National Programme of Mid Day Meal in Schools (MDMS) scheme, extracted below.

"2.3 Details about the weekly menu.

2.3.1 Weekly menu – Day wise

The weekly menu under MDM scheme is given below.

S. No.	Days	Food Items
1	Monday	Rice / Dhal / fish / green gram
2	Tuesday	Rice / Dhal / Egg / green gram
3	Wednesday	Rice / Dhal / green gram / meat
4	Thursday	Rice / Dhal / green gram / chicken
5	Saturday	Rice / Dhal / green gram / meat
6	Sunday	Rice / Dhal / green gram / Egg
Note:- Above items are served according to the availability of items in the local market.		

2.3.2 Additional Food items provided (fruits / milk / any other items), if any from State/UT resources. Frequency of their serving alongwith per unit cost per day.

Egg, fish, chicken, fruits etc. are served as additional items in Mid Day Meal according to the availability of items in the local market.

2.3.3 Usage of Double Fortified Salt,

Double fortified iodized salt is used for the preparation of Mid Day Meal in Schools and direction to use Double fortified salt is issued time to time."

8. Learned counsel for the petitioner further submitted that only after assumption of office by the present Administrator, decisions are taken affecting the interest of people, in particular the children.

9. He also submitted that all along, food for the children to be served was prepared and distributed by the stakeholders, within the island, using the manpower of islanders, which is one of the sources of employment. Now, the Administrator, Union Territory of Lakshadweep, has taken a decision to entrust the work relating to preparation of food for MDM to a non Governmental Organisation, viz., Akshayapatra having office at

Bangalore, which decision, according to the petitioner, is uncalled for.

10. He further submitted that there are no objections from any of the stakeholders, within the Union Territory of Lakshadweep.

11. *Per contra*, inviting our attention to the reliefs sought for, Mr. S. Manu, learned standing counsel for Lakshadweep Administration, raised a preliminary objection as to the maintainability of the writ petition on the ground that the averments made are bereft of details, required to be furnished in a Public Interest Litigation.

12. Notwithstanding the objections, Mr. S. Manu further submitted that the reliefs 3 and 4, sought for by the petitioner, no longer survive, in the light of the Hon'ble Division Bench judgments dated 31st May, 2021 in W.P.(C) No.11591 of 2021 and 17th June, 2021 in W.P.(C) No. 11519 of 2021 respectively.

13. Mr. S.Manu, learned standing counsel further submitted that in the absence of any materials indicating that it was the decision of the Administrator, Union Territory of Lakshadweep, instant public interest writ petition has been filed.

14. According to the learned standing counsel, there are two dairy farms in the Union Territory of Lakshadweep and there are 69 animals, out of which, 47 are only milking. The total quantity of milk milched is 140 litres per day. Maintenance of two farms, with production of very less quantity, is not financially viable. Hence, he submitted that a policy decision was taken to prevent revenue loss and, therefore, such a decision cannot be said to be arbitrary.

15. However, referring to Exhibit-P4 minutes of the Meeting of Union Territory Level Steering Cum Monitoring Committee and District Task Force on Mid Day Meal held on 27.01.2021, learned standing counsel for Lakshadweep Administration submitted that it is a meeting conducted in the presence of nearly 18 members, including the Chairman and Collector of Lakshadweep Administration and others, and that any decision taken by the Committee cannot be attributed to the action of the Administrator, Union Territory of Lakshadweep.

16. He further added that there is no proposal from the Director of Education, to allocate the work of preparation and distribution of food by the Non Governmental Organisation, viz.,

Akshayapatra. Even in Exhibit-P4 minutes, it was decided only to have an informal talk with Akshayapatra, having office at Bangalore, regarding the implementation of Mid Day Meal in the Union Territory of Lakshadweep.

17. After hearing the matter at length, for passing interim orders, we posted the matter in the afternoon session.

18. Then, Mr. S. Manu, learned standing counsel for Lakshadweep Administration, submitted that Exhibit-P7 National Programme of Mid Day Meal in Schools has no relevance, for the reason that it relates to Annual Work Plan and Budget for the academic year 2020-2021. He also submitted that for children upto the Standard VIII, Union Territory of Lakshadweep has made a budgetary allocation and for children from Standards IX to XII, expenditure is derived from the Annual Work Plan and Budget for the academic year 2020-2021.

19. He further submitted that the U.T.Level Steering Cum Monitoring Committee and District Task Force, conduct periodical meetings, on the implementation of Mid Day Meals Programme. Such a meeting was conducted on 11.10.2020 and that an action taken report regarding the same was also submitted, and

considered in the meeting held on 27.01.2021. Finally, he submitted that due to the second phase of COVID-19 Pandemic situation and due to difficulty in procurement of certain items, a decision was taken to change the menu of food items.

20. Heard the learned counsel appearing on both sides and perused the pleadings and material on record.

21. At the outset, we place on record the submission of Mr. S. Manu, learned standing counsel for Lakshadweep Administration, that there is no proposal by the Director of School Education regarding preparation and supply of Mid Day Meal by Akshayapatra, Bangalore. Therefore, at this juncture, we are of the view that there is no need to address the said issue.

22. However, the question to be considered is as to whether, the U.T.Level Steering Cum Monitoring Committee and District Task Force on Mid Day Meal, can change the menu of food supplied to the children of the schools in Union Territory of Lakshadweep, without adhering to Exhibit-P7 National Programme of Mid Day Meal in Schools. Submission of the learned counsel for the petitioner, that the menu fixed and

followed for several years, ever since the Mid Day Meal Scheme was introduced, remained the same, has not been disputed and thus, requires to be taken note of.

23. Perusal of Exhibit-P7 National Programme of Mid Day Meal in Schools indicates that food has to be served to the children, including meat, chicken, fish and egg, apart from other items. There cannot be a dispute that the National Programme of Mid Day Meal in Schools, Annual Work Plan and Budget 2020-21 has to be implemented by Union Territory of Lakshadweep and viewed in that angle, *prima facie*, we are of the view that switching over to a different menu, with the exclusion of chicken and meat, would run contrary to Exhibit-P7, especially, when it is constituted with the avowed object of ensuring the physical and mental health of the children.

24. Though Mr. S. Manu, learned standing counsel for Lakshadweep Administration, submitted that Exhibit-P7 has been issued for the academic year 2020-2021, and that, therefore, it has no relevance for the academic year 2021-22, we are unable to understand how there could be a change in the menu of food items given to the children, prepared taking into account, the

vital aspect of health factor, and how such a distinction can be drawn, merely, by saying that it was prepared, for a different academic year.

25. Perusal of Exhibit-P4 minutes dated 27.01.2021, also shows that even a Physician, who attended the meeting, had opined that non-vegetarian foods (fish, chicken, and egg) are essential for the growth of children and that children need a healthy balanced diet containing foods from each group (veg along with non-veg), so that they get a wide range of nutrients, to help them stay healthy, there is no reason as to why, the opinion of the Physician, as mentioned above, is not taken note of, but then, the Committee seemed to have suggested food, with the exclusion of meat and chicken. When the Physician had given an opinion, as stated supra, appropriate reason should have been assigned, in the minutes, to differ with the same.

26. *Prima facie*, we find no reason for the change of food items, with the exclusion of meat and chicken. Therefore, we are inclined to pass an interim order directing the respondents, to provide food, as done before, by including meat and chicken, to the children of the schools in Lakshadweep.

27. As regards the auction of animals, submission of both the learned counsel for the parties is that auction did not take place. Dairy farms have been running quite for some time. Though Mr. S. Manu, learned standing counsel for Lakshadweep Administration, submitted that it is not financially viable and the continuation of the farms would result in financial loss to the Lakshadweep Administration, and therefore, a policy decision was taken, e-mail message does not indicate any such decision, and, in the abovesaid circumstances, the farms should be allowed to continue. As regards the allocation of work of preparation and supply of food to the school going children of Lakshadweep, by Akshayapatra, Bangalore, we have already recorded the submission of Mr. S. Manu, learned standing counsel for Lakshadweep Administration that there is no proposal to entrust the work relating to preparation of Mid Day Meals.

28. Giving due consideration to the submissions of learned counsel appearing for the parties, and the material on record, we issue the following interim directions:

- (i) Functioning of the dairy farms should be continued until further orders.

- (ii) Food, including meat, chicken, fish and egg, and other items, prepared and served to the school going children of Lakshadweep, as done in the past, should be continued until further orders. To make it clear, the earlier system should continue.
- (iii) Respondents are directed to file their counter along with supporting documents.

Post on 30.06.2021.

Sd/-
S. Manikumar
Chief Justice

Sd/-
Shaji P. Chaly
Judge

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P.A. TO C.J.