

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

&

THE HONOURABLE DR. JUSTICE KAUSER EDAPPAGATH

MONDAY, THE 31ST DAY OF MAY 2021 / 10TH JYAISHTA, 1943

WP(C) NO. 11591 OF 2021

PETITIONER:

MOHAMMED SADIQUE
AGED 55 YEARS
S/O M.P.CHERIYA KOYA, PURADAM HOUSE,
KAVARATTI, UT OF LAKSHADWEEP 682555.
BY ADV JOBY CYRIAC

RESPONDENTS:

- 1 THE ADMINISTRATOR,
UNION TERRITORY OF LAKSHADWEEP
KAVARATTI 682555.
- 2 THE UNION OF INDIA REPRESENTED
BY THE SECRETARY TO GOVERNMENT,
MINISTRY OF HOME AFFAIRS,
GOVERNMENT OF INDIA, NEW DELHI.
- 3 MINISTRY OF LAW AND JUSTICE,
REPRESENTED BY UNDER SECRETARY,
4TH FLOOR, A-WING, SHASTRI BHAWAN
NEW DELHI 110001.
- 4 THE JOINT SECRETARY (UD),
LAKSHADWEEP BUILDING DEVELOPMENT BODY,
KAVARATTI 682555
BY ADV.SRI.K.M.NATARAJ, ASG
SRI.S.MANU, LAKSHADWEEP ADMINISTRATION

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 31.05.2021, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

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-:2:-

J U D G M E N T

Dated this the 31st day of May, 2021

A.Muhamed Mustaque, J.

Petitioner is a native of Kavaratti in Lakshadweep Islands. He approached this court in this Public Interest Litigation seeking for a writ of mandamus directing respondents 1 and 4 to issue a fresh public notice giving 30 days' time to the public to submit their comments, suggestions etc with respect to Ext.P1 draft Regulations. According to him, in the light of Ext.P2 decision taken in the meeting of the Committee of Secretaries held on 10/1/2014 under the Chairmanship of Cabinet Secretary on the Pre-legislative Consultation Policy, there should be a minimum period of 30 days for public to raise their views/objections for any draft legislation. Ext.P1 is the Lakshadweep Town and Country Planning Regulation, 2021 which was published on 28/4/2021. It is stipulated in Ext.P4 that members of public can submit the comments, suggestions etc within twenty one days (on or

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before 19/5/2021) through registered post or email.

2. Petitioner submits that on account of Covid restrictions in the island, many like him could not raise their views, comments, suggestions, objections etc within that time. That apart, he points out that the stipulation of outer time limit of 21 days is against Ext.P2 decision taken in the meeting of the Committee of Secretaries held on 10/1/2014.

3. Heard the learned counsel for the petitioner Sri.Joby Cyriac, Sri.K.M.Nataraj, learned Assistant Solicitor General and Sri.S.Manu, learned counsel appearing for the Lakshadweep Administration.

4. Learned Assistant Solicitor General submits that stipulation of 30 days in Ext.P2 is a matter relating to administrative expediency to be followed and that cannot be construed as a right conferred upon a citizen as a matter of right to seek 30 days' outer limit for raising such objection. Any administrative instruction of such nature therefore cannot be relied upon to seek a writ of mandamus.

5. Learned counsel for the Lakshadweep Administration Sri.S.Manu has submitted that administration had received 593 comments, suggestions,

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objections etc and the same have been forwarded to the Ministry of Home Affairs.

6. It is for the Ministry to consider the suggestions, comments, objections etc as raised against the draft Regulations. Nothing would prevent the Ministry from entertaining any of the suggestions if it is worth consideration. It may not be proper for this Court to direct the Central Government or the Administrator to accept any suggestion or comments. However, in any system of governance, the Government would be eager to consider any such suggestion which may ultimately enable the Government to formulate their own decisions while granting approval of draft Regulations. Therefore, it is for the Central Government to consider whether any suggestions, comments or objections to be made by the petitioner or any person have to be accepted or not after the expiry of the time in the notification.

7. In such circumstances, we are of the view that if petitioner forwards his suggestions/comments to the Administrator within two weeks from today, the same shall be forwarded to the Central Government and it is for the Central Government to consider whether such

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objection, comments etc is to be accepted or not. The other prayers made in the writ petition are left open.

with the above observations, we dispose of this writ petition.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE

Sd/-

DR.KAUSER EDAPPAGATH, JUDGE

Rp

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APPENDIX

PETITIONER'S EXHIBITS:

- EXHIBIT P1 TRUE COPY OF THE RELEVANT PAGES OF THE DRAFT REGULATION NAMEDLY "LAKSHADWEEP TOWN AND COUNTRY PLANNING REGULATION 2021"
- EXHIBIT P2 TRUE COPY OF THE DECISION OF THE COMMITTEE OF SECRETARIES (CoS) UNDER THE CHAIRMANSHIP OF CABINET SECRETARY ON THE PRE-LEGISLATIVE CONSULTATION POLICY (PLCP).
- EXHIBIT P3 TRUE COPY OF THE ORDER D.O.NO.11(35)/2013-L.I. DATED 5/2/2014 OF THE 3RD RESPONDENT
- EXHIBIT P4 TRUE COPY OF THE PUBLIC NOTICE FNO.16/1/2021-LBDB DATED 28.4.2021 ISSUED BY THE 4TH RESPONDENT.
- EXHIBIT P5 TRUE COPY OF THE ORDER S NO.3/21/7/2020-CoL DATED 27/4/2021 ISSUED BY THE DISTRICT COLLECTOR AND CHAIRMAN, DDMA, UTLA.
- EXHIBIT P6 TRUE COPY OF THE ORDER S NO.E/21/7/2020-CoL DATED 11/5/2021 ISSUED BY THE DISTRICT COLLECTOR AND CHAIRMAN, DDMA, UTLA.

True Copy

PS to Judge

Rp