

## Explained: LDA Regulation, Lakshadweep

Lakshadweep, a group of 36 islands which is known for its sun-kissed beaches and lush green landscape is today seeking attention over the entire nation for the political conflicts and riots. The residents of Lakshadweep have been consistently protesting against some new regulations that has been introduced by Mr. Praful Khoda Patel, their new administrator, a former BJP leader who served as the Home Minister of Gujarat. The citizens-both from within Lakshadweep and neighbouring Kerala, the local BJP leaders and even the MP Mohammad Faizal is of the opinion that the new administrator is least bothered of the islanders' culture & ecology. The new developmental rules permit the sale of liquor on island, bans beef and makes various plans to make the islanders vulnerable. This Regulation is alleged to be in violation of the Supreme Court guidelines for carrying out the developmental works in the ecologically-sensitive islands. The #SaveLakhsadweep campaign is going viral all over the social media calling for the attention of people and raise their voice in support of the islanders.

### **WHAT IS LDAR, 2021 & ITS PROVISIONS**

The Draft Lakshadweep Development Authority Regulation or LDAR, 2021 has been proposed with the main motive to change the existing land ownership & usage of the island. This legislation gives extensive and arbitrary and unchecked powers to the government by allowing it to prepare any developmental plans for any area. He can choose any land as 'Planning area' and relocate people under this regulation. After the government decides the usage of any particular land, the owner would have no control over that land from that very moment because now the land will be used for "public purpose" and is under the acquisition of the government. When we say for the 'developmental plans', it would include activities like building, mining, engineering, quarrying or other operations, the cutting of a hill or any portion or the making of any material change in any building or land including sub-divisions of any land.

- This regulation has been brought into force to make changes in the provisions and methods for development of township & acquiring, altering & transferring the land owned by the residents of

Lakshadweep. The power of land acquisition which is sweeping, arbitrary & unchecked has been exclusively given to the Government without the consultation of the residents.

- According to this Regulation, no developmental plan shall be put to question by anyone, including the legal proceedings too.
- The most controversial aspect of this regulation is that it puts a ban or bars those persons having more than 2 children from contesting elections of Panchayat and becoming a member of the gram panchayat. This has been put forward in the Draft Lakshadweep Panchayat Regulation, 2021.
- This legislation seeks to ban the slaughter of animals like cow, calf, bull & buffalo without the requirement of certificate from the competent authority. It also forbids the sale, transport & storage of beef & beef products. Any act done against the provisions of this regulation will lead to penalty including imprisonment of 1 year & a fine of Rs 10,000.
- The Administration through this legislation has allowed the sale of liquor to be served at resorts on inhabited lands. Further it has been clarified by the collector S Asker Ali that the permission of liquor would be given only to resorts for tourists and not for locals.
- The draft Lakshadweep Prevention of Anti-Social Activities Regulation, that provides for the detention up to 1 year for the prevention of any act which is prejudicial to the maintenance of public order, allows such kind of detention without any legal representation. The Collector is of the opinion that there have been reports concerning supply of drugs along with weapons and live ammunition. Henceforth this regulation is required to ensure that the youths don't get misguided by the illegal businesses.
- For the last 1 year, Lakshadweep did not record any case of Covid-19 pandemic. All credits to the strict & stringent quarantine protocols & testing of travellers importing to their territory. Only a person with a negative RT-PCR certificate that has been issued within the 48 hours can travel to Lakshadweep. The Standard Operating Procedures were modified in accordance to the Home Ministry rules & to allow for the reopening of the economy.

### **ARGUMENTS IN FAVOUR OF LDAR**

- This Regulation gives power to the Government and its Planning & Development authorities to evict those persons who illegally occupies the land.
- This regulation has been proposed for the development of towns in island.
- Its sole motive is to provide islanders with adequate provisions for rehabilitation & resettlement of those persons & families affected by the land acquisition.
- Its objective is to develop this territory “into a smart city” in future.
- This regulation will pave the way for development & go a long way in improving the social & ecological standard of the island, which was lagging behind other territories despite having the potential.

### **ARGUMENTS AGAINST THE LDAR**

According to the citizens & rebels, these are the following reasons of discontentment & disagreement for the new regulation:-

- The 10 populous and inhabited islands were out under a 2 months lockdown.
- The Lakshadweep administration is accused of exploiting the public due to its inability to mobilize arbitrary legislation during this pandemic.
- The islanders says that this regulation is not in concurrence with the socio-political & environmental requirements. It would hit the fundamental rights of the citizens guaranteed under Article 14 & 21 of the Constitution.
- Most of the islanders suspect that Lakshadweep Development Authority Regulation itself has been issued to exploit the locals by seeking real estate interests to seize & overthrow the small holdings of property owned by them.
- The islanders fear that in the mere future through the provisions of LDAR, they can be forcibly evicted by the government & its administrators. The owner will be obliged to develop the holding as per the plan by the authority regardless of their will.
- This regulation provides arbitrary, sweeping & unchecked powers to the government & its bodies to interfere with the rights of the islanders to acquire & retain their property.

- Residents view that the ban on slaughter of cows, calf, bull & buffalo is a direct infringement of their culture & eating habits. They allege it to be absolutely discriminatory as this rule was made without previous consultation with the local bodies.
- Permitting the sale of liquor will eventually lead to the growth & expansion of liquor market in the island, which was witnessing near prohibition till now.
- The islanders fear that the large infrastructural and tourism projects can destabilise the ecology & henceforth they allege that this regulation is neither ecologically sustainable nor socially viable.
- The residents doubt the implementation of 'Prevention of Anti-Social Activities Regulation', a 'goonda act' in Lakshadweep which is best known for the lowest crime rate in the country. They allege it to be brought into force to arrest the ones who oppose to the Administration.

### **WHAT LAKSHADWEEP ADMINISTRATOR MR. PATEL SAYS:-**

In response to all the allegations & contentions Lakshadweep Administrator Patel says that there's no plan for rollback of plans. They will be implemented in the territory after getting the approval from the Ministry of Home of Affairs. He says that the provisions of this regulation have been made for the orderly & progressive development of the land (both in rural & urban areas). It is not arbitrary on the part of government to provide for the township development & the countryside of Lakshadweep via principles that secures good governance, promotes tourism and promote & improve public health & general welfare of people living therein.

He answered to all the contentions by clarifying the meaning of the provisions. Mr. Patel, on the ban on slaughter of cow, calf, bull & buffalo said that the law was drafted to ensure the preservation of animals suitable for milch, breeding or agricultural purposes.

On the beef issue, he made it very clear that there's no politics involved in it. If we had intended to play politics, we would have opted exclusively for vegetarian food in mid-day meals for children & henceforth it should not be viewed on community basis.

For the public disagreement on the provision of two-child policy in Lakshadweep for contesting panchayat election, he said that many have misinterpreted this provision. This proposal disqualifies or exempts those members of gram panchayat having more than 2 children after the law came into force. He added that there's also a provision of reserving 50% of the seats for women but this isn't being highlighted in the media.

On the contentious issue of permission for the sale of liquor, he said that the grant for the sale of liquor is permitted only to the tourists & not the locals. Tenders have already been invited for the maintenance of the eco-tourism resort at Bangaram island in Lakshadweep.

Mr. Patel who along with Lakshadweep is also the administrator of Dadra and Nagar Haveli and Daman & Diu, said that he wishes to fully develop Lakshadweep for the benefit of islanders & covert the small islands into world class villages.

### **CRITICAL ANALYSIS**

The draft Lakshadweep Development Authority Regulation put forward provisions for the development of towns in Lakshadweep. It will be enacted by the President by exercising the powers conferred upon him by Article 240 of the Indian Constitution to make regulations for peace, prosperity, progress & good governance of the Union Territory of Lakshadweep.

According to the section 5 of this Regulation, the Government can declare any area as "planning area" and on such declaration the Regulation shall apply to such area. Then after the declaration of planning area under section 5, according to section 7, the Government after consulting with the Prescribed Authority, constitute an authority for that area named as "Planning & Development Authority" to perform the assigned the function. Under section 16 & 18, the Planning and Development Authority will frame Development Plans.

Thereafter, the Planning & Development Authority will submit its development plans to the Government for its approval under section 23. According to section 24, after obtaining approval, the Planning & Development Authority shall publish by notification regarding the approval of the final development plan. It is further provided that such

kind of publication shall be considered to be a declaration made under section 19 of the Land Acquisition Act. And once a declaration is announced under section 19 of the said act, it will be deemed to be a conclusive evidence that the land is required for a public purpose & the Government may acquire the land.

The president is conferred with immense powers under Article 240 of the constitution & hence by a regulation under Article 240 can amend or repeal any Act made by Parliament which is currently being enforced in the Union Territory. This implies that the regulation can amend the provisions of the Land Acquisition Act which is applicable to Lakshadweep. **Henceforth, the amendments under section 22 & 24 would defeat the very objective of the Land Acquisition Act.**

Section 11 of the Land Acquisition Act was enacted with the objective that the nature of the public purpose that necessitated the displacement of affected persons, particulars of the Administrator appointed for the purpose of rehabilitation & resettlement & summary of Social Impact Assessment Report shall be mentioned in the notification. But under the Development Plan published under section 22, no such particulars as is required under section 11 of the Land Acquisition Act is available. Another salient objective of the Land Acquisition Act is to provide adequate provisions for rehabilitation & resettlement of those persons & families affected by the land acquisition. Section 19 of the said act was enacted with this very objective. Section 19 says that the declaration shall contain therewith the area identified as resettlement area in addition to the summary of the rehabilitation & resettlement scheme. No declaration under this section can be made until & unless the summary of rehabilitation & resettlement scheme is published. But under the Development plan published under section 24, no such summary as required under section 19 of the Land Acquisition Act is available. **Therefore, section 22 & 24 of the Regulation defeats the very objective of the Land Acquisition Act.**

Section 29 states that any land which is reserved or designated in the Development Plan shall be considered to be the land acquired for “public purpose” within the ambit of Land Acquisition Act. But this provision is arbitrary because when we refer to “public purpose”, it shall be determined on a case to case basis, analyzing the facts & circumstances of the case instead of generalizing it by including a handful of activities, as was laid down by the Supreme Court in the case

**of State of Haryana & Others vs Vinod Oil and General Mills & Anr, 2014 (15) SCC 410.**

The Regulation allows the Government and the Planning & Development Authority to proliferate & transfer the land owned by the resident of Lakshadweep which directly **infringes their Fundamental Rights guaranteed under Article 14 & 21 of the Indian Constitution.**

After the forced eviction or in other words acquisition of the land owned by the residents, it would be difficult on their part to find an alternate property due to the limited geography & community life of Lakshadweep. It implies that no amount of compensation can be equivalent & compensate the loss suffered by the residents due to their acquisition of land. In this regard, in the landmark case of **Olga Tellis vs Bombay Municipal Corporation, 1985 (3) SCC 545**, the Supreme Court extended the scope of Article 21 & now it also includes the Right to Livelihood that implies right to be allowed to remain on the pavements. The same may be restricted by the procedure established by law that should be just, fair & reasonable. Also, Article 300A says that “No person shall be deprived of his property save by authority of law”. The ‘authority of law’ shall be reasonable & in non-arbitrary manner as was held by the Supreme Court in **Ramana Dayaram Shetty vs The International Airport Authority of India & Others, 1979 (3) SS 489.**

### **CONCLUSION**

Just like ever coin has 2 sides, similarly every act, regulation or legislation is subjected to widespread support as well as criticism. But what I believe, being an aware & responsible citizen is that a regulation shall be more inclined towards the general welfare of the people. It is the duty of the Government to recognise & implement those policies that would generate employment opportunities, ensure livelihood to its citizens, environment friendly management of fisheries, proper sanitation, access to drinking water & access to basic amenities of life in addition to the youths having more access to modern & standardized education with efficient jobs. In my opinion the act of land acquisition should not result in individuals being homeless or vulnerable. Before contending any act or legislation, every citizen must be aware of the rights guaranteed to them. The National Human Rights Commission

must take necessary steps to aware the common citizens about their rights & shall also provide mechanism to enforce those basic human rights. The regulation instead of disturbing the culture & ecological balance shall preserve the culture & heritage and also conserve & manage the natural resources of the territory.

I don't understand what's the use of such a developmental plan or project where the people residing are being thrown away & rendered homeless & vulnerable? How will the government develop the towns when it is at the stake of people's livelihood? A good governance is the one that promotes & conserves the general welfare of the people & ensures a general living of its citizens. A developmental & progressive plan shall never be at the cost of residents being forcibly evicted & losing their shelter. Therefore, every citizen should be ensured adequate alternative housing, resettlement or access to productive land as was in the case of **Ahmedabad Municipal Corporation vs Nawab Khan Gulab Khan**, where the court held that the removal of the pavement dwellers by any state or territory is allowed only when they are provided with alternate accommodation. Strictly adhering to the provisions of Article 21 that guarantees Right to Life & Article 19 (1)(e) which guarantees the right of every citizen to reside & settle in any part of the country is the constitutional obligation for the government & its bodies.