

W.P.(C) No. 12508/2021 : 1 :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE THE CHIEF JUSTICE MR.S.MANIKUMAR

&

THE HONOURABLE MR. JUSTICE SHAJI P.CHALY

FRIDAY, THE 17TH DAY OF SEPTEMBER 2021 / 26TH BHADRA, 1943

WP(C) NO. 12508 OF 2021

PETITIONER:

AJMAL AHMED R.,
AGED 29 YEARS
S/O. M.I. ATTAKOYA, RESIDING AT RABIYODA (H), KAVARATTI P.O.,
EXECUTIVE MEMBER OF LAKSHADWEEP BAR ASSOCIATION, UNION
TERRITORY OF LAKSHADWEEP-682 555.
BY ADVS.
PEEYUS A.KOTTAM
HRITHWIK D. NAMBOOTHIRI

RESPONDENTS:

- 1 UNION OF INDIA,
REPRESENTED BY ITS SECRETARY, SECRETARIAT, IP ESTATE, NEW
DELHI-110 002.
- 2 THE UNION TERRITORY OF LAKSHADWEEP,
REPRESENTED BY ITS ADMINISTRATOR, KAVARATTI P.O.,
LAKSHADWEEP, PIN-682 555.
- 3 PRAFUL KHODA PATEL,
ADMINISTRATOR, LAKSHADWEEP ADMINISTRATIVE SECRETARIAT,
KAVARATTI P.O., LAKSHADWEEP-682 555.
- 4 DEPARTMENT OF ANIMAL HUSBANDRY,
REPRESENTED BY ITS DIRECTOR, LAKSHADWEEP ADMINISTRATION,
KAVARATTI P.O., LAKSHADWEEP-682 555.
- 5 DEPARTMENT OF EDUCATION,
REPRESENTED BY ITS DIRECTOR, LAKSHADWEEP ADMINISTRATION,
KAVARATTI P.O., LAKSHADWEEP-682 555.
- 6 NODAL OFFICER OF MID-DAY-MEAL AND EDUCATION OFFICER,
DEPARTMENT OF EDUCATION, UNION TERRITORY OF LAKSHADWEEP
ADMINISTRATION, KAVARATTI P.O., LAKSHADWEEP-682 555.

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7 VETERINARY SURGEON,
ANIMAL HUSBANDRY COMPLEX, KAVARATTI P.O.,
LAKSHADWEEP-682 555.

BY ADVS.
R1 BY SRI.K.SHRI HARI RAO, CGC
R2 TO R7 BY SHRI.MANU.S, SCGC,

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
17.09.2021, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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Dated this the 17th day of September, 2021.

JUDGMENT

SHAJI P. CHALY, J.

This is a Public Interest Litigation filed by an Advocate practicing in this Court and the Executive Committee member of the Lakshadweep Bar Association and a permanent resident of Kavaratti Island, Union Territory of Lakshadweep, seeking to quash Ext. P2 order passed by the Lakshadweep Administration dated 21.05.2021, whereby the Director of the Department of Animal Husbandry, Kavaratti has *inter alia* issued directions on the basis of the direction issued by the Secretary (Animal Husbandry), Union Territory of Lakshadweep to close all the dairy farms run by the Department of Animal Husbandry and to dispose of the bulls, calves etc. immediately in the presence of the Action Committee Members by giving wide publicity and observing other formalities, and to quash Ext. P4 minutes of the UT Level Steering Cum Monitoring Committee and District Task Force on Midday meal scheme, dated 27.01.2021, whereby the existing menu was modified by deleting meat and chicken, and including fruits and dry fruits.

2. Material facts for the disposal of the writ petition are as

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follows:

The Union Territory of Lakshadweep, comprising 11 inhabited islands and 16 uninhabited islands, is a single district union legislature with an area of 32 Sq. Kms., having a total population of 64429, as per the census of 2011. The concern expressed by the petitioner is the alleged misery and suffering of the people of Lakshadweep Union Territory due to the measures implemented by the Administrator of the Union Territory of Lakshadweep, which according to the petitioner, would destroy the culture and ecology of the island.

3. The case of the petitioner is that the reforms are being implemented by the Administrator of the island in blatant violation of the principles of natural justice and even without allowing the islanders to raise their objections in regard to the reforms suggested. It is also contended that the unilateral reforms made by the Administrator are capricious and arbitrary and has interfered with the life, liberty and freedom of the islanders and reforms are going to be implemented without publishing the draft regulation in the local language and in the local vernacular purposefully for depriving the islanders to understand about such drafts and deprive their right to raise voice and objection against such movement.

4. It is also submitted that the Administrator and the officials of

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the UT Administration are silently implementing draconian measures even during the lock-down period fully knowing that during the time of pandemic, the public will not protest against such illegal actions, and even though protests were raised, they were arrested and put behind the Bars alleging that they have violated the Covid-19 protocol.

5. The sum and substance of the contention is that the Administrator is attempting to impose his hidden and mischievous personal agenda, which is in violation of Articles 15, 16, 19, 21 and 300A of the Constitution of India. The paramount contentions advanced with respect to Ext. P2 order passed in regard to the closure of the animal husbandry activities are that during late 1960s, the then Administrator had introduced poultry, and the livestock, and poultry production in the islands continued till 1970. However, the Government of India later introduced several schemes to promote poultry production in the island. Till the 8th Five Year Plan, the development of the Animal Husbandry made the inhabitants conscious of better varieties of livestock and poultry by establishing poultry and dairy demonstration units in different islands.

6. According to the petitioner, from the 8th Five Year Plan onwards, scheme has been envisaged to boost up production of high yielding livestock and poultry from various farm oriented programmes,

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and to attain the result, the Animal Husbandry Department launched latest technology and related factors on intensified poultry development, and accordingly, large number of beneficiaries have come forward to take up the scheme in poultry sector.

7. The Animal Husbandry Department has started two cattle farms with cows/buffaloes/calves and is producing milk everyday and the milk is being sold at the rate of Rs.35/liter. But, it is submitted that the Animal Husbandry Department has not taken any steps for reforming the farm by introducing new and modern technology and on the other hand, it has now adopted destructive methods to stop the functioning of the farms and jeopardize the progress and development of Animal Husbandry. The petitioner has produced a list of farm products dated 29.07.2020 and marked as Ext. P1.

8. The allegation made by the petitioner against the Administrator is that the Administrator took charge on 05.12.2020 and his top priority was to close down the farms conducted by the Department of the Animal Husbandry in the islands and to attack the food habits of the islanders, which was being followed from the time immemorial . It is also the case of the petitioner that if the farm is properly managed, it will be a blessing for the islanders and many of them will get job opportunities and it would be helpful for the farmers

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to engage in the poultry and farming sector.

9. However, without any notice and even without any consultation with the elected representatives of the people, at the instigation of the Administrator, the Director of Animal Husbandry issued Ext. P2 to close down all the dairy farms run by the Animal Husbandry Department. Consequently, Ext P3 public auction notice was published on 28.05.2021 to sell off the animals. The paramount contention advanced in that regard is that the attempt to close down the farm owned by the Department of Animal Husbandry is with an intention to implement the proposed Animal Preservation (Regulation), 2021, which bans slaughter of the cow, calves, bulls etc.

10. It is also submitted that the Central Government is preparing various plans promoting dairy farms throughout the nation and helping each State and Union Territories to promote dairy farming to achieve self sufficiency, but quite contrary to the programme envisioned by the Government of India, the Administrator is adopting measures to destroy the well functioning dairy farms and other available infrastructure established in the island for promoting dairy farm.

11. With respect to the modification of the mid day meal scheme, it is submitted that chicken and meat were there in the menu

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of midday meals for school children in Lakshadweep Islands from its inception; but, now the Administrator wanted to intervene and with the intention of implementing the agenda, a meeting of the Union Territory Level Monitoring Committee was held at his instance and suggested a new menu totally altering the prevailing menu for midday meal for the students in the islands.

12. It is the primary contention that the midday meal scheme was started in the year 1950 and from then onwards, cooked meat were being served from pre primary to elementary stage, and from 2007 onwards, the Union Territory Administration had extended the programme upto 10th Standard and from 2008, the programme was extended upto to 12th standard. It is submitted that a new menu is implemented even without any deliberation and consultation and consequent to which meat products were completely removed from the menu, and are about to entrust the preparation of food for the midday meal scheme to a non-Governmental Organisation namely 'Akshayapatra' having its office at Bangalore.

13. It is the contention of the petitioner that the midday meal programme was being conducted without any room for complaint; but still the Administrator wants to interfere with the well articulated programme and to make it a messy one, which according to the

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petitioner, is illegal, highly condemnable and arbitrary. It is also the case of the petitioner that the Director of Education, evident from Ext. P5, has started discussion with M/s. Akshayapatra and as a preliminary step to entrust the midday meal programme to the said Non Governmental Organisation, 105 employees, who were engaged as cooks in the school, were removed from service, evident from Ext. P6 dated 02.02.2021.

14. It is also the case of the petitioner that the main objective of the scheme is to provide wholesome food having requisite calorie to school children for improving nutritional status of children and motivate them to attend the school regularly. Ext. P7 is the relevant pages of the National programme of midday meal in annual plan 2020-2021 of Lakshadweep Administration. According to the petitioner, even though all the participants in the meeting of the Union Territory Level Steering Cum Monitoring Committee and the District Task Force on midday meal held on 27.01.2021 had expressed the need of a healthy balanced diet at the instance of the Administrator, Ext. P4 has been passed modifying the food items served excluding meat, which according to the petitioner, is a totally arbitrary and illegal action, liable to be interfered with by this Court. In the above factual backdrop, the following reliefs are sought for by the petitioner:

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1. To call for the entire records leading to Ext. P2 and P4 and quash the same by issuing a writ of certiorari or any other writ, order or direction.
2. To issue a writ of mandamus or any other appropriate writ, order or direction and thereby command the 1st and 3rd respondents 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 Article 19 and 300 A of the Constitution of India.
3. To issue a writ of mandamus or any other appropriate order or direction and thereby command the 1st and 3rd respondents not to implement the draft regulations named Prevention of Anti Social Activities Act, 2021 (PASA, 2021), Lakshadweep Animal Preservation, 2021 Lakshadweep Panchayat 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 objections against implementing such regulations.

15. During the course of arguments, learned counsel for the petitioner submitted that he is confining his arguments to relief Nos. 1 and 2 and is not pressing the third relief.

16. Respondent Nos. 2 to 7 namely the Union Territory of Lakshadweep, the Administrator in person, Department of Animal Husbandry, Department of Education, Nodal Officer of the Mid-Day-Meal and Education Officer, Department of Education and Veterinary

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Surgeon, have jointly filed a counter affidavit refuting the allegations made by the petitioner, especially the personal allegations made against the Administrator.

17. The case put forth by the Administrator is that the intention of the petitioner is to malice and tarnish the reputation of the Administrator and there is no *bona fides* in the allegations made and that they are not supported by any material. It is contended that the activities of all Departments of the Administration are being periodically reviewed. A meeting to review the overall functioning, including the staff strength, budget, schemes etc. of 10 Departments of the Administration was conducted by the Advisor to the Administrator on 19.4.2021 to 23.4.2021. Details of activities, projects, institutions etc. of various Departments were called for prior to the issuance of the meeting notice to ensure detailed discussions in the meeting. Ext. R2(a) is the copy of the meeting notice dated 17.4.2021 issued by the Department of Finance and Accounts.

18. It is also stated that a review of the functioning, projects etc. of the Animal Husbandry Department was scheduled on 20.4.2021. The Director, Animal Husbandry, submitted a detailed note on the functioning of dairy farms in the meeting held on 20.04.2021, evident from Exhibit R2(b) dated 16.04.2021._

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19. The note prepared by the Director contains details of the functioning of the dairy farms during the financial years 2019-2020 and 2020-2021. It shows that there are 34 animals in the dairy farm at Kavaratti, and 14 casual labourers are working in the farm. However, the average daily milk production is only 87 liters per day. Only about 150 to 200 people are able to be supplied with milk when the population of the island is more than ten thousand. The total annual expenditure during 2019-2020 was Rs.62,46,924/-, whereas the revenue generated was only Rs.11,35,330/-. The deficit was Rs.51,11,594/-. During 2020-2021, the total expenditure was Rs. 57,95,691/ and the total revenue generated was Rs. 14,19,301/- and the deficit was Rs.43,76,390/-.

20. The note also shows that the number of animals in the dairy farm at Minicoy Island is 34 and 16 casual labourers are engaged for various works in the farm. The average milk production is only 83 liters per day. The population in Minicoy Island is also more than ten thousand and the dairy farm is catering to the requirements of only about 150 to 200 people. The total expenditure during 2019-2020 was Rs. 65,13,374/-; whereas the revenue generated was only Rs.12,12,301/-, and therefore the deficit was Rs.53,01,073/-. During 2020 -2021, the total expenditure was Rs.51,32,551/- while the total

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revenue generated was only Rs.11,75,440/-, and the deficit was Rs. 39,57,111/-. Thus, the total loss for conducting the two dairy farms during 2019-2020 and 2020-2021 were Rs. 94,87,984/- and Rs.92,58,184/- respectively. According to respondents 2 to 7, those figures clearly show that the dairy farms together cater to the needs of only 300 to 400 people from among more than 20,000 people of the two islands, and that too in a limited manner. However, the Administration has to suffer a loss of more than Rs. 90 lakhs per year to sustain these dairy farms.

21. It is also stated that the above said facts and figures were discussed in detail in the review meeting held on 20.04.2021. The limitations due to geographical conditions like non availability of green fodder etc. which impair animal husbandry activities and limited production of milk were also discussed. After a detailed analysis, it was felt imprudent to continue the functioning of the dairy farms, suffering huge loss of more than Rs 90 lakhs per year and therefore, it was decided to stop the functioning of the dairy farms and the Secretary, Animal Husbandry directed the Director to take steps to close down the dairy farms and to conduct auction for the sale of animals.

22. Thereafter, Exhibit P2 communication was issued by the Director. It is further stated that the decision to close down the farms

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has been taken after a thorough analysis of the functioning of the farms and the heavy loss sustained to the public exchequer, that it is a policy decision taken for valid reasons and that nobody has any right to compel the Government to engage in a commercial activity resulting in huge loss to the exchequer.

23. The auction has been postponed since no bidders came forward, it is admitted. It is further stated that the decision to close down the farms has no relation to the proposed Animal Preservation Regulation and the petitioner is not justified in alleging that the decision to stop the functioning of dairy farms which were catering to the requirements of only a miniscule section of the population and that too, in a limited manner is an interference with the food habits of the people of the islands.

24. According to respondents 2 to 7, the central schemes or programs mentioned by the petitioner can be implemented only if the same are viable and suitable in the island conditions. As stated above, because of the peculiar geographical and climatic conditions of the Union Territory of Lakshadweep, the promotion of animal husbandry activities cannot be made on a large scale as in the other parts of the country.

25. It is also contended that the petitioner has raised a totally

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baseless and ill motivated allegation against the Administrator in charge that he wanted to change the menu of midday meal of the school students by omitting meat and chicken and at the same time, the petitioner himself has produced Exhibit P4, which shows that the decision to omit meat and chicken was taken in the meeting of UT Level Steering Cum Monitoring Committee held on 27.1.2021. The list of participants annexed to the minutes shows that the Administrator in charge had not attended the meeting and no suggestion or direction was given to the committee by the Administrator in that regard as is evident from the minutes and therefore, the allegation raised against the Administrator is totally baseless and malicious, it is contended.

26. It is further submitted that, the petitioner, who has approached this Court as a public interest litigant, has not even made any attempts to understand the requirements and functioning of the midday meals scheme. It is submitted that the statutory provision in that regard is the Midday Meal Rules, 2015 made in exercise of the powers conferred by sub-Section (1) read with clause (b) of sub-Section (2) of Section 39 of the National Food Security Act, 2013 ('Act, 2013' for short) by the Central Government.

27. Rule 5 deals with preparation of meals and maintenance of standards and quality. According to sub-Rule (1), the meal shall be

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prepared in accordance with the Midday Meal guidelines issued by the Central Government from time to time and in accordance with the provisions of Schedule II of the Act. As per schedule II of the Act, the Midday Meal for lower primary classes should have 450 calories and 12 gram protein. For upper primary classes, the requirements are 700 calories and 20 gram of protein. Neither in the Rules nor in any directions issued by the Central Government, there is any stipulation that meat and chicken shall necessarily be provided in the Midday Meal.

28. Ext. R2(c) is the relevant portion of the MDM guidelines issued by the Government of India. According to respondents, it is for the respective State/UT Governments to decide the menu in any appropriate manner satisfying the nutritional requirements and the previous menu followed in Lakshadweep was formulated by the Administration itself.

29. It is also pointed out that in the menu of many other States, no non vegetarian items are included. Ext.R2(d) is the copy of the relevant pages of the annual work plan of the midday meal scheme of Andaman & Nicobar. Ext.R2(e) is the copy of the relevant pages of the annual work plan of the midday meal scheme of Goa. Ext. R2(f) is the copy of the relevant pages of the annual work plan of midday meal

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scheme of West Bengal. Ext.R2(g) is the copy of the relevant pages of the annual work plan of midday meal scheme of Puducherry.

30. It is also stated that the meeting of the Union Territory Level Monitoring Committee will have to be held every six months, and on 27.01.2021, the same was held to follow up this procedure. Power to bring minor modifications, such as alteration of menu is delegated to the committee as clarified by the Ministry of Human Resources Developments vide their letter dated 14.03.2019 issued to all States and Union Territories. Even though the committee has the power, only slight modification of the menu was done; enough non-vegetarian food was included in the menu and as an additional, dry fruits were also included. Nutrition needs of the children can easily be satisfied with the altered menu. At the time of alteration of the menu, the objectives of MDM scheme were taken into consideration. Prescribed nutrition requirement under MDM guidelines is as follows:

- 450 calories and 12 g protein to every child at primary level
 - 700 calories and 20g of protein at upper primary level
- Table showing nutrition available in different food provided under present MDM menu is as follows:

Source	Calories	Protein
Egg	160	12g
Fish(Tuna)	191	42g
Rice	130	3.45g
Green gram	211	14.2g

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Dal	132	7.2g
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31. According to respondents 2 to 7, the above menu is sufficient to meet the nutrition needs of the children. Further, when the first objective of MDM scheme is taken note of, it is clear that the same should improve the nutritional status of the children and from the varied menu, children will be getting a balanced nutrition. The MDM should provide additional nutrition to the children and not a substitution for the nutrition they are getting from the home. In the guidelines, it is also mentioned that the authorities should give awareness to the parents that "school MDM is meant to be an addition to, and not a substitute for, meals which parents should in any case provide to the children at home". The second objective is that MDM should encourage poor children to attend school regularly. However, it is pertinent to note that in UT of Lakshadweep, the school dropout percentage is zero.

32. It is stated that in the last academic year, Lakshadweep Administration was providing MDM food kits, instead of hot cooked meals, which contain rice and cooking costs like oil, salt, dal etc. Ext. R2(h) is the copy of the report submitted to the Ministry in that regard. There are no malnourished students in the UT of Lakshadweep; that the Administration is providing MDM till 12th

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standard, though as per the Central Government guidelines, MDM is mandatory only till 8th standard and the UT of Lakshadweep is providing MDM for pre-primary students also. Cooking cost per child per day as per the Government of India, MDM guideline, the ratio of Central Share norms is as below:-

Classes	Central share	UT Share	Total
Primary	4.97	16.52	21.49
Upper Primary	7.45	11.70	19.15
Preprimary	-----	23.19	23.90

It is submitted, per capita expenditure for MDM Scheme from UT Share in Lakshadweep is highest in India.

33. The physician present in the Steering cum Monitoring Committee meeting had suggested non-vegetarian items like fish, egg and chicken and she also suggested dry fruits. Dry fruits were not included in the earlier menu. The above opinion was taken into consideration and therefore, dry fruits were added into the menu for the first time. So also, fruits were included in the menu for two days. For substituting chicken, the content of fish and egg has been increased and this can provide a balanced nutrition to the children. Fish and eggs are the ideal non-vegetarian food source for growing kids as it is a rich source of protein, Vitamin-A, Omega 3, amino acid and helps in growth and overall development of the children .

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34. Further, it is contended that the objective of the midday meals scheme is not to provide the same food items, which the children normally get at their homes in the school also. In Lakshadweep, meat and chicken are normally part of the regular menu in almost all families. On the other hand, consumption of fruits and dry fruits is very less among the islanders. Therefore, omitting meat and chicken from the menu of mid-day meals scheme and inclusion of fruits and dry fruits is perfectly in tune with the objective of the midday meal scheme.

35. While making this slight change in the menu, the Department has also taken into consideration the availability of food items included in the earlier menu. Even though meat was there in the earlier MDM menu, most of the time, it had to be substituted due to non-availability. As per the guidelines of food safety and hygiene for school level kitchen under MDM Scheme, for procurement of perishable raw materials, 'the vegetables, fruits and perishable food commodities should be procured fresh, and storing for a longer time/duration should be avoided'. In light of the above, in the UT of Lakshadweep, fresh fish is more easily available on a daily basis for consumption in comparison to meat.

36. Further, maintaining hygiene while storing/ transporting

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meat may be an issue. During monsoon season, it becomes more difficult to bring sufficient quantities of meat for smooth functioning of the MDM scheme. Fish, egg and dry fruits can be made available in an easier way in Island's context. The non-availability of sufficient storage facilities in the islands will not hamper providing nutritious midday meals to the children, if meat and chicken are omitted from the menu. Therefore, it is submitted that the decision to make slight changes in the menu has been taken after considering all relevant circumstances and without compromising the nutritional requirements.

37. It is further stated that the Department of Education is not having any plan to entrust the implementation of MDM scheme to the NGO namely "Akshayapathra". The petitioner is making incorrect allegations to mislead this Court. Exhibit P6 order was passed because the cooks were not having sufficient work to do. The schools were not functioning properly due to the Covid 19 outbreak and therefore, the MDM scheme was functioning through providing food kits to the children. The cooks were engaged on a casual basis for 89 days and when there is no work, those casual laborers will be disengaged to prevent huge loss to the Government exchequer.

38. It is submitted that Exhibit P7 is the annual work plan and budget prepared by the UT of Lakshadweep for the academic year

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2020-2021 and therefore, the same is not applicable to the present academic year. Every year, the annual work plan and budget is prepared to suit the upcoming changes and proper allotment of available funds and it is not necessary that the policies, plans and fund allocation should be similar to the previous year and the same will change every year. Providing nutritious food to the children is the Government's concern and the same is not compromised anywhere as alleged by the petitioner. There is no uniform structure for the MDM scheme menu and the only aspect is that sufficient nutrition should be provided. Nowhere in the Rules or the instructions issued by the Central Government, it is mentioned that a certain menu should be followed without interruption for years.

39. The allegations of the petitioner in paragraph 12 of the statement of facts against the 3rd respondent, according to the respondents, are ill motivated and incorrect. The 3rd respondent, as the Head of the Union Territory Administration, has been acting in accordance with law and the administrative reforms made by the Lakshadweep Administration are all well within the Constitutional framework. An organized and politically motivated campaign at the behest of some political parties is going on against the Lakshadweep Administration and the petitioner had filed this writ petition to

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contribute to the political campaign.

40. It is also contended that the petitioner, despite being a lawyer, is expressing his scant respect for the process of law as he is raising an issue which was examined by this Court and decided in favour of the Administration. The revision in the Covid SOP made in the last week of December, 2020 was challenged before this Hon'ble Court and all challenges were repelled by this Court. In W.P.(C) No.1079 of 2021 and W.A No. 215 of 2021, a Division Bench of this Court analysed the revised SOP in detail and rejected the challenge against the same. It is also relevant to point out that despite the Union Home Ministry directing removal of restrictions for interstate movements long ago, the Lakshadweep Administration followed a strict SOP restricting the movements to the islands till the last week of December, 2020 and revised the same for rejuvenating the economic activities and to bring back normalcy. The Administration provided free quarantine facilities to thousands of persons moving to Lakshadweep at Kochi and conducted thousands of free RTPCR tests at Kochi. The Administration ensured required health care facilities in the islands and managed the surge in covid cases effectively.

41. It is further submitted that, it is a basic principle that the pleadings in a writ petition shall not be couched in defamatory,

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scandalous and inappropriate language. Though he claims to be a lawyer, the petitioner has repeatedly breached the said fair principle in this writ petition, which is liable to be deprecated by this Court. He alleges that some employees were disengaged by the Administration. All those disengaged were casual employees or contract employees having no right to continue in service permanently. Disengagement of casual cooks in schools is due to non-functioning of schools due to Covid pandemic and huge amounts were being paid to them with no work. Similarly, casual employees working in the Tourism Promotion Society had to be disengaged because tourism activities came to a halt due to the pandemic. Disengagement of excess casual employees in various establishments is a step to prevent loss to the public exchequer. No Government can afford to keep casual employees engaged and paid without any work and nobody has a right to compel any Government to do so. It is not a matter which can be examined in a Public Interest Litigation, as it is purely a service matter. The averment regarding the regulations proposed by the Administration is also devoid of merits and the challenge against the proposed regulations has already been rejected by Division Benches of this Court.

42. It is further contended that the decision to increase

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shipping operations from Mangalore has been taken because of various valid reasons. The said port is closer to several islands of Lakshadweep compared to Beypore. Facilities available at Mangalore are much better than that of Beypore. Operating of ships and barges from Mangalore will help to reduce time taken for operations to many of the islands and also for reduction of expenses. Allegations like political reasons raised by the petitioner are totally incorrect and it, in fact, reveals the political agenda of the petitioner.

43. According to respondents 2 to 7, the allegation that the ban on liquor has been lifted, cannot be sustained. Lakshadweep Prohibition Regulation provides for granting of licences for consumption and sale of alcohol. Recently licences were issued to the Tourism Promotion Society (SPORTS) under the Administration to serve liquor in three of its beach resorts in three different islands to non-islanders. This was done for the purpose of catering to the needs of the tourists and issuance of the licence is perfectly in accordance with the provisions of the Regulations.

44. Therefore, it is contended that Exts. P2 and P4 reflect sound policy decisions taken for valid reasons as explained above and they are not liable to be interfered with in exercise of the jurisdiction under Article 226 of the Constitution of India and therefore, the first relief is

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not liable to be granted. The second relief is also not liable to be granted as it is nonspecific and unsubstantiated. Moreover, it is in the nature of a prohibition against all reforms. Relief No. 3 is with regards to some proposed Regulations. Hon'ble Division Benches of this Court have already rejected such prayers and therefore, the matter cannot be re-agitated. Moreover, the petitioner has not even cared to produce the copies of the draft Regulations mentioned as exhibits in this writ petition. The petitioner has not satisfied the basic requirements of pleadings and evidence in a writ petition in this regard and therefore, the petitioner is not entitled for any reliefs in this case. Further, the petitioner has approached this Court without even basic verification of facts and raising misleading contentions and seeking untenable reliefs. Hence, they prayed for the dismissal of the writ petition.

45. A reply affidavit is filed by the petitioner refuting the contentions raised in the counter affidavit and has also produced certain documents in order to establish that the poultry farms as well as the cattle farms maintained by the Animal Husbandry Department were making steady progress and therefore, the contention advanced in the counter affidavit that the farms are not ecologically viable, cannot be sustained under law.

46. We have heard the learned counsel for the petitioner Sri.

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Peeyus A. Kottam and the learned senior Central Government Counsel for the Government of India and the Union Territory of Lakshadweep, Sri. Manu S, and perused the pleadings and materials on record.

47. The primary question arises for consideration is whether any manner of interference is warranted to Ext. P2 order passed by the Director of Animal Husbandry dated 21.05.2021 to close down the farms and sell off the poultry as well as the animals, and whether any interference is required to the minutes of the meeting of the Union Territory Level Steering Cum Monitoring Committee and the District Task Force midday meal held on 21.07.2021.

48. According to the petitioner, the animal Husbandry Department has started farms in order to educate the people of the Union Territory of Lakshadweep in farming and other allied activities and therefore, the attempt of the Administrator to close down the farm is against the interest of the residents of the Union Territory of Lakshadweep and that too the decision was taken without any discussion and therefore, arbitrary and illegal. So also, it is contended that in Ext. P4, minutes of the meeting, no reasons are assigned to modify the menu deleting chicken and meat from the midday meal scheme. According to the petitioner, chicken and meat were included in the midday meal programme taking into account the food habits of the

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residents of the Lakshadweep. It was also contended that the meat and chicken were included in the midday meal programme also to attract the children to attend the schools, apart from the wholesome nature of the meal served to the students.

49. On the other hand, learned Senior Central Government Counsel, apart from the submissions discussed above, submitted that meat and chicken were excluded, but fish, which is commonly available in the Lakshadweep island, is included on more days, apart from egg, fruits and dry fruits. It was also submitted that the midday meal scheme was introduced at the national level, and relied upon the midday meal scheme introduced in the State of Goa, West Bengal, Puducherry etc. It was submitted that even though in those States, the public and children are consuming meat, meat products and other non-vegetarian items, only eggs are supplied along with the midday meal. Therefore, according to the learned Central Government Counsel, it was on the basis of the National programme for serving midday meal, reforms are made in the Lakshadweep also, and there is no hidden agenda or malicious intention on the part of the Administrator in modifying the midday meal menu of the students of the Union Territory of Lakshadweep as alleged.

50. We have evaluated the rival submissions made across the

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Bar. First, we will deal with Ext. P2 order passed by the Director, Animal Husbandry, by which in consonance with the direction issued by the Secretary (Animal Husbandry) Union Territory of Lakshadweep, the dairy farms run by the Department of Animal Husbandry were directed to be close down and the animals were directed to be auctioned. Pursuant to Ext. P2 direction, as per Ext. P3 order dated 28.05.2021, the Director, Animal Husbandry Department was directed to dispose of the animals maintained in the dairy farms by conducting auction in accordance with law.

51. Of course, the learned counsel for the petitioner has a contention that the Department of Animal Husbandry was introduced in the Lakshadweep islands in order to promote the production of poultry in the islands of Union Territory of Lakshadweep and also to provide avocation and earning to the residents of the islands which is separated from the mainland. On going through the facts and figures projected by the Lakshadweep administration in the counter affidavit filed, it is clear that there are 34 animals in the dairy farms at Kavaratti and a total number of 14 casual labourers are working in the farm. However, the average milk production is only 87 litres per day. It is also clear that the population of the island is about 10000 and the total expenditure during 2019-2020 was Rs.62,46,924/-, whereas the

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revenue generated was only Rs.11,35,330/- and the deficit was Rs.51,11,594/-. Likewise, during the year 2020-2021, the total expenditure was Rs. 57,95,691/-. However, the total revenue generated was Rs. 14,19,301/- and thus, the deficit of Rs.43,76,390/-.

52. Similarly, the population in Minicoy Island is just about ten thousand and the dairy farm is catering to the requirements of only about 150 to 200 people. The total expenditure during 2019-2020 was Rs. 65,13,374/- and the total revenue generated was only Rs.12,12,301/- and therefore, there was a deficit of Rs.53,01,073/-. During 2020-2021, the total expenditure was Rs.51,32,551/-. However, the revenue generated was only Rs.11,75,440/- and thus, there is a deficit of Rs. 39,57,111/-. Thus, the total loss of the two dairy farms during 2019-2020 and 2020-2021 were Rs. 94,87,984/- and Rs.92,58,184/- respectively.

53. Therefore, we find force in the contention advanced by the learned counsel for the Lakshadweep Administration that dairy farms together cater to the needs of only 300-400 people; whereas, the total population of the 2 islands are more than 20000 and the administration had to suffer a loss of more than Rs.90 lakhs per financial year as specified above.

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54. That apart, we find force in the contention advanced by the learned counsel for the Administration that due to the geographical conditions of the islands non availability of green fodder cannot be ruled out, which, in fact, will interfere with the smooth conduct of the animal husbandry activities and less production of milk. It was accordingly that the Administration decided to close down the farms. True, from Ext. P2, it is not discernible as to the facts and figures that are projected by the Lakshadweep Administration in its counter affidavit; but, at the same time, our attention was invited by the learned counsel for the Lakshadweep Administration to Ext. R2(a) meeting notice dated 17.04.2021, which reads thus:

“F. No. 41/2/2021-Fin.

Dated 17.04.2021

Meeting Notice

Sub: Meeting to review over all functioning of the Departments-
Regarding.

Sir,

The Advisor to Hon’ble Administrator has desired to convene a meeting to review the overall functioning (staff strength, Budget, schemes etc.) of the following departments and as such it is desired to convene a meeting of following departments from 19.04.2021 to 23.04.2021 at Secretariat Conference Hall as detailed below:

Sl.	Departments	Date	Time
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No.			
1	Environment and Forests	19.04.2021	10 am to 11.30 am
2	Agriculture	19.04.2021	3.30 p.m to 4.30 pm
3	Fisheries	20.04.2021	10.30 am to 11.30 am
4	Animal Husbandry	20. 04.2021	3.30 pm to 4.30 pm
5	Health	21.04.2021	10 am to 11 am
6	LPWD	21.04.2021	3.30 pm to 4.30 pm
7	Port Shipping and Aviation	22.04.2021	10.30 am to 11.30 pm
8	Women Child and Development	22.04.2021	3.30 pm to 4.30 pm
9	Sports and Youth Affairs	23.04.2021	10.30 am to 11.30 am
10	Electricity	23.04.2021	3.30 pm to 4.30 pm

Therefore, the Secretaries and Head of Department of concerned Departments are directed to make it convenient to attend the meeting in time along with details in the formats attached herewith. The Department should also give details of Autonomous bodies/societies etc. under its administrative control in the presentation. Further, Dept. should bring the soft copies of the details for projection at the time of meeting.

The issues with the approval of Secretary (Finance), UTLA.

Yours faithfully,

Accounts Officer (Secretariat)

55. Therefore, taking into account the contentions raised in the counter affidavit as well as the meeting notice dated 17.04.2021, it is

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clear that a prior decision was taken by the Administration in a meeting held on 20.04.2021 to close down the farms. In fact, Ext. R2(b) dated 16.04.2021 shows that as directed by the Secretary, Animal Husbandry, a self contained note was prepared on the operation of the two dairy farms in Minicoy and Kavaratti Islands. The status of the Kavaratti Dairy farm as well as the Minicoy dairy farms are also detailed.

56. On a reading of Ext. R2(b), a self contained note of the review meeting scheduled on 20.04.2021, it is explicit and clear that a detailed and elaborate discussions were held in respect of the dairy farms and arrived at a conclusion that the dairy farms are conducted at a huge loss and it was accordingly that a decision was taken to close down the units. Therefore, the contention advanced by the writ petitioner that no reasons are assigned in Ext. P2 order of the Director, Animal Husbandry dated 21.05.2021, cannot be sustained under law. Even though a reply affidavit is filed by the petitioner to the counter affidavit filed by the Lakshadweep Administration, the facts and figures discussed above and the review meeting held on account of the two cattle farms are not disputed.

57. Therefore, it is clear that it was on the basis of a policy

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decision of the Administration that the Director, Animal Husbandry was directed to close down the farms and to dispose of the animals in the auction held. The second question that emerges for consideration is in respect of the modification made by the Administration to midday meal scheme. From Ext. P7 National Programme of Midday Meal in Schools for the Union Territory of Lakshadweep for the financial year 2020-2021, it is clear that the menu for the midday meal scheme contained rice, dhal, fish, green gram, meat, chicken, eggs etc., and are provided to the students distributed from Monday to Friday. The said menu reads thus:

Sl. No.	Days	Food Items
1	Monday	Rice/Dhal/fish, green gram
2	Tuesday	Rice/Dhal/Egg/green gram
3	Wednesday	Rice/Dhal/Egg/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.

58. However, it is mentioned by providing a note that the above items are served according to the availability of items in the local

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market. It is also stated that additional food items provided are fruits, milk and any other items, if any from the State/UT resources. It is also specifically mentioned in Ext. P7 that egg, fish, chicken, fruits etc. are served as additional items in the midday meal according to the availability of the items in the local market.

59. On a close analysis of Ext. P4 order passed by the Director of Education dated 15.02.2021 and the minutes of the meeting of UT Level Steering Cum Monitoring Committee and the District Task Force, attached to the order, for the implementation of the midday meal scheme was held under the Chairmanship of the District Collector, UT of Lakshadweep on 27.01.2021 at the Secretariat Conference Hall, Kavaratti.

60. In order to evaluate the circumstances pointed out by the petitioner, it is only appropriate that relevant portions of the minutes of the meeting are extracted:

Minutes of the meeting of U.T Level Steering Cum Monitoring Committee (UTSMC) & District Task Force on Mid Day Meal held on 27,01.2021

The meeting of U.T. Level Steering Cum Monitoring Committee and District Task Force on Mid Day Meal was held in the Secretariat, Conference Hall, Kavaratti at 04.30PM on 27.01.2021 under the Chairmanship of Collector, UT

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of Lakshadweep.

Smt.C.P Subaidabi, Nodal Officer of MDM & Education Officer, Department of Education U.T.of Lakshadweep welcomed the Chairman and other dignitaries attended for the meeting & briefed the status of implementation of the Mid Day Meal Scheme with the support of a Power Point Presentation on Action Taken Report of last UTSMC meeting held on 11.11.2020. The following agenda points have been discussed in the meeting.

1. While discussing the UTL MDM transfer to Akshayapatra, the Education officer briefed the Akshayaptara and also informed that the Akshayapatra is Non Govt. Organization. Education Officer informed that as per the letter received from the Planning and Statistical Department, Kavaratti it is requested to submit the detailed report of MDM functioning at UTL in this regards department submitted the detailed report on MDM.

All DP members and PCC reminded that the present MDM is functioning in all schools as per the Guidelines, and to the satisfaction of all stake holders, as well as children and so far no complaints has been received under Mid Day Meal. DE informed that other states have shifted food preparing in cenralized kitchen but in Lakshadweep we are having separate kitchen in all schools and in UTL all Islands have not well connected road to distribute food from centralised kitchen. At last Director of Education suggested to write a letter to Akshayapatra but the chair opined that an informal talk can made with the Akshayapatra regarding the implementation of MDM in UTL.

All members opined that, in UTL food habits of children is different from the other states and food habits in UTL couldn't cope up with Akshayapatra norms it is better to continue the present system.

(Action: Director of Education)

2. In the discussion for providing hot cooked meal instead or ration KIT, the committee members expressed their view to continue ration KIT since the

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covid-19 positive cases noticed in Kavaratti. The chair asked about whether children have come to schools and also functioning school in all Islands. EO informed that, now in kavaratti Island schools have been closed due to covid-19 positive cases and remaining islands all schools have regular classes.

The chair suggested continuing ration KIT at Kavaratti and start cooked meal in remaining Islands. The DP member Noorjahan informed that hardly one or two month is remaining to complete this academic year and starting hot cooked meal in schools, may cause spreading of COVID-19 among children and in this academic year it is better/safe to continue the KIT instead of hot cooked meal.

(Action: Director of Education)

3. In the purchase of items under MDM, chair suggested to purchase MDM items through Open Tender mode from next financial year onwards. Purchasing through tender will open a wide opportunities to local suppliers/Islanders. The chair informed that the Society is not following proper GFR norms in many Islands while selling commodities. The members requested the chairs to control the price rate if it is given through open tender. The chair agreed to form a monitoring committee to supervise purchase through open tender.

(Action: Director of Education)

4. During the discussion on the existing menu, EO informed that the egg, mutton, chicken and fish are providing as a non-veg items along with the Vegetable. All the DP Members and PCC informed that considering the food habits of children in UTL, it is required to provide the chicken along with the egg & fish. At last the Dr. Haseena, Physician informed that the non-vegetarian food (like fish, chicken, egg) is essential for growth of children and also informed Children need a healthy balanced diet containing foods from each food group(veg along with non-veg) so they get a wide range of nutrients to help them stay healthy. She also advised to include Dry Fruits in the Menu. After detailed deliberation, the committee has recommended the following menu for MDM Programme for the schools under the Department of

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Education, UTL.

...

The meeting concluded with thanks to Chair and members by C.P. Subaidabi, Education Officer.

This is issued with the approval of the Collector and Chairman, U.T Level Steering Cum Monitoring Committee and District Task Force on Mid Day meal vides By. No. 165 dated 15.02.2021.

(Rakesh Shingal, Danics)
Director of Education

61. It is true, all the District Panchayat members and the others present in the meeting opined that the food habits of the children of Union Territory of Lakshadweep is different from other States and the food habits in the Lakshadweep may not cope up with the "Akshayapatra" norms and therefore, it is better to continue the present system. Apparently, Akshayapatra is a Non-Governmental Organisation supplying food in the midday meal scheme in other States. However, during the course of the meeting, it was informed by the Executive Officer that the egg, mutton, chicken and fish are provided as non-vegetarian items along with the vegetables.

62. It is also true that the District Panchayat members and other committee members informed that considering the food habits of children in Lakshadweep, it is required to provide chicken along with egg and fish. It is also clear from the minutes that Dr. Haseena, a

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Physician, informed that the non-vegetarian food like fish, chicken, egg etc. are essential for growth of children and also informed that the children need a healthy balanced diet containing foods from each food group, i.e., vegetarian along with non vegetarian, so that they can get a wide range of nutrients to help them stay healthy. The physician is also advised to include dry fruits in the menu. However, after a detailed deliberation, the Committee has recommended the following menu for midday meal scheme for the Department of Education, Union Territory of Lakshadweep:

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.		

63. Therefore, it is clear that even though various suggestions were made during the meeting, finally it was decided to exclude meat and chicken from the midday meal scheme. However, it is seen that

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when compared to the earlier menu extracted above, as per Ext. P4, fish and egg are included on more days, apart from including fruits and dry fruits. It was also decided in the meeting that a Food Monitoring Committee is to be set up in the island level and the Chairman as well as the members suggested that the existing island Level Committee may submit a monthly report of the food testing or any other issues related under the midday meal scheme to to the Department of Education through the Principals of the schools concerned. It is also clear from Ext. P4 that the committees are modified in accordance with the suggestions made in the meeting. It is also clear from Annexure A attached to Ext. P4 that the District Collector, the President of the District Panchayat, Director of Education, Physician and officials of various Departments totalling to 18 persons participated in the meeting.

64. Even though the petitioner has a contention that the Administration has decided to entrust the supply of midday meals to Akshayapatra, it is not discernible from any of the official documents produced by the petitioner. However, the petitioner has produced certain extracts available in the web site, from where it is discernible that on 28th November, 2001, the Supreme Court of India has passed

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an order “cooked midday meal is to be provided in all the Government and Government Aided Primary Schools in all the States” and Akshayapatra was also called upon to provide testimonies to the Supreme Court. It is also contained in Ext. P5 that Akshayapatra has 52 kitchens spread across 12 States and 2 Union Territories of India. Therefore, it is only a speculation of the petitioner that there is a likelihood of the Administration entrusting “Akshayapatra” with the midday meal scheme. We do not find much force in the said contention.

65. On the other hand, the Lakshadweep Administration has produced Ext. R2(c) Guidelines for the midday meal scheme issued by the National Programme of Nutritional Support to Primary Education, 2006, wherein the programme management, Quality and Safety Aspects, Annual Work Plan and Budget and Flow of Central Assistance, Monitoring and Evaluation etc. are provided, from where it is clear that it needs to be explained to the parents belonging to weaker sections that ‘School Midday Meal is meant to be in addition to, and not a substitute for, the meals which parents should in any case provide to children at home or were so providing prior to the introduction of the Cooked Midday Meal Programme’. It is also clear that importance has

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to be given to balanced and nutritious meals and how to provide them economically, taking into account the safety, health and hygienic aspects.

66. Administration has also produced the midday meal scheme of Andaman and Nicobar Islands for the academic year 2020-2021, wherein the weekly menu contains rice with vegetable and dhal, pulao with soya bean, salad and papad, fermented food like idli or dosa with sambar or chatni, Pulav with Chana Sabji, Salad and Papad, rice with vegetables and sambar etc.

67. Likewise, the midday meal scheme for the State of Goa for the academic year 2020-2021 shows that the weekly menu contains only the vegetarian items like Chole Bhaji and Pav/Poli, Masoor Bhaji and Chapati and other vegetarian items. The midday meal scheme of the State of West Bengal for the academic year 2020-2021 shows that apart from the vegetarian items, only egg is provided. The midday meal scheme of the Union Territory of Puducherry for the academic year 2020-2021 shows that apart from the vegetarian items, only egg is provided and that too, on 2 days in a week.

68. Taking into account those aspects and on an overall analysis, it can be seen that the contention advanced by the petitioner

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that the Administrator has taken steps to see that the traditional food habits of the children of Lakshadweep alone is stopped unilaterally and with belligerence cannot be sustained under law.

69. Learned counsel for the petitioner Sri. Peeyus A Kottam has invited our attention to the judgment of the Apex Court in ***Hari Krishna Mandir Trust v. State of Maharashtra and others*** [(2020) 9 SCC 356] and in particular to paragraph 100, wherein it is held that the High Courts exercising jurisdiction under Article 226 of the Constitution of India, not only have the power to issue a writ of mandamus or in the nature of mandamus, but are duty bound to exercise such power, where the Government or a public authority has failed to exercise or has wrongly exercised discretion conferred upon it by a Statute, or a Rule, or a policy decision of the Government or has exercised such discretion *mala fide*, or on irrelevant consideration. No doubt, if situation warrants, the High Court, exercising power under Article 226 of the Constitution of India, has to rise to the occasion and to issue necessary directions so as to ensure protection of freedom and liberty guaranteed to the citizens of this country, and it can even interfere with any policy decision, if it is arbitrary and illegal.

70. Learned counsel has also invited our attention to the

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judgment of the Apex Court in ***Kerala State Beverages (M& M) Corporation Limited and others v. P.P. Suresh and others*** [(2019) 9 SCC 710] and invited our attention to paragraph 26 dealing with 'judicial review and proportionality', which reads thus:

“C. Judicial Review and Proportionality

26. The challenge to the Order dated 7-8-2004 by which the respondents were deprived of an opportunity of being considered for employment is on the ground of violation of Articles 14, 19 and 21 of the Constitution of India. Lord Diplock in *Council of Civil Service Unions v. Minister for the Civil Service* [*Council of Civil Service Unions v. Minister for the Civil Service*, 1985 AC 374 : (1984) 3 WLR 1174 : (1984) 3 All ER 935 (HL)] held that the interference with an administrative action could be on the grounds of “illegality”, “irrationality” and “procedural impropriety”. He was of the opinion that “proportionality” could be an additional ground of review in the future. Interference with an administrative decision by applying the *Wednesbury* [*Associated Provincial Picture Houses Ltd. v. Wednesbury Corpn.*, (1948) 1 KB 223 (CA)] principles is restricted only to decisions which are outrageous in their defiance of logic or of accepted moral standards that no sensible person who applied his mind to the question to be decided could have arrived at it.”

71. The sum and substance of the contention advanced by the learned counsel for the petitioner is that merely because the farm is running in a loss, that will not enable the Administration to close down the farm, since the main intention of starting the farm was to educate

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the islanders and to find out avocation to the inhabitants. It was also submitted that when the Administration has interfered with the traditional food habits of having meat and chicken along with the midday meals of the islanders, this Court has to step in and set aside the same.

72. On the other hand, Sri. S. Manu, learned Standing Counsel for the Lakshadweep Administration has invited our attention to judgments of the Apex Court in ***Balco Employees Union v. Union of India (UOI) and Ors*** [(2002) 2 SCC 333], ***State of Orissa and others v. Gopinath Dash and others*** [(2005) 13 SCC 495], ***Duncan Industries Ltd. And others v. Union of India*** [(2006) 3 SCC 129], ***State of M.P and others v. Nandlal Jaiswal and others*** [(1986) 4 SCC 566], ***Tamil Nadu Generation and Distribution Corporation Ltd. (TANGEDCO) and others v. CSEPD I -Trishe Consortium and others*** [(2017) 4 SCC 318], ***State of Punjab and Ors. v. Ram Lubhaya Bagga and Ors.*** [(1986) 4 SCC 566]. The principles that were culled out by the Apex Court in the aforequoted judgments are extracted hereunder:

73. In ***Balco Employees Union***, it is held that it is not for the courts to consider relative merits of different economic policies and

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consider whether a wiser or better one can be evolved. In the sphere of economic policy or reform, the court is not the appropriate forum for evaluation. In the case of a policy decision on economic matters, the courts should be very circumspect in conducting any enquiry or investigation and must be most reluctant to impugn the judgment of the experts who may have arrived at a conclusion, unless the Court is satisfied that there is illegality in the decision itself. Judicial interference with the administration cannot be meticulous in our Montesquieu system of separation of powers. The Court cannot usurp or abdicate, and the parameters of judicial review must be clearly defined and never exceeded. It is neither within the domain of the Courts nor the scope of the judicial review to embark upon an enquiry as to whether a particular public policy is wise or whether better public policy can be evolved. The Courts have consistently refrained from interfering with economic decisions as it has been recognised that economic expediencies lack adjudicative disposition. The policies of the Government ought not to remain static. With the change in economic climate, the wisdom and the manner for the Government to run commercial ventures may require reconsideration. What may have been in the public interest at a point of time may no longer be so.

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74. In **Gopinath Dash**, it is held that the court is not an appellate authority, while exercising the power or judicial review of administrative action. In decision making, the Government taking one course of action instead of another is not a matter of concern in judicial review and the court is not an appropriate forum for analysing the merits of the options. In assessing the propriety of a decision of the Government, the court cannot interfere even if another view is possible from that of the Government.

75. In **Duncan Industries Ltd. and others**, it is held that Article 14 does not require the court to examine the intricacies of an economic scheme or pricing policy for its merits and correctness, for that is in the domain of the executive or the legislative branches of the Government. In matters of administrative discretion, it is not open to the courts to interfere.

76. In **Nandlal Jaiswal**, the Government should be allowed some play in the joints, because it has to deal with complex problems, which do not admit a solution through any doctrinaire or strait jacket formula. In complex economic matters, every decision is necessarily empiric and it is based on experimentation or what one may call 'trial and error method'. The court cannot strike down a policy decision

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taken by the State Government merely because it feels that another policy decision would have been fairer or wiser or more scientific or logical.

77. In ***Tamil Nadu Generation and Distribution Corporation*** Ltd., in a complex fiscal evaluation, the court has to apply the doctrine of restraint. Several aspects, clauses, contingencies etc. have to be factored. These calculations are best left to experts and those who have knowledge and skills in the field. The courts cannot really enter into the said realm in exercise of power of judicial review.

78. In ***Ram Lubhaya Bagga and ors.***, it is held that when the Government forms its policy, it is based on a number of circumstances on facts, law including constraints based on its resources. It is also based on expert opinion, it would be dangerous if the court is asked to test the utility, beneficial effect of the policy or its appraisal based on facts set out on affidavits. The Court would dissuade itself from entering into this realm which belongs to the executive. The right of the State to change its policy from time to time, under the changing circumstances is neither challenged nor could it be.

79. According to the learned Central Government Counsel, the petitioner could not establish any case of arbitrariness and illegality to

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interfere with the policy decision of the administration in the matter of the midday meal scheme. We find force in the said contention, because in no other Union Territories and States, meat is used in the midday meal scheme, however a limited variety of non-vegetarian items like egg and fish alone are included. Therefore, it cannot be said that the students of the Union Territory of Lakshadweep alone are singled out in the matter of the midday meal scheme.

80. Moreover, it is clear from the policy of the National Programme of Mid-day meal that what is relevant is the nutritional value of the food and not the kind of food supplied. It is also relevant and significant to note that the midday meal scheme is launched by the Government to serve midday meals to the school going children, which would, in no way, interfere with the food habits of the children at home.

81. It is also clear from the National Programme of Nutritional Support to Primary Education, 2006 that importance is given to balanced and nutritious meals, and how to provide them economically, taking into account safety, health and hygiene aspects.

82. In our considered opinion, except the bald assertions made in the writ petition and the reply affidavit that the new Administrator

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has made every endeavour to interfere with the traditional food habits of the children of the Union Territory of Lakshadweep, however the allegations are not supported by any evidence, taking into account various material aspects discussed above, including the manner in which the midday meal scheme was implemented in various Union Territories and States.

83. Moreover, a writ court considering such policy aspects need only be considered whether there was any arbitrariness, illegality or unfairness on the part of the authority while exercising the power conferred under law. The Administration of the Union Territories are guided by Article 239 of the Constitution of India, wherein it is clearly specified that save as otherwise provided by Parliament by law, every Union territory shall be administered by the President acting, to such extent as he thinks fit, through an administrator to be appointed by him with such designation as he may specify. Article 240 confers power on the President of India to make regulations for the peace, progress and good government of the Union territory of the Lakshadweep and Andaman and Nicobar Islands, Dadra and Nagar Haveli, Daman and Diu and Pondicherry.

84. When the Administrator has taken necessary steps for the

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progress and good Governance of the Union Territory of Lakshadweep, it can only be seen as a power exercised by the President conferred under Article 239 r/w Article 240 of the Constitution of India. Moreover, the Apex Court had occasion to consider the issue of the midday meal scheme in the judgment in ***Swaraj Abhiyan v. Union of India and others*** [(2016) 7 SCC 498] in the realm of National Food Security Act, 2013 and the standards for the calorific and nutritional contents for children prescribed under the midday meal scheme. In fact, continuous mandamus were being issued by the Apex Court in ***Swaraj Abhiyan*** and as per the judgment dated 11.05.2016, the Apex Court considered the question as to whether any positive directions can be issued to the State Government to make available to the needy persons any items over and above what is mandated by the Act, 2013, such as lentil and edible oil or any other item for that matter to all households in the drought-affected areas and held as follows:

“110. We find force in the submission of the learned Additional Solicitor General that no mandamus can be issued by this Court to the State Governments to implement the NFS Act beyond what is required by the terms and provisions of the statute. In other words, it is not possible for us to issue a positive direction to the State Governments to make available to needy persons any item over and above what is mandated by the NFS Act, such as dal/lentil and edible oil (or any

other item for that matter) to all households in the drought-affected areas. Today, Swaraj Abhiyan prays for the supply of dal/lentil and edible oils; tomorrow some other NGO might pray for the supply of some other items. This might become an endless exercise and would require us to go beyond what Parliament has provided. While this Court or any other constitutional court can certainly intervene, to a limited extent, in issues of governance it has also to show judicial restraint in some areas of governance, and this is one of them.

116. As far as the present case is concerned, there is no doubt that provision of foodgrains as per the provisions of the NFS Act is a statutory obligation on the State. This Court can certainly direct the State to faithfully implement the provisions of the NFS Act. Unfortunately, there is no statutory or constitutional obligation on the State to provide edible oils and dal/lentil to people in distress. If these items were vital for the survival of the people, this Court would have surely directed their distribution. But there is nothing to suggest that without edible oils and dal/lentil the fundamental right of the people in drought-affected areas guaranteed under Article 21 of the Constitution is violated. We therefore cannot reasonably read into the Constitution or the law something that is not there. ...

124. As far as the provision of eggs or milk for mid-day meals is concerned, there is no dispute that calorific and nutritional contents for children have been prescribed under the Mid-Day Meal Scheme. How that standard is to be met is for each State Government to decide and no direction can be given in this regard by this Court. Apart from milk and eggs, there are other nutritional items that can be provided, such as chana or gram. However, it is unfortunate that neither milk nor eggs or anything else is provided under the Mid-Day Meal Scheme in Bihar, Haryana and Uttar Pradesh. Even in the States that we are concerned with, eggs or milk is not being provided to the beneficiaries on a daily basis or 5 days in a week, except in Chhattisgarh where eggs are provided for 6 days in a week. In other States that provide

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eggs or milk, the provision varies from one day to three days per week.

125. No one can doubt that children are the future of our country and if there is some stinginess in providing them with adequate nutrition, the country as a whole is deprived in future of taking the benefit of their potential. Therefore, the calorific and nutritional requirements mentioned by the Union of India cannot be treated as the maximum requirements but only as the minimum requirements.”

85. Now, coming to Article 47 of the Constitution of India, the State has an obligation to raise the level of nutrition and the standard of living and to improve public health, which clearly specifies that the State shall regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties and, in particular, the State shall endeavour to bring about prohibition of the consumption, except for medicinal purposes of intoxicating drinks and of drugs which are injurious to health.

86. It is true, the issue is to be considered in the realm of Article 21 of the Constitution of India, by which every citizen of this country, including the children, are entitled, as of right, to have sufficient quantity of quality food. However, nobody can insist the State/Union Territory or the Government of India to provide them any particular kind of food in the programme envisaged by the respective Governments.

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87. In the Act, 2013, the word 'food security' is defined under Section 2(6) to mean the supply of the entitled quantity of foodgrains and meal specified under Chapter II, and Section 5 of Chapter II delineates the manner in which the nutritional support is to be provided to the children and it is categorically stated that the food shall be supplied so as to meet the nutritional standards specified in Schedule II. The Act, 2013 confers a right on every citizen to have food articles sufficiently in quantity and quality. In that context, it is profitable to extract Schedules II and III of the Act, 2013, which read thus:

SCHEDULE II

[See sections 4(a), 5(1) and 6]

Nutritional Standards

Nutritional standards: The nutritional standards for children in the age group of 6 months to 3 years, age group of 3 to 6 years and pregnant women and lactating mothers required to be met by providing "Take Home Rations" or nutritious hot cooked meal in accordance with the Integrated Child Development Services Scheme and nutritional standards for children in lower and upper primary classes under the Mid Day Meal Scheme are as follows:

Sl.No.	Category	Type of meal	Calories(Kcal)	Protein (g)
1	2	3	4	5

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1. Children (6 months to 3 years)	Take Home Ration	500	12-15
2. Children (3 to 6 years)	Morning Snack and Hot Cooked Meal	500	12-15
3. Children (6 months to 6 years) who are malnourished	Take Home Ration	800	20-25
4. Lower primary classes	Hot Cooked Meal	450	12
5. Upper primary classes	Hot Cooked Meal	700	20
6. Pregnant women and Lactating mothers	Take Home Ration	600	18-20

This Schedule specifies the nutritional standards for meals and take home ration to be provided under the proposed legislation to children and pregnant women and lactating mothers. (Notes on clauses)

SCHEDULE III

[See section 31]

PROVISIONS FOR ADVANCING FOOD SECURITY

(1) Revitalisation of Agriculture —

(a) agrarian reforms through measures for securing interests of small and marginal farmers;

(b) increase in investments in agriculture, including research and development, extension services, micro and minor irrigation and power to increase productivity and production;

(c) ensuring livelihood security to farmers by way of remunerative prices, access to inputs, credit, irrigation, power, crop insurance, etc.;

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(d) prohibiting unwarranted diversion of land and water from food production.

(2) Procurement, Storage and Movement related interventions —

(a) incentivising decentralised procurement including procurement of coarse grains;

(b) geographical diversification of procurement operations;

(c) augmentation of adequate decentralised modern and scientific storage;

(d) giving top priority to movement of foodgrains and providing sufficient number of rakes for this purpose, including expanding the line capacity of railways to facilitate foodgrain movement from surplus to consuming regions.

(3) Others: Access to —

(a) safe and adequate drinking water and sanitation;

(b) health care;

(c) nutritional, health and education support to adolescent girls;

(d) adequate pensions for senior citizens, persons with disability and single women.

This Schedule lists the objectives to be progressively realised by the Central Government, State Governments and local authorities for advancing food security, (Notes on Clauses)”

88. So also, the Apex Court had occasion to consider the impact of Act, 2013 in the realm of Article 21 of the Constitution of India in ***Dipika Jagatram Sahani v. Union of India*** [(2021) 2 SCC 740]. The issue considered by the Apex Court thereon was the closure of the Anganawadi centres across the country and inadequate supply of

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nutritious food to the citizens, more particularly to the children and the women in violation of the fundamental right to live with dignity under Article 21 of the Constitution of India.

89. After analysing the provisions of the Act, 2013, it was held that it is now a statutory obligation of the Centre and the States to provide for nutritional support to the pregnant women and lactating mothers, nutritional support to children and to take steps to identify and provide meals for children who suffer from malnutrition. Paragraphs 20, 21 and 35 are relevant to the context and they read thus:

“20. As observed above, it is now statutory obligation of the Centre and the States to provide for nutritional support to the pregnant women and lactating mothers, nutritional support to children and to take steps to identify and provide meals for children who suffer from malnutrition. The Government has a constitutional obligation to preserve human life. Good health of its citizens is its primary duty. International covenants also aim at highest attainable standards of physical and mental health. This is in interest of social justice. Inadequate supply of nutritious food to the citizens, more particularly to the children and the women shall affect their health. Therefore, the same shall be in violation of their fundamental right to health/right to live with dignity guaranteed under Article 21 of the Constitution.

21. The Centre as well as the States are statutorily obliged to implement statutory obligation as imposed under Sections 4, 5 and 6 of the 2013 Act. The nutritional support is required to be of the nutritional

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standards which have already been laid down to Schedule II of the 2013 Act and all States/UTs are obliged to implement such Scheme and have to comply with Schedule II. The main emphasis in the writ petition being the issue of opening of Anganwadi Centres throughout the country, we need to first consider the above issue. Provision of foodgrains as per the provisions of the National Food Security Act, 2013 is a statutory obligation on the State. Article 47 of the Constitution provides that one of the primary duties of the State is to raise the level of nutrition and the standard of living of the people.

35. It is the obligation of the State to ensure that pregnant women, lactating mothers and children in the age of 3 to 6 years and children who suffer from malnutrition are provided their dues. The State has to provide an appropriate mechanism for supervision and check, child development officers and other district level officers who are entrusted to monitor the functioning of Anganwadi Centres have to be extra vigilant and take steps so that no beneficiary is denied its dues. All States/Union Territories should evolve an appropriate mechanism for supervision so that dues are received by beneficiaries for whom schemes are in place. It is for the State to secure health to its citizens as its primary duty. No doubt, the Government is rendering this obligation through various schemes, such as, opening of Anganwadis, providing nutritious food through Anganwadis, Mid-day Meal Scheme, etc. but in order to make it meaningful, it has to be within the reach of its people, as far as possible, and the Government must supply the nutritious food in the real sense bearing in mind the provisions of the National Food Security Act.”

90. In ***People’s Union for Civil Liberties v. Union of India and others***, W.P.(C) No. 196 of 2001, continuous mandamus were being issued by the Apex Court. As per order dated 28.11.2001, the Apex Court directed the State Governments/Union Territories to

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implement the midday meal scheme by providing every child in every Government and Government assisted Primary Schools with a prepared midday meal with a minimum content of 300 calories and 8-12 grams of protein each day of school for a minimum of 200 days.

91. Likewise in Suo Motu W.P.(C) No. 2 of 2020 regarding the closure of midday meal scheme, the Apex Court has passed an order dated 18.03.2020 wherein also it was observed that non supply of nutritional food to the children may lead to large scale malnourishment and it may affect their immunity system as such and the children would be more prone to catch the infection.

92. Therefore, on an evaluation of the law on the point, it is clear that more than everything, nutritional aspects and calorification should be the concern of the State as well as the Union Territories rather than providing different kinds of food to the children. When that is the national programme envisioned for the midday meal scheme by the framers of law, the petitioner cannot turn around to contend that the Administrator of the Lakshadweep Administration has introduced a draconian law so as to interfere with the traditional food habits of the people of the island. This we say because, the learned Central Government Counsel has submitted before us that unwanted

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and unnecessary personal allegations are made against the Administrator, who was made as a party in person in the writ petition. Having considered the law and the judgments discussed above, we are of the clear opinion that the petitioner has made the allegations against the Administrator and the Administration without understanding the implications of the law involved in the matter for the midday meal scheme. Moreover, the scheme under the Act, 2013 governs the field, which does not make any compulsion for the supply of non-vegetarian food to the children; but on the other hand significance and importance is given to the nutritious value of the food articles.

93. Therefore, taking into account the proposition of law laid down by the Apex Court and the facts and circumstances available in the case at hand, we have no hesitation to hold that the petitioner has not made out any case of arbitrariness or illegality in the policy decision taken by the Lakshadweep administration in the matter of closure of the cattle farm, and the modification of the midday meal scheme provided to the children of the island. Moreover, as per the Act, 2013, the midday meal scheme is though liable to be provided only to the children upto upper primary classes, the Administration has

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extended the midday meal scheme to the students upto Higher Secondary Classes by utilising the funds available with the Administration. It is also clear from the modified midday meal scheme that unlike any other Union Territories and the States discussed above, fish, egg, fruits and dry fruits are provided to the children of the Union Territory of Lakshadweep on more days.

94. Therefore, the possible conclusion is that the contentions advanced by the petitioner can only be viewed as running counter to the Constitutional scheme and the provisions of Act, 2013. It has also to be emphasised that; what is contented by the petitioner in regard to the alteration of the food habits is baseless, since the midday meal scheme is framed by the parliament taking into account the nutritional aspects, rather than the continuance of the traditional food habits in any state or union territory. Therefore, it can be seen that the cleavage occurring consequent to the rival contentions can be set at naught by virtue of the provisions of the Act, 2013, basically factored on nutrition, and the other discussions made above.

95. Upshot of the evaluation is that the writ petition fails and accordingly, it is dismissed. However, we make it clear that the Administration is always at liberty to make necessary modification of

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the midday meal scheme, or any scheme with respect to promoting animal husbandry extending appropriate support to the inhabitants of the islands.

sd/-

**S. MANIKUMAR,
CHIEF JUSTICE.**

sd/-

**SHAJI P. CHALY,
JUDGE.**

Rv

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APPENDIX OF WP(C) 12508/2021

PETITIONER EXHIBITS

- Exhibit P1 THE TRUE COPY OF THE LIST OF FARM PRODUCTS DATED 29/07/2020 ISSUED BY THE DEPARTMENT OF ANIMAL HUSBANDRY WHICH ARE PRODUCED FROM THE FARM OWNED BY THE GOVERNMENT SUPPLIED TO ISLANDERS.
- Exhibit P2 TRUE COPY OF THE ORDER DATED 21/05/2021 ISSUED BY THE DIRECTOR, DEPARTMENT OF ANIMAL HUSBANDRY DEPARTMENT.
- Exhibit P3 THE TRUE COPY OF THE ORDER DATED 28/05/2021 BEARING NO. 01/12/2013-VAS (KVT) ISSUED BY THE VETERINARY SURGEON, ANIMAL HUSBANDRY COMPLEX, KAVARATTI.
- Exhibit P4 TRUE COPY OF THE MINUTES OF MEETING OF UNION TERRITORY LEVEL STEERING CUM MONITORY COMMITTEE AND DISTRICT TASK FORCE ON MIDDAY MEAL HELD ON 27/01/2021.
- Exhibit P5 THE WEB SITE OF AKSHAYA PATRA FOUNDATION.
- Exhibit P6 THE TRUE COPY OF THE MESSAGE SENT FROM THE OFFICE OF THE SENIOR ADMINISTRATIVE OFFICER DATED 02/02/2021.
- Exhibit P7 TRUE COPY OF THE RELEVANT PAGES OF NATIONAL PROGRAM OF MIDDAY MEALS SCHEME IN ANNUAL PLAN 20120-2021 OF LAKSADWEEP ISLAND.

RESPONDENT EXHIBITS

- Exhibit R2(a) TRUE COPY OF THE MEETING NOTICE DATED 17.4.2021 ISSUED BY THE DEPARTMENT OF FINANCE AND ACCOUNTS.
- Exhibit R2(b) TRUE COPY OF THE SELF-CONTAINED NOTE DATED 16.4.2021 PREPARED BY THE DIRECTOR, ANIMAL HUSBANDRY FOR PRESENTING IN THE MEETING ON 20.4.2021.
- Exhibit R2(c) RELEVANT PORTIONS OF THE MDM GUIDELINES ISSUED BY THE GOVERNMENT OF INDIA.
- Exhibit R2(d) TRUE COPY OF THE RELEVANT PAGES OF THE ANNUAL WORKPLAN OF MID-DAY MEAL SCHEME OF ANDAMAN & NICOBAR.
- Exhibit RR2(e) TRUE COPY OF THE RELEVANT PAGES OF THE ANNUAL WORKPALN OF MID-DAY MEAL SCHEME OF GOA.
- Exhibit R2(f) TRUE COPY OF THE RELEVANT PAGES OF THE ANNUAL WORKPLAN OF MID-DAY MEAL SCHEME OF WEST BENGAL.

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- Exhibit R2(g) TRUE COPY OF THE RELEVANT PAGES OF THE ANNUAL WORKPLAN OF MID-DAY MEAL SCHEME OF PUDUCHERRY.
- Exhibit R2(h) COPY OF THE REPORT SUBMITTED TO THE MINISTRY OF LAKSHADWEEP ADMINISTRATION.
- Exhibit P8 THE TRUE COPY OF THE INTRODUCTION OF ANIMAL HUSBANDRY DEPARTMENT IN LAKSHADWEEP PUBLISHED IN THE THEIR WEBSITE.
- Exhibit P9 TRUE COPY OF THE BASIC STATISTICS 2014 PUBLISHED BY THE DIRECTOR OF PLANNING AND STATISTICS, SECRETARIAT, KAVARATHY.
- Exhibit P10 THE TRUE COPY OF THE OFFICE MEMORANDUM DATED 20.1.2021 ISSUED BY THE DIRECTOR, DEPARTMENT OF ANIMAL HUSBANDRY EXPRESSING DESIRE OF THE ADMINISTRATOR TO OPEN AMUL MILK BOOTH AT VARIOUS PLACES IN THE UTL.

/True Copy/

PS To Judge.

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