IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.5404 OF 2023

AJMAL AHMED R. **...Appellant(s)**

VERSUS

UNION OF INDIA & ORS. **...Respondent(s)**

ORDER

Heard Mr. I. H. Syed, learned senior counsel for the appellant and Mr. Nataraj, learned Additional Solicitor General for the respondents.

2. The present appeal arises out of a Public Interest Litigation instituted by a practicing advocate of the Kerala High Court hailing from the Lakshadweep archipelago, which is a Union Territory. The appellant primarily questioned decision of the Administration for closure of all dairy farms run by the Department of Animal Husbandry in these islands as also certain modification in menu for mid-day meals supplied to the school students by the Administration, dropping meat and chicken therefrom. The prayers in the PIL were: -

> *"i) To call for the entire records leading to Ext-P2 & Ext.P4 and quash the same by issuing a writ of certiorari or any other writ order or direction.*

> *ii) To issue a writ of mandamus or any other appropriate writ order or direction and there by 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 infringing the constitutional right guaranteed under Article 19 and 300A of the Constitution of India.*
>
> *iii) To issue a writ of mandamus or any other appropriate writ order or direction and there by 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 regulation 2021, Lakshadweep Panchayath Regulation 2021, Lakshadweep Development Authority Regulation 2021 etc. are introduced by the 3rd respondent without publishing such draft regulations in the local language i.e., Malayalam and Mahal in local vernacular having circulation in the Lakshadweep for facilitating the islanders to understand the prose and consequences and to submit their objections against implementing such regulations.*
>
> *iv) Grant such other relives which are just and necessary in the interest of justice."*
>
> ***(quoted verbatim from the paperbook)***

A Division Bench of the Kerala High Court had dismissed the Public Interest Litigation by a judgment delivered on 17.09.2021. This appeal is against that judgment delivered on 17.09.2021.

3. The High Court, in its judgment under challenge before us, considered the statutory instruments as also records reflecting the decision making process leading to the closure of the dairy farms and alteration of menu in the Mid-Day Meal Scheme and also a large body of authorities concluded: -

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

4. The appellant's arguments have been advanced in two segments. First, he has questioned the decision to drop chicken and meat from the Mid-day Meal menu. In this regard, he has referred on the minutes of the meeting of Union Territory Level Steering Cum Monitoring Committee and District Task Force on Mid-day Meal Programme, which was held on 27.01.2021. It is in this meeting the recommendations for menu-modification made. We have been taken through the minutes of the said meeting and we find that there was advise by a physician that non-vegetarian items like fish, chicken and egg ought to be included in the Mid-day Meal menu. But ultimately, the Steering Committee chose to drop chicken and meat from the menu. The Division Bench found that in the modified menu, fish and egg were included on days more than earlier, apart from including fruits and dry fruits.

5. In this regard, it has been pointed out by Mr. Nataraj, learned Additional Solicitor General that the nutritional value which is prescribed for the Mid-day Meal Programme, which is at present

covered by the National Food Security Act 2013, has been maintained for the school going children of the Union Territory. Both the opposing counsel are in agreement that the Mid-day Meal menu varies from State to State as per the eating habit of the respective States. Mr. Syed has highlighted the fact that the present menu with chicken and meat in the case of Lakshadweep archipelago was continuing since 1950. The judgment under appeal notes such variations and records:-

> *"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 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."*

6. As regards closure of the dairy farms, the same was directed by a circular issued by the Director, Animal Husbandry, Kavaratti

on 21.05.2021. In the same communication, auction of all animals of the dairy farms was mandated. Mr. Syed again has relied upon certain documents that look like Policy Pamphlet issued by the Animal Husbandry Department at Lakshadweep. This document, the screenshot of which has been taken from the website of the Administration, envisages promoting dairy and animal husbandry within the said cluster of islands. But specific submission of Mr. Nataraj is that the dairies, which were in two main islands, Minicoy and Kavaratti were running at a loss of Rs.90 Lakhs per year and were catering to the needs of 300-400 people only. In the counter-affidavit of the respondents, it has been disclosed, referring to figures of 2019-20 and 2020-21 that in the dairy farm in Kavaratti island, there were altogether 34 animals and it employed 14 casual workers with average milk production of 87 liters per day. Similarly the dairy farm at Minicoy also had 34 animals producing at an average 83 liters of milk per day engaging 16 casual labours. It was on the basis of a policy decision, the Administration had chosen to close the dairy on the basis of these materials.

7. In the light of these facts, we do not find any error in the judgment of Kerala High Court in dismissing the Public Interest Litigation. In the case of **Swaraj Abhiyan Vs. Union of India and Others** [(2016) 7 SCC 498] a co-ordinate bench of this Court has

held:

> *"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."*

8. So far as the Mid-day Meal Scheme is concerned, the Administration has retained non-vegetarian items like egg and fish, which Mr. Nataraj submits is available in abundance in the said islands. What the appellant is questioning in this appeal is primarily policy decision of the Administration and no breach of any legal provision has been pointed out. Three authorities may be referred to in this regard, being the cases of **Parisons Agrotech Private Limited and Another -vs- Union of India and Others** [(2015) 9 SCC 657], **Ugar Sugar Works Ltd. -vs- Delhi Administration and Others** [(2001) 3 SCC 635] and **Directorate of Film Festivals and Others -vs- Gaurav Ashwin Jain and Others** [(2007) 4 SCC 737]. It is not within the Court's domain to decide as to what would be the

choice of food for the children of a particular region for Mid-day Meal Scheme. There is no scope of guess work by the law Courts on that count and the Court will have to accept the administrative decision in that regard unless some outstanding arbitrariness is pointed out. We do not find the decisions of the Administration to be befouled with such degree of arbitrariness. As we have already indicated, there is no legal breach so far as the decisions of the Administration are concerned.

9. We, therefore, decline to interfere with the judgment appealed against and enter into an exercise of scrutiny of such policy decision. That would not come within the scope of judicial review. We, accordingly, dismiss the present appeal.

10. Pending application(s), if any, shall also stand disposed of.

.....J.
[ANIRUDDHA BOSE]

.....J.
[BELA M. TRIVEDI]

NEW DELHI;
SEPTEMBER 14, 2023.

ITEM NO.101 COURT NO.5 SECTION XI-A

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Civil Appeal No. 5404/2023

AJMAL AHMED R. Appellant(s)

VERSUS

UNION OF INDIA & ORS. Respondent(s)

(WITHIN FIRST FIVE MATTERS
IA No. 123108/2022 - APPLICATION FOR PERMISSION
IA No. 117736/2022 - VACATING STAY)

Date : 14-09-2023 This matter was called on for hearing today.

CORAM :
HON'BLE MR. JUSTICE ANIRUDDHA BOSE
HON'BLE MS. JUSTICE BELA M. TRIVEDI

For Appellant(s) **Mr. I H Syed, Sr. Adv.**
Mr. Peeyus Kottam, Adv.
Mr. Abid Ali Beeran P, AOR
Mr. Sarath S Janardanan, Adv.
Mr. Aniq Kadri, Adv.
Mr. Avinash Kumar Bharti, Adv.

For Respondent(s) **Mr. K. M. Nataraj, ASG**
Ms. Indra Bhakhar, Adv.
Ms. Mrinal Elkar Mazumdar, Adv.
Mr. Apoorv Kurup, Adv.
Mr. Vineet Singh, Adv.
Mr. Anuj Srinivas Udupa, Adv.
Dr. Arun Kumar Yadav, Adv.
Mr. Shreekant Neelappa Terdal, AOR

Mr. K. M. Nataraj, ASG
Mr. Apoorv Kurup, AOR
Mr. Vinayak, Adv.
Mr. Sharath Nambiar, Adv.
Mr. Akhil Hasija, Adv.
Ms. Indira Bhakar, Adv.
Mr. Anuj Srinivas Avupa, Adv.
Ms. Kirti Dadheech, Adv.
Mr. Shivansh Dwivedi, Adv.
Ms. Gauri Goburdhun, Adv.
Ms. Aparna Arun, Adv.

UPON hearing the counsel the Court made the following

O R D E R

The appeal is dismissed in terms of the signed order, which is placed on the file.

Pending application(s), if any, shall stand disposed of.

(SNEHA DAS)
SENIOR PERSONAL ASSISTANT

(VIDYA NEGI)
ASSISTANT REGISTRAR