

Under Section (1) of Section 3 of the Andaman and Nicobar Islands (Protection of Aboriginal Tribes), Regulation, 1956 (Regulation No.3 of 1956), the Hon'ble Lt. Governor, A&N Islands is competent to declare reserve area by making a notification. Accordingly a Notification declaring the area up to five KM radius around the Jarawa Tribal Reserve was notified vide No. 234/2007-TW F.No. 1-752/2007 (TW) dated 30.10.2007.

M/s. Barefoot Inns and Leisure Pvt Ltd, Port Blair had filed a Writ Petition No. 328 of 2007 in the Hon'ble High Court at Calcutta, Circuit Bench at Port Blair challenging the validity and or legality of the order dated 6.11.2007 issued by the Tehsildar, Ferrargunj on the basis of the notification dated 30.10.2007 issued by the Special secretary (TW), A & N Administration. Further the Petitioner stated that the said notification dated 30.10.2007 can not be sustained in law as no area can be declared as Buffer Zone under Sub-Section (I) of Section 3 of the A & N Islands (PAT) Regulation, 1956.

While disposing of the writ petition No. 328 of 2007 quashing the notification dated 30.10.2007 and the subsequent stay Order dated 6.11.2007 issued by Tehsildar, Ferrargunj, the Hon'ble High Court has given liberty to the Respondents as follows:-

***" However, quashing of the aforesaid notification dated 30.10.2007 issued by the Special Secretary (TW) as well as the Order dated 6.11.2007 issued by the Tehsildar cannot prevent the respondent authorities from issuing appropriate direction to the petitioner or anyone else to stop any commercial and/or tourism activities in the area in question following the declared policy of the authorities on Jarawa Tribe of Andaman Islands as published by the concerned authority in the A&N Gazette or on the basis of any subsequent declared policy of the respondents authorities herein".***

The judgment has been pursued between the lines with reference to the provisions in **A & N Islands (Protection of Aboriginal Tribes) Regulation, 1956** as well as the **Jarawa Policy** notified by the Andaman & Nicobar Administration with the approval of the Govt. of India, Ministry of Home Affairs vide Notification No. 210 dated 21-12-2004.

As per the provision at Section 3 (1) of A & N Islands (PAT) Regulation the Chief Commissioner (now Lt. Governor) may, by notification, declare any area which is predominantly inhabited by aboriginal tribes to be a reserved area and specify the limits of such area; and may, from time to time, in like manner, alter such limits. Sub section (2) of Section 3 provides that if any question arises whether any area falls within or without the reserved area, it shall be decided by the Chief Commissioner (now Lt. Governor) and his decision shall be final. The reserved area in respect of the habitation of tribals including the