

I am of the view that the adjournment granted by the Hon'ble Court allows the Government an opportunity to re-look at the entire matter and propose / notify an appropriate amendment to the Regulations. If this is done, it may render the present Petition redundant, and yet accomplish the objectives sought to be achieved. If this cannot be done in a timely manner, it is far from certain that the Hon'ble Court would grant any further time, and the Administration would then be faced with the difficult prospect of defending a notification which admittedly cannot be implemented strictly as per its terms. I would therefore recommend that all efforts are made at the highest level to facilitate progress in the matter before the next date of hearing.

In view of this, may I request you to take expeditious steps to follow up with the Ministry of Home Affairs as regards the proposed amendment. The objective of the exercise is to undertake a fresh review of conditions prevailing at the ground level, and make a determination as to which activities / establishments are to be prohibited, and which may be allowed to continue. Any such delineation must be consistent with existing Policies of the Government with respect to protection of the Jarawas. Moreover, the notification must be such that it can be implemented in a transparent manner.

Accordingly, I requested for 8 weeks time for this review exercise to be concluded and a decision to be taken on the proposed amendments. Their Lordships were pleased to adjourn the matter to 4th May 2011. On the next date of hearing, a statement would also need to be made as regards the status of Xalxo resort - and whether it lies inside the Buffer Zone or not.

Their Lordships appeared inclined to accept the fact that considerable tourist activity was occurring in the Buffer Zone, and expressed the view that if this were so, it was not clear why the Respondent's resort be singled out. In response to this, I apprised the Hon'ble Court that as there were difficulties in implementing the notification if its contents were strictly construed, the Andaman & Nicobar Administration had proposed an amendment to the A&N Islands (PAT) Regulations 1956 such that an express power would be conferred for notifying the Buffer Zone, and the categories of establishments / activities prohibited in the Buffer Zone would be more narrowly defined. I informed the Hon'ble Court that this proposed amendment was pending consideration of the Ministry of Home Affairs.

he submitted that large-scale tourist activity was taking place in the Buffer Zone - particularly in the jetties / bazaars. He referred to several photographs on record which showed the number of cars waiting at jetty points, and the kinds of shops in existence in the jetty area. Shri Ganesh submitted that the Administration was implementing the Buffer Zone notification in a selective manner, and the interpretation sought to be canvassed on behalf of the Petitioner amounted to a virtual rewriting of the notification.

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