

**GOVERNMENT OF INDIA
TRIBAL AFFAIRS
LOK SABHA**

UNSTARRED QUESTION NO:3666
ANSWERED ON:16.05.2006
LAKSHADWEEP SCHEDULED TRIBES CONSTITUTION AMENDMENT BILL
Koya Dr. P. Pookunhi

Will the Minister of TRIBAL AFFAIRS be pleased to state:

(a) whether the High Court of Kerala in their judgment on a writ appeal No.1422/2005 has categorically stated that the children born to the ST Lakshadweep parents (both father and mother) outside the U.T. of Lakshadweep cannot be treated as Scheduled Tribe even on medical grounds etc., except by introducing Constitution Amendment Bill in the Parliament to safeguard the interests of such unfortunate children;

(b) if so, the details and facts thereof;

(c) whether the Government propose to introduce a Bill in both Houses of the Parliament to amend Lakshadweep Scheduled Tribe Constitution Amendment Bill to incorporate a saving clause so as to include the children born outside Lakshadweep as Scheduled Tribe on various grounds like medical, employment etc; and

(d) if so, the time by which the Bill is proposed to be introduced in both Houses of the Parliament?

Answer

MINISTER OF TRIBAL AFFAIRS (P.R. KYNDIAH)

(a)&(b): Hon'ble High Court of Kerala in their judgments dated 02.08.2005 in Writ Appeal No. 1422 of 2005 have found no ambiguity in the Presidential Order, 1951 viz. The Constitution (Scheduled Tribes) (Union Territories) Order, 1951 in Part-I Lakshadweep. The Court has held that Presidential Order has employed a deeming provision leaving no room for doubt that only inhabitants of the Lakshadweep Islands who and both of whose parents were born in those Islands would alone fall within the Presidential Order 1951. The Hon'ble Court has also further observed that the Court cannot tinker with the Presidential Order, an exercise can be undertaken only by Parliament .

(c)&(d): The Ministry of Tribal Affairs had introduced a Bill, namely "The Constitution (Scheduled Tribes) (Union Territories) Order (Amendment) Bill 2003 to amend the list of Scheduled Tribes of Union Territory of Lakshadweep in the Rajya Sabha on 5th March, 2003 to provide that the children who are born to inhabitants in any other place in the mainland of India on account of cases referred by the competent medical authorities shall be deemed to be inhabitants born in the Islands if such children are brought to the Islands for inhabitation soon after their birth.

The Bill has been placed in Category "C".