

Time's up for SARAISAct?

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Abstract

SARAIS act is one of the oldest laws in India. This particular act supervises the working of all the hotels and lodging houses also takes into account the duty of sanitation and gives certain responsibilities to the owners. This manuscript will discuss in detail about the SARAIS act and why is it time for other law to take its place.

Introduction

The industry of tourism and hospitality are well linked with each other. To accommodate themselves tourists, require hotels and hotel's source of income comes from the incoming tourists. Consisting of various types and rich tradition India has a clear-cut advantage in the tourism industry. India was ranked 52 among the 141 countries by the Travel and tourism competitiveness report of 2015². It directly donates approximately 7% in the GDP of India and gives around 36.4 million jobs. In the year of 2015, India had around 8 million tourists from outside India and approximately³ billion domestic tourists. The above-mentioned stats are expected to rise remarkably in future. With such positive signs of growth in future this industry needs some intense steps to reach the future goals and regarding that government has taken some steps to advertise the tourism. There is a national tourism policy and planning from the state point of view on the ways to advertise the tourism, plans like Swadesh darshan was executed to acknowledge and link tourism course, besides visas ruling for the foreign tourists have been alleviating. But to advertise the tourism, one has to advertise and maintain the hospitality, mostly hotels and other temporary accommodating places. To raise the level of organization and the other working order of this particular sector to reach the future goals, the Indian government can come up with some effective policies and make sure that law-making bodies are not a concern. This article will deal with the above-mentioned topic and

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²The Travel and Tourism Competitiveness Report, World Economic Forum, 2015.

³Section 2, SARAIS Act, 1867, No.22, Acts of Parliament, 1867.

mostly in the surroundings of the SARAISS Act of 1867 and why it is time to come up with something else.

Present law for Hospitality Industry

In Indian Constitution, hotels and other accommodation places are subject to the state laws. Each state and municipal corporation consist of their own state laws which lead this industry. The existence of the central law enactment which doesn't cover up the hotels and other accommodation places but controls various feature of this particular industry like food etc. When it comes to the law regarding hospitality it comes in three sets. The first set of law is those laws which influence the manufacture and work of the hotels and accommodation houses that comprises of land laws etc.

The Food Safety and Standard Act, 2006. Although, the state and municipal corporations are also eligible to make certain laws regarding the food safety which is particularly concerned with accommodation places and hotels. The third set consists of laws which influence the labors in this organization known labor laws just like the shop and establishment act. India consists ample amount of obsolete laws which controls the day to day operation of various organizations. As per the 248th report of the Law Commission, 72 statutes are required to be revoked, as they are old or there is an existence of new statute for the same. To get to know the flaws of the SARAISS act, the first part of this manuscript will deal with the origination and provisions of this act. The second part of this manuscript will provide the reasons why this act should be revoked. It will raise the question on the relevancy of the SARAISS act in the current framework. It will also examine new and various different state and municipal laws which are ready as a substitute for the SARAISS act. The third part of this manuscript will strive to find some flaws in the SARAISS act by contrasting it by the different available laws like Shop and Establishment Act of different states and food safety act of various states. Thus, this manuscript will try to figure out the relevancy of this act and will conclude regarding the evolution of the act.

Act provisions

The main purpose of the act was to supply for directives of Paris or houses used in the different regions of India for the accommodation of the tourists. As per the SARAISS act, the term "SARAISS" means any building or house used as a shelter for the accommodation of the tourists and includes, in any case in which only part of a building is used as a SARAISS, the

part so used of such building⁴. The SARAIS act also explains the term "Keeper" of SARAIS that "includes the person acting as an owner or the manager ". Because of its broad definition, the SARAIS act has come to comprises all kinds of lodging houses like hotels and hostels etc. The act is formed again after specific sections of the English Common Lodging Houses act which supervised the work of such institution. Although, the common lodging houses act happen to be unsuccessful and this was combined with the public health acts, 1874. The SARAIS act was crucial, as back in time there wasn't any proper statute that exclusively supervises such institutions except for the section 11(5) of Bengal Regulation, 1807 but even that was restricted by the certain areas. The Bengal regulation was originally for the northwestern provinces of fort Willian in Bengal region, went on to supervise the whole of British India.

The act provides certain definite powers to the district magistrate to rule and supervise the day to day working of the SARAIS. As per the section 3 of the SARAIS act, it is the responsibility of the magistrate to give the notice to the keeper of the SARAIS to get its institution registered as a SARAIS in the district. The SARAIS act ensures that a register is being maintained containing names and address of all the existing SARAISs and makes it compulsory for the owner to get the particular SARAIS registered after which they have the authorization to take into the rent house or lodgers.

Section 7 of the SARAIS act fully revolves around the owner. It explains the works of the keeper of SARAIS and goes on to supply with a big list of duties and the entrance to the SARAIS to anyone sanctioned by the magistrate, inform police in case of any type of sickness to any resident of the SARAIS. If any offense been committed, the punishment should not be more than Rs 20 and also a penalty on daily basis of a rupee until the unlawful act stops³. It also repeals the license of the owner who is been found guilty of any unlawful act for the third time. Other provisions of the SARAIS act include compulsory personality certificate, the authority of the magistrate to close down or mend any Sar-ai under specific circumstances, owners to give an assessment in form of a report to the magistrate concerning paying guests, the authority of the magistrate to sell substances of the SARAIS etc.

⁴ Section 14, SARAIS Act, 1867, No.22, Acts of Parliament, 1867.

Revoking reasons

Inadequacies

To supervise and preserve the working circumstances of the hostels at that time, the SARAIS act was approved in the year 1867, taking into account the major demands of the tourists and owners at that particular time. Although after passing of 150 years still some provisions of the act are there which do not endure the test of time. Section 14 of the SARAIS act issue penalty of rupees 20 due to the inflation doesn't possess the same value as because of the drastic rise in the consumer price index in India. In the year 1971, the value was around 4.7, which by 2016 grown to 153. Furthermore, responsibilities defined under the section 7 of the act confined to the finite scope of activity and only associate with the social functioning of the SARAIS at that time, which turns provisions finite in specific areas. It fails to acknowledge the other major features, which is concerned with the working of the hotels and other accommodation places like food and what responsibility owner should have while providing food and drinks. The SARAIS act fails to present any remedy in case of any mishap concerning cattle or any other misfortune⁵. The act not only failed in providing the remedy but also disappointed by not giving any scope for the technological advancements. Like in section 41 of the Bombay Shop and Establishment act has acknowledged the need for the adequate lighting, which the SARAIS act has failed to do that. Therefore, as per the current status quo, it is important to check the relevancy of such old laws which are inspected from time to time.

Report of Law Commission

The 248th report by the commission demands the revocation of the old laws. It expresses that specific statute that is suggested to be revoked, should be under any of the three categories. 1) the content in the law is obsolete, and the law described in it is no longer needed to regulate that matter 2) on completion of the reason behind the making of law it is no longer required 3) new legislation controlling the same content. It's the similar report which suggested the revocation of the act, reason behind as the hotels are previously got registered under pertinent state legislation and statute made as applicable. Like for example an owner and a keeper of any lodging places are required to take several clearances comprises of water, disposal, fire, electricity, and other clearances form the local municipality. Each state consists of certain

⁵ Section 11, SARAIS Act, 1867, No.22, Acts of Parliament, 1867.

bye-laws regarding the management of various hotels and other institutions. As per the New Delhi Municipal Council bye-laws, each owner needs to get himself recorded under the office in Delhi. Each owner is required to keep a register consisting of mandatory information about the tourists. This type of bye-laws consists of some strict regulations in case of the sale and preservation of the food, cleaning of sewage and also gives importance to the safety system in case of production of the food articles. There's a penalty of around Rs 500 in case of breach of the bye-laws and extra 20 for the constant violation of the bye-laws. Other than this, taking the inspiration from the Bombay Police Act, 1951 different laws like the Delhi Police Act also gives the licensing under section 28(x) (i) which gives authority to the police to supervise and see the functioning. Section 28 (z) also includes the registration of hostels and other accommodation places which gives food.

It puts the hindrance on the owner for the commitment of any kind of unlawful act like problems of vehicle parking, which the SARAIIS act rejects⁶. Section 35 of the above-mentioned act also takes on with the increase of contagious disease which is same as in section 7(1) of the above-mentioned act. Even the penalty given by the Delhi Police Act is much suitable in the current situation as in contrast punishment given by the SARAIIS act. Thus, there are certain statutory provisions which give the complete detail over the statute, which also consist of the same provisions as per the given in the SARAIIS act and gives penalty more relevant to the current time, don't regarding the relevancy of the act involuntary arises. One notable feature of the act is its various provisions concerning the hygiene of the saris and the duty on the several owners to preserve a clean lodging house as per the section 7(3) of the SARAIIS act. Although, the above-discussed statement is not fully compatible with the SARAIIS act only. Shop and establishments act acquired in several states supervise the working circumstances of the employees and daily basic functioning of the SARAIIS or any other institution. These are the acts which consist the provisions regarding the cleanliness.

Limitation

One of the major curbs of the SARAIIS act is related to the food and its statute. It's an ordinary aspect in the current times for the various hotels and other accommodation places to give food, as quality warm reception is taken into account as a major priority. Although the

⁶ Section 111, Delhi Police Act, 1978, No. 34, Acts of Parliament, 1978.

SARAIIS act doesn't give a single clue or any substantive law as kind of system to go behind by several owners of the series, as most of them are required to give food and various different eatable things in its proposition. Thus, the series are required to get themselves booked under the various kinds of legislation.

Provisions provided under this act are obsolete. Chapter 4 of this act entails a vast list of the do's and don'ts for the various owners concerning the standard of the food. This particular act also establishes the authority to recollect the food articles. But the counter can be placed on the point that the various SARAIISs at the time of British Raj were just to rest for only a day or more and thus the food wasn't contemplated as a major requirement for the SARAIISs, the thing is, that in the current situation it's a basic procedure to give food in such institutions. Thus, there is a

Requirement of the full-fledged law which includes everything concerning the workings of hotels which can be perceived in the bye-laws of the state, not in some act.

Conclusion

India consists of more than 300 old era laws which are still in function. Though some of the statutes have survived through time like CPC 1908, CRPC 1898, Indian contract act 1872, due to its significance, there consists a different kind of obsolete laws which are now being revoked in this current era. After the 248th report of the commission which instructed the government to revoke the SARAIIS act, more than 400 acts were revoked by the Indian government that time but this act wasn't included in one of them. Though this operation of revocation takes out all the obsolete laws in large amount. Several types of institutions or committees were established to go through all these obsolete laws in bulk by the Indian government. As per the commission report each statute has to undertake certain principle so that the citizen gets updated about the law applicable in the current season. The SARAIIS act was once contemplated as a necessary part of the legislation; it was the one and only law which supervise the hotels and other several institutions. Though a brand-new state law has been introduced in each state that provides the same things but with the improved provisions. Besides when an obsolete act like SARAIIS act can be used to pester the various owners, one has to raise the doubt on the importance of this act in the current surroundings. Such obsolete laws will only cause the troubles for the peoples as new and improved and more acts will be

cleared by the legislature it is certain to happen. The burden is here on the legislature to clear the dust of the cabinet.