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Analysis of the Constitutional Validity of Member of Parliament - Local Area Development (MPLAD) Scheme and Its Suspension amidst Covid-19

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ABSTRACT

Members of Parliament Local Area Development – MPLAD - Scheme was introduced in India in 1993 to empower Members of Parliament of the Lok Sabha to initiate and introduce developmental measures in their constituencies with prioritizing the creation of long-lasting communal assets that were needed for the local population. Every Member of Parliament is eligible to get Rs. 5 crores annually. These funds, which are under the discretion of an MP, are to be used for fulfilling the development or basic needs of the people in his/her constituency. Although the constitutional validity of the MPLAD scheme had come into judicial scrutiny several times in the past, on several grounds, the Supreme Court of India upheld its constitutionality, by relying heavily on various case precedents, holding that the separation of powers was not strictly recognized in the Indian Constitution. The COVID-19 pandemic forced the Government of India to suspend the MPLAD scheme for the next two years, on the ground that it is focusing more upon whole needs, requirements, planning, and execution on a national level rather than filling upon root requirements of remote areas. The Government's decision to suspend the scheme, despite the political backlash, notwithstanding, the SC's judgement, prompts the need to analyse, in-depth, the scheme, its implementation, and the legal questions surrounding it. The paper aims to discuss the aforementioned questions comprehensively.

I. INTRODUCTION TO MPLAD

(A) MEMBER OF PARLIAMENT

A Member of Parliament (MP) holds a very important position in a parliamentary democracy like India. With 543 MPs in the Lok Sabha (Lower House) representing more than 1.2 billion people, a Lok Sabha MP on an average represents more than 2.2 million people. A Rajya Sabha (Upper House) MP is the voice of his State in Parliament, and as such, has a very important

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role in our federal political system.

There are three sorts of duties of MP i.e. legislative, deliberative, and developmental. It additionally features arrangements to make MPs responsible to the people, wherever such provisions exist.

(B) MPLADS AND HISTORY

MP-LAD (Members of Parliament Local Area Development) Scheme was introduced in 1993 to empower Members of Parliament to initiate and introduce developmental measures in their constituencies with prioritizing the creation of long-lasting communal assets that were needed for the local population.

The project initially was under the ambit of the Ministry of Rural Development and Planning. This was transferred to the Ministry of Statistics & Programme Implementation.

Every Member of Parliament is eligible to get Rs.5 crore annually. These funds are under the discretion of the respective MP to be used for fulfilling the development / basic needs of the people in his constituency.

Lok Sabha Members can recommend works within their Constituencies and Elected Members of Rajya Sabha can recommend works within the State of Election except as provided in paras 2.8 and 2.9 in Guidelines of MP-LADS³.

Nominated Members of both the Rajya Sabha and Lok Sabha can recommend works anywhere in the country. (Para 2.2 Guidelines of MP LADS).

II. WHO IMPLEMENTS THIS SCHEME?

The full control and finances of the MP-LADs lie within the ambit of the Central Government. MPLAD is a centrally sponsored plan.

At the level of States, each State and Union Territory designates one nodal department for effective implementation of the scheme and coordination with the Ministry at the Centre.

The Head of the District, where the MP recommends works, is responsible for implementation at the ground level.

In addition to the regular State Government and the three levels of Panchayats, the rural areas of many districts are also being serviced by Area Development Authorities/Rural Development Boards.

³https://www.mplads.gov.in/MPLADS/UploadedFiles/MPLADSGuidelines2016English_638.pdf

III. WORKS COVERED AND OTHER IMPORTANT DETAILS

(A) DEVELOPMENTAL WORKS COVERED

Member of Parliament (MP) can recommend: -

1. Building of roads, pathways, and bridges.
2. Facilities of primary education.
3. Health and Family Welfare.
4. Assets to improve public health like Ambulance, Drinking water facilities
5. Non-Conventional Energy Sources
6. Sanitation Facilities
7. Irrigation Facilities
8. Sports
9. Animal Care
10. Electricity
11. Other Public Facilities such as
12. Construction of community centers
13. Construction of public Library and reading rooms
14. Welfare of physically challenged

All recommended works which are eligible are to be allotted within seventy-five days from the initial date of recommendation. If rejected, the district authority must inform regarding the disapproval to respective MP within the timeframe of forty-five days of the same date mention above.

(B) NATIONAL DISASTERS AND MPLADS

In any event of a natural calamity or disaster, the MP can also turn in their fund to be used to the people who have been affected.

The MPs of the unaffected area of the state can also suggest works up to a limit of Rs.25 lakh per annum in the affected area(s) in that State.

In the time of "Calamity of severe nature" in any part of the country, an MP can prescribe works up to a limit of Rs.1 crore for the influenced region The funds in this regard will be released by the District Authority of Nodal district of the MP concerned to the District

Authority of the affected district to get permissible works done.

The Works Completion Report, Audit Certificate, and Utilization Certificate for completion and funds will be provided by the District Authority of the affected districts directly to the Ministry of Statistics and Programme Implementation for overall reconciliation.

The Nodal Department shall identify the rehabilitation works within a period of one month of the commitment of MP-LADS funds and the rehabilitation works should be completed by the concerned District Authority within 8 months of the approval of the works. In case more time is required to complete the work, the Nodal Department, in consultation with MOSPI, may allow more time for completion of works.

IV. ABOUT THE MPLAD FUNDS

All the funds released by the Government to the District authority are non-lapsable. The unused funds are carried down the road for subsequent usage. Similarly, if the Government does not release the funds in a year it will be carried forward for making releases in the subsequent years subject to the fulfillment of criteria stipulated in Act.

In case of a term change the funds unused by the previous MP of a constituency it is transferred to his successor MP from the same constituency. In the case of fresh delimitation, separate orders would be passed.

In respect term end of a Rajya Sabha MPs, the balance of funds not used for any work would be equally distributed by the state government among the successive elected Rajya Sabha members in that state. If there is even an unspent balance that is not already distributed will be equally split between the current Rajya Sabha MPs of the state.

Unused funds left by Anglo-Indian nominated Lok Sabha MPs will be equally distributed among the successor Anglo-Indian nominated Lok Sabha MPs by the State Government with the approval of the Government of India.

V. RECENT STATISTICS AND UPDATES

Analyzing the data released by the Union Ministry of Statistics and Programme Implementation, utilization of funds in the term of 2014 is not as effectively used by the previous terms of 2004 and 2009.

In the 14th Lok Sabha term of 2004 – 2009, the unutilized funds were Rs. 176 crore. In the next term of 15th Lok Sabha, this increased by 213.21% totaling it to Rs.551.25 crore being unutilized.

Even though the funds released by the Government have been cut down moderately i.e. 14th term of Lok Sabha had 14,023.35 crores in comparison to the 16th term of Lok Sabha it was 11,232.50 crore, there has been an exponential increase in the fund amount that went unutilized.

VI. CONSTITUTIONALITY OF MP-LADS

The primary issues which raise the question of constitutionality and effectiveness are:

(A) BREACH OF SEPARATION OF POWERS

The scheme is often accused of breaching the fundamental principles of the Indian Constitution i.e. *Separation of Powers*. By granting the authority of planning the developmental function of a local district officer thereby transferring the power of an executive to a legislative. The counter-arguments are the MP only recommends the projects and the implementation of these lie within the power of the local executive, which may theoretically seem correct but fails miserably in practical terms.

(B) STATISTICAL ANALYSIS OF CAG'S REPORTS

The MPLADs have always been below satisfactory in terms of the implementation of the schemes. Substantiating the same reports of CAG (Comptroller and Auditor General) of India state that *Expenditure incurred by the executing agencies has been less than the amount booked*. The utilization rate is between 49 to 90% of the booked amount. The scheme clearly states that the works and measures should strictly be restricted into the category of *asset creation*, but instead *78% of the recommended works are remarked for improving the already existing assets*.

The register for the created assets is not maintained even though it is mandatory in the scheme to do so, by which the location and existence of such could not be confirmed. There is tremendous *Delay in issuing work orders* in 57 % of the cases it lies between 5 to 387 days against the limit of 45 days of the receipt of a recommendation by the MP.

(C) VOID IN UTILIZATION

Analyzing the report of *Indiaspend*⁴ which was based on the data released by the Ministry of Statistics and Programme Implementation, there has been a shocking revelation that not a single rupee has been spent out of the 5-crore quota of the MP LADs by 298 of 542 members of the 16th Lok Sabha term. Moreover, 93.55% did not or could not, use the entire amount of their quota of MP-LADs at the end of their 5-year term. Only 35 MPs of the Lok Sabha have

⁴ <https://archive.indiaspend.com/cover-story/rs-0-spent-by-55-lok-sabha-mps-on-constituencies-57869>

used up their entire quota of MP-LADs during their term.

Since its inaugural year of 1993, the cumulative amount that is unspent totaled to Rs. 5,000 crores. By the end of 15 May 2015.

(D) MP-CONTRACTOR PARADOX

The money below MP-LADS is presupposed to be accustomed to appease or oblige 2 sets of people: opinion-makers or opinion-influencers, and favorite contractors. For instance, a contractor typically being a relative, shut friend, or an intimate of the MP, and therefore the contractor and therefore the MP being financially connected. An often-heard tale is that of the contractor is a relative, close friend, or a confidant of the MP, and the contractor and the MP being financially linked with each other.

The constitutionality of the issue of MP-LADs has been challenged many times in the past in the Supreme Court of India in the years of 1999, 2000, 2003, 2004, and 2005. Time and time again the Supreme Court had rejected all these into taking under its considerations. The honorable Apex Court combined it all in the case of *Bhim Singh vs. Union of India*⁵

VII. BHIM SINGH VS. UNION OF INDIA

The submission made by the petitioners (amidst others) claimed that the individual MPs given to MP-LADs is in contradiction to 73rd and 74th Amendments to the Indian Constitution, by which it entrusts entire local area self – government to Panchayats and Municipalities. The choices and functions of the Panchayats and Municipalities are deluded by it.

Defending the petition, State argues that schemes are not inconsistent with the other schemes of Panchayats and Municipalities. On the flip side, it only supports the welfare measures taken by them. Thereby the concept of separation of powers is not breached.

(A) ARGUMENTS ON BEHALF OF THE PETITIONER

The constitution of India strictly lays down the provisions under the Consolidated Fund of India may be used for. According to article 282⁶ of the Indian Constitution the Union of India or the government has the powers to implement measures for "public purpose", however giving the same to the legislature is violating the said article.

Article 275⁷ states that financing the parliament for "grants-in-aid of the revenues of a State" without a recommendation from the Finance Commission of India is contradictory with respect

⁵ *Bhim Singh vs. Union of India* (2010) 5 SCC 538

⁶, The Constitution of India

⁷, The Constitution of India

to the said Article.

Entries in the list of Schedule VII of the constitution are not to be exercised by the legislative, the Article 73⁸ strictly restricts the legislative in such matters for co-existence of executive and legislative, in the executive powers of the Union of India.

After the 73rd⁹ and 74th¹⁰ amendments of the constitution Articles 243G¹¹, 243W¹², 243ZD¹³ and 243ZE¹⁴ read along with Schedule XII vests the sole authority of the entire local self-government to Panchayats and Municipalities it also includes the development and decision-making authority to Panchayats and Municipalities. These are in direct contradiction by the implementation of the MPLADs Scheme.

Part XI and Part IX-A rules over the decision-making process but by the implementation of the scheme of MP-LAD it is inconsistent and tentative with local self-governance, also the decisions and duties of Panchayats and Municipalities are being underplayed because of the MPLAD scheme, thereby it is unconstitutional.

The counsel appearing on behalf of the petition Mr. Prashant Bhushan in the Writ Petition (C) No. 376 of 2003, also submitted that

The Finance Commission of India, formed under Article 280¹⁵ of the Indian Constitution which would be constituted on a 5 year once basis is the independent body that has the decree to recommend the spilled up of taxes between the Centre and State. Though Article 280 disguises enough to have a broad scope to cover all grants between the Centre and State, it cannot regularly.

Money defrayed by the central government can be allowed for a specific public purpose though that may even fall under subjects of the state, Article 282 is unintended to be utilized as a secondary channel of transfers from the center to state. Articles 112¹⁶, 113¹⁷, 114¹⁸ vests the Central Government to appropriate funds to its own discretion and expenditure but it cannot be used for giving grants to the States.

⁸ Article 75, The Constitution of India

⁹ https://niti.gov.in/planningcommission.gov.in/docs/reports/sereport/ser/bihinter/st_bihch11.pdf

¹⁰ http://mohua.gov.in/upload/uploadfiles/files/74th_CAA13.pdf

¹¹ Article 243G, The Constitution of India

¹² Article 243W, The Constitution of India

¹³ Article 243ZD, The Constitution of India

¹⁴ Article 243ZE, The Constitution of India

¹⁵ The Constitution of India

¹⁶ Article 112, The Constitution of India

¹⁷ Article 113, The Constitution of India

¹⁸ Article 114, The Constitution of India

(B) ARGUMENTS ON BEHALF OF THE RESPONDENT

Article 114(3) read along with Articles 266(3) and 282 of the Indian Constitution is the pinnacle of power that makes MP-LADs intra vires with the Constitution. Article 282 is to be interpreted and is given wildest amplitude, by which the public purpose can be achieved both by the Central and the States to advance Directive Principles of State Policy.

The Scheme is being executed by the authority which it receives under the Parliament after the passing of the Appropriation Act during every financial year. Appropriation for the Scheme is done after resort to the special procedure as applicable to Money Bills, as prescribed under Article 109¹⁹. Articles 112(2)²⁰ and 113(2)²¹ mandate that the expenditure proposed to be made from the Consolidated Fund of India is bound to be laid before both the Houses of Parliament in the form of "Demand for Grants" and is subject to the assent of the House of People.

Article 266(3)²² is the Appropriation act which has its origin of power in Article 114(3)²³ of the Indian Constitution, the MP-LADs as the whole plan is based upon the policy decision and having a Parliamentary sanction in its implementation in the form of Appropriation Acts, no further enactment is required.

The Planning Commission, by the virtue of Article 282 of the Indian Constitution from the date of its origin has implemented several welfare measures through the Union of India that have benefitted the subjects of the State (List II of the VII Schedule). The use of expression "Grants" in Article 282 will have to be construed in a wider sense and it is not subject to any Article especially Article 275. The scheme does not violate the concept of Separation of Powers as it only supplements the welfare measures taken by Municipalities and Panchayats, thereby it is not inconsistent with the same.

(C) JUDGEMENT

The Apex court held that the MP-LADs is intra vires the Constitution. The court also held the separation of powers was not strictly recognized or held up in the Indian Constitution. It further stated that the principle of separation of powers will only be violated if an essential function of one functionary is overtaken by another functionary, thereby implying removal checks and balances.

¹⁹, The Constitution of India

²⁰ Article 112(2), The Constitution of India

²¹ Article 113(2), The Constitution of India

²² Article 266(3), The Constitution of India

²³ Article 114(3), The Constitution of India

It relied upon previous judgments:

1. *Kesavananda Bharati vs. State of Kerala & Another*²⁴ – *Basic Structure*.
2. *Indira Gandhi vs. Raj Narain*,²⁵
3. *Rai Sahib Ram Jawaya Kapur and Ors. v. The State of Punjab*²⁶ – *Not as rigid in America – Only in a broad sense*
4. *A.K. Roy v. Union of India*²⁷

The Court held that:

The final argument laid down by the petitioners which state that the scheme rigs democratic free and fair election, as the sitting MPs have a tactical advantage over others as they have access to MPLADs at their helm which they could spend or promise to spend. Also, there are chances that the fund to be misused for illegitimate things.

The argument is void as it lacks scientific analysis or empirical data. The court felt that the argument was a halfhearted venture to challenge the constitutionality. The scheme is such a way that if a sitting MP makes use of it in the right way, lays down and implements developmental and welfare schemes, his performance would be automatically increased. If by that people again vote back incumbent candidate, it certainly does not violate free and fair elections, instead, it is a pathway for a healthy democracy.

Both the Centre and the State have the power for grants, the objective being irrespective of whether the subject matter of the objective is under the Seventh Schedule by which it comes under "public purpose" within the meaning of the Constitution it is due to the quasi-federal nature of the Indian Constitution and the specific wording of Article 282. The scheme comes under the ambit of "public purpose" pursuing the fulfillment of the developmental and welfare of the State as advised under Directive Principles of State Policy of the Indian Constitution.

Articles 275 and 282 of the Indian Constitution are the origin of grants and funds between the Union and the States. Article 282 normally meant for extraordinary, non-permanent, or ad hoc schemes. However, the subject matter relating to expenditure for "public purpose", is necessary to satisfy the requirements under the constitution. The authority under Article 282 to fund grants is not restricted.

Appropriation Acts will also come under the "Laws" mentioned in Article 282. Further, special

²⁴ *Kesavananda Bharati vs. State of Kerala & Another* (1973) 4 SCC 225

²⁵ *Indira Gandhi vs. Raj Narain* AIR 1977 SC 69

²⁶ *Rai Sahib Ram Jawaya Kapur and Ors. v. The State of Punjab* AIR 1955 SC 549

²⁷ *A.K. Roy v. Union of India* AIR 1982 SC 710

legislation is not required to be passed on by the parliament to fall back into the provision. Thereby the MP-LADs scheme is as valid as Appropriation Acts have been duly passed annually. The court also held the separation of powers was not strictly recognized or held up in the Indian Constitution. It further stated that the principle of separation of powers will only be violated if an essential function of one functionary is overtaken by another functionary, thereby implying removal checks and balances.

Despite the seemingly executive function given to MPs, their duty is bound unto Recommending works, and actual execution of the same lies within the ambit of the local authorities. Thereby no removal of checks and balances has occurred as these are duly provided and have to be strictly adhered to by the guidelines of the Scheme and the Parliament. Therefore, the scheme does not violate the separation of powers principle. Panchayats and Municipal corporations, as well as the local bodies, have also not been stripped of their duties or jurisdiction by the scheme as a proper place has been recognized to them by the guidelines, in the implementation and execution of the scheme.

The Honorable Apex Court further stated that it can only strike down a law or scheme only on the classification of its vires or constitutionality but not under the basis of its viability. When proper accountability of the scheme exists, it is not proper for the court to strike it down, except for violation of constitutional principles. In the subject matter of the present scheme, accountability has been provided. There must be efforts made to make the present accountability more transparent and solid, but in the present form, it cannot be struck down as ultra vires or unconstitutional. Also, the allegations of the scheme giving an immoderate advantage to incumbent MP are baseless and it does not amount to a corrupt practice.

It concluded that under the scheme, though the District Authority (The guidelines show a distinct preference for the District Collector/ Deputy Commissioner to be the District Authority, as opposed to the District Panchayat) is given the power to identify the agency through which a particular work recommended by the MP should be executed, the Panchayati Raj Institutions (PRIs) will be the preferred implementing agency in the rural areas, through the Chief Executive of the respective PRI. Nevertheless, in the urban region, the execution agencies would be done by the Commissioners/Chief Executive Officers of Municipal Corporations and municipalities. Under this background, the court felt that the scheme did not take away the authorities of the local governments.

The judgment further stated that the 73rd and 74th Amendments have received a poor recognition of the implications at the level of the Supreme Court. There is no recognition that

these Amendments have drastically changed the democratic polity of the country, by mandating a new and 3rd level of government. Further, the court stated, “*the amendment to the Constitution sought to strengthen the Panchayat system by giving a uniform constitutional base so that the Panchayats become vibrant units of administration in the rural area by establishing strong, effective and democratic local administration so that there can be a rapid implementation of rural development programs*”. However, not a word about the self-government is mentioned.

The local governments are not seen more than branches of higher-level governments, within a largely centralized polity, where at the maximum, they can function as branches of administration and management of higher-level governments. The patronage of systems of intersecting duty and authority between governments and the recognition that MPs can engage in *pork-barrel* schemes lets out a dismal augury for the future accountability, transparency, and fixating of responsibility and duty on the proper level of government for failures of governance. This judgment opened a new horizon in the sanction of new patronage-based schemes or expanding the existing ones.

Accordingly, the court held that the MP-LAD scheme is valid and intra vires of the Constitution, and all the writ petitions, as well as the transferred cases, are liable to be dismissed as devoid of any merit, consequently, the same is dismissed. No order as to costs.

VIII. COVID-19 AND MP-LADS AND DISCUSSION

Due to the novel coronavirus pandemic the cabinet on April 6, 2020, brought an ordinance to suspend the MPLADS for a period of two financial years i.e. (2020-2021) (2021-2022). Also, the salary cut for the MPs (Member of Parliament) is in effect from 1st April 2020. The cut will be 30% of the original salary designated. The Honorable President and the Vice President of India and all the State Governors have voluntarily cut down 30 % of their original designated salary.

Tougher times require tougher solutions; however, suspending the whole scheme of the MP-LADs scheme seems to be a bit drastic, given the positives of the scheme. Notwithstanding all the deficiencies of the scheme, alternatively, why not pool the funds of MPLADs and the consensus to build around it to fight the COVID-19 pandemic? There have been events where the MP-LADs were collectively allocated for the rehabilitation works in case of disasters such as flash floods and landslides in Jammu and Kashmir and Uttarakhand, the cyclones in Andhra Pradesh or the floods down south in Tamil Nadu. Keeping COVID-19 in mind, a pertinent question to be taken up is would it not have been reasonable to let full utilization of MPLADs

to happen and individual MPs to take care of their constituencies, instead of a blanket suspension?

The constitutionally upheld privilege of MP-LADs is the only discretionary expenditure available to a sitting Member of Parliament to take any sort of action in their constituencies. The annual report released on March 31, 2017, stated that Rs. 3499.50 crores were released under the Scheme in the year 2016-17 and an expenditure of Rs. 3796.23 crores were made. This implies that the MP-LADs have been utilized at the percentage of 108.48% since the rollover of funds is permitted. Hence, the question gets even bigger as to why the Government of India decided to suspend it for two years amidst the period when it is high time for such funds to be utilized.

Questions can also be raised on the grounds of:

a. Adverse impact on ground-level impact by which the individual constituency needs, supplies and other pandemic related issues which it can take care of its own are being drastically hit.

b. Against federalism as the decision to suspend the scheme was taken unilaterally by the central government.

c. Against development: As the scheme attempts to address large variations in infrastructure across the states, the suspension will make it difficult to reduce inequality in development and (in the short run) will weaken our fight against COVID-19.

The Government's response is that the Union is focusing more upon whole needs, requirements, planning, and execution on a national level rather than filling upon root requirements of remote areas. Once the pandemic is over, the individual requirements change from constituency to constituency by which it would be much easier on that time to let the individual constituencies to take care of their needs as efficiently and successfully they can.

All the Opposition parties in the country had unitedly have opposed the suspension of MP-LADs for two years which have attracted criticisms to the government's decision.

The government stated that the amount saved from the salary cuts and suspension of MP-LADs would be around ₹ 8,000 crores, which will be directed to the Consolidated Fund of India for the COVID-19 pandemic. The reason behind it is to *strengthen the government's efforts* in dealing with the challenges and difficulties and their effects on the country as a whole.

IX. DISCUSSION

The biggest question to be answered would be this: what would be the immediate status of MP-LADs? The answer to that is that if the MPs have already spent their yearly quota of the fund,

they cannot recommend any new projects. If there is a new project is underway or its implementation has been begun then the project would be completed to the amount up to which the funds are transferred to the local district authorities. If the available funds are too low to be utilized and the same is exhausted within the same year (2020-2021) the project is to be either scrapped off or be indefinitely put on hold. If the recommended projects are due to be approved or executed, the MP can reevaluate the same and divert the money available to any other ongoing projects. The steps taken to counter the incomplete procedures can be taken as a practical move that is taken in the current circumstances. Nevertheless, there are a lot of difficulties and inconveniences involved in the sudden diversion of funds on such a large scale. Besides the Ministry of Statistics and Programme Implementation as also granted permission for the MPs to divert the remaining/available funds in the hand of MP-LADs be utilized for purchasing of testing kits for Covid-19.

X. CONCLUSION

Concluding, tougher times call for tougher actions this novel coronavirus pandemic is the first major crisis that is felt all around the globe at once after World War I, at these times certain steps and measures taken by the government may tackle the matter in hand effectively, and some may backfire badly. The heavy criticisms from all the united opposition parties may raise suspension about the credibility, legality, and effectiveness of the said measure neutralizing the scheme. Taking the Legal aspect in hand suspension of MP-LADs for a duration of two years is no trivial decision to be taken and weighing upon the legal nexus of the subject matter the Centre is well under its power to suspend the MP-LADs and it is constitutionally *intra vires*. Talking about alternatives for the one suspended the primary reason for the inception of MP-LADs scheme is for the individual constituencies to develop and prosper, the funds which were redirected now aim upon more fundamental principle maintenance of what has been developed keeping in mind the financial constraints that the government is facing right now it is best for not search for an alternative fund for the scheme but to effectively use any other incoming ones.
