

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

FRIDAY, THE 13TH DAY OF NOVEMBER 2015/22ND KARTHIKA, 1937

WP(C).No. 20301 of 2015 (K)

PETITIONER :

**HALCYON CHARITABLE TRUST,
PULINCODE, BAVOOTTY HAJI ROAD, KUTTICHIRA,
CALICUT-673 001,
REP BY ITS CHAIRMAN ABDUL KAREEM,
S/O. ABDULLA KOYA, AGED 52 YEARS.**

BY ADV. SRI.T.G.RAJENDRAN

RESPONDENT(S):

- 1. THE UNDER SECRETARY TO THE GOVERNMENT OF INDIA,
MINISTRY OF HOME AFFAIRS, 1ST FLOOR, NDCC-II BUILDING,
JAIL SING ROAD, OFF: PARLIAMENT STREET,
NEAR JANTAR MANTAR, NEW DELHI-110 001.**
- 2. UNION OF INDIA,
REP. BY SECRETARY TO GOVERNMENT OF INDIA,
HOME AFFAIRS, SECRETARIAT, THIRUVANANTHAPURAM-695 001.**

**R1 & R2 BY SRI.N.NAGARESH, ASSISTANT SOLICITOR GENERAL
ADV.SRI.A.R.GANGADAS, CGC**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 13-11-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

sts

APPENDIX

PETITIONER(S)' EXHIBITS

- P1 : COPY OF THE LETTER ISSUED BY THE 1ST RESPONDENT DTD. 6.8.2014.
- P2 : COPY OF THE REPLY SENT BY THE PETITIONER DTD. 24.10.2014.
- P3 : COPY OF THE LETTER SENT BY THE PETITIONER DTD. 13.8.2014.
- P4 : COPY OF THE NOTICE ISSUED BY THE 1ST RESPONDENT DTD. 8.11.2014.
- P5 : COPY OF THE ORDER DTD. 8.5.2015 OF THE 1ST RESPONDENT.
- P6 : COPY OF THE PHOTOGRAPH SHOWING A PORTION OF THE BUILDING IN WHICH ARRANGEMENTS ARE MADE FOR DIALYSIS.
- P7 : COPY OF PETITION FILED BY THE PETITIONER TO THE 1ST RESPONDENT.

RESPONDENT(S)' EXHIBITS:

NIL

/TRUE COPY/

P.A.TO JUDGE

A.MUHAMED MUSTAQUE, J.

WP.(C) No.20301 of 2015

Dated this the 13th day of November, 2015

JUDGMENT

The petitioner has two fold reliefs in this writ petition.

- a. Rejection of his application under the Foreign Contribution(Regulation) Act, 2010 and Rules, 2011.
- b. Non-consideration of the application for compounding the offence committed under the Foreign Contribution (Regulation) Act, 2010 and Rules, 2011.

2. The petitioner is a charitable Trust. The petitioner applied for prior permission under the Foreign Contribution (Regulation) Act. This has been rejected as per Ext.P5. It has been rejected stating that it could not be acceded in the public interest.

3. The counter affidavit filed by respondents 1 and 2 in paragraph 10, it is stated as follows:

“As regards Para 4 of the writ petition, it is submitted that the Central Government during processing the prior permission application of the petitioner had sought report from the field agency with regard to the activities of the petitioner. The

field report dated 21.4.2015 received in this regard had indicated adversely the activities in respect of two members of the Trust. On the basis of the field report, the petitioner was informed that their application for prior permission to receive foreign contribution could not be granted and accordingly their application was rejected in the public interest.”

4. It is obvious that the public interest is not demonstrated in this counter to protect secrecy of the information. However, this Court is of the view that the petitioner should have been given an opportunity in the matter before rejection. Accordingly, Ext.P5 is set aside. The petitioner’s application shall be reconsidered after affording an opportunity of hearing to the petitioner.

5. In relation to the offence now found out against the petitioner, the petitioner has already filed an application for compounding. If the petitioner’s application for compounding is pending, the same shall be considered within two months from the date of receipt of a copy of this judgment by the first

respondent. The amount lying in the account can be disbursed in accordance with the decision of the authorities in the light of the above directions.

The writ petition is disposed of as above.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE

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