

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 11.12.2019

CORAM

THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

W.P.Nos.33797, 33802, 33804 of 2018 and 10785 of 2019
and
W.M.P.Nos.39247, 39248, 39251, 39253, 39255, 39256 of 2018 and
11255, 11257 of 2019

- 1.Sri Raja Rajeshwari Devi Srichakra Mahameru Temple Trust,
Rep.by its Founder cum Managing Trustee,
Mr.J.Senthil Kumar.
.. Petitioner in W.P.No.33797 of 2018
- 2.Sri Raja Rajeshwari Devi Srichakra Mahameru Seva Trust,
Rep.by its Founder cum Managing Trustee,
Mr.J.Senthil Kumar.
.. Petitioner in W.P.No.33802 of 2018
- 3.Sri Raja Rajeshwari Devi Srichakra Devalok Seva Trust,
Rep.by its Founder cum Managing Trustee,
Mr.J.Senthil Kumar.
.. Petitioner in W.P.No.33804 of 2018
- 4.Sri Raja Rajeshwari Devi Srichakra Devalok Temple Trust,
Rep.by its Founder cum Managing Trustee,
Mr.J.Senthil Kumar.
.. Petitioner in W.P.No.10785 of 2019

..Vs..

The Union of India,
Ministry of Home Affairs,
Rep.by its secretary,
Foreigners Division (FCRA wing),
NDCC-II Building,
Jai Singh Road,
New Delhi - 110 001.

.. Respondent in all Wps.

PRAYER in W.P.No.33797 of 2018: Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the impugned order dated 22.10.2018 in No.0100017142018 of the respondent and

quash the same and consequently direct the respondent to grant registration to the petitioner Trust under the Foreign Contribution (Regulation) Act, 2010, in pursuance of its application dated 04.07.2018.

PRAYER in W.P.No.33802 of 2018: Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the impugned order dated 22.10.2018 in No.0100017162018 of the respondent and quash the same and consequently direct the respondent to grant registration to the petitioner Trust under the Foreign Contribution (Regulation) Act, 2010, in pursuance of its application dated 04.07.2018.

PRAYER in W.P.No.33804 of 2018: Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the impugned order dated 22.10.2018 in No.0100023212018 of the respondent and quash the same and consequently direct the respondent to grant registration to the petitioner Trust under the Foreign Contribution (Regulation) Act, 2010, in pursuance of its application dated 15.09.2018.

PRAYER in W.P.No.10785 of 2019: Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the impugned order dated 22.03.2019 in No.0100023242018 of the respondent and quash the same and consequently direct the respondent to grant registration to the petitioner Trust under the Foreign Contribution (Regulation) Act, 2010, in pursuance of its application dated 15.09.2018.

For Petitioner : Mr.N.Murali Kumaran,
in all Wps.

For R1 : Mr.V.Athikesavan, CGC
in all Wps.

ORDER

All the four Writ Petitions have been filed in the nature of Certiorarified Mandamus seeking to call for the records and quash the orders passed by the respondent dated 22.10.2018, 22.10.2018, 22.10.2018 and 22.03.2019 in 0100017142018, 0100017162018, 0100023212018 and 0100023242018 respectively.

2. It is the case of the petitioner that they have applied for seeking grant of registration under the Foreign Contribution (Regulation) Act, 2010. It is stated that the Officials of the respondent inspected the offices of the Trust and also examined the registers and the books. However, no proper enquiry was conducted by giving an opportunity to the petitioners to put forth their case. It is also the grievance that the impugned orders have been uniformly stated as follows:

"2. Your request has been carefully considered by the Central Government but it is regretted that the same cannot be agreed to, as it has been found that:

3. On inquiry and examination thereof, the case attracts Section 12(4)(b) of the FCRA, 2010, for not undertaking reasonable activity in its chosen field for the benefit of society for which the foreign contribution is proposed to be utilized. Accordingly, the Competent Authority has refused the application of the Association seeking registration under Sec.12(4)(b) under FCRA, 2010.

4. In terms of Rule 9(1)(c) of the Foreign Contribution (Regulation) Rules, 2011, you may, if you so desire, submit a fresh online application complete in all respects, along with all the required supporting documents only after six months from the date of cessation of this application."

3. It is stated that the petitioner Trust has been in existence from the year 2006 and the learned counsel for the petitioner contrasted this with requirement for registration which he states, is not in the guidelines. It is stated that there are no guidelines given as of what "reasonable activity" actually implies.

4. Though in the counter, it is stated that the trust should be registered for a period of three years and should have had spend atleast Rs.10,00,000/- in its activities. It is pointed out by the learned counsel for the petitioner that there are no specific guidelines given in the Act. It is therefore stated that the impugned orders are required to be interfered with by this Court.

5. On the other hand the learned counsel for the respondent stated that the very object of giving a restriction of atleast three years and spending of Rs.10,00,000/- is to prevent fly-by

night operators from making use of the Act. At any rate, it is stated that no proper enquiry was conducted for the petitioner. Therefore, very consciously without going into the merits of the writ petition or within the contention raised by the petitioner, the following orders are passed:

1. The petitioner trust may once again apply for registration by enclosing all requisite records.

2. On receipt of the application, the respondent is directed to conduct an enquiry by giving an opportunity of personal hearing to the representative of each one of the four Trusts and also permit them to produce records and any register shown as books of accounts that as required and also registration certificate and also the records relating to the existence of Trust for a period of more than three years.

3. Thereafter, on perusal of the said records/registers the respondents may pass a detailed order as it deemed appropriate in the circumstances of each separate case.

6. Fresh representation may be given by the petitioners on or before 31.12.2019 and the respondents may complete their enquiry by giving an opportunity as stated and pass a reasoned order on or before 28.02.2020. The petitioners are also directed to co-operate during the enquiry conducted by the respondents.

7. With the above observations, these Writ Petitions stands disposed of. No costs. Consequently, connected Writ Miscellaneous Petitions are closed.

Sd/-

सत्यमेव जयते Assistant Registrar

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Sub Assistant Registrar

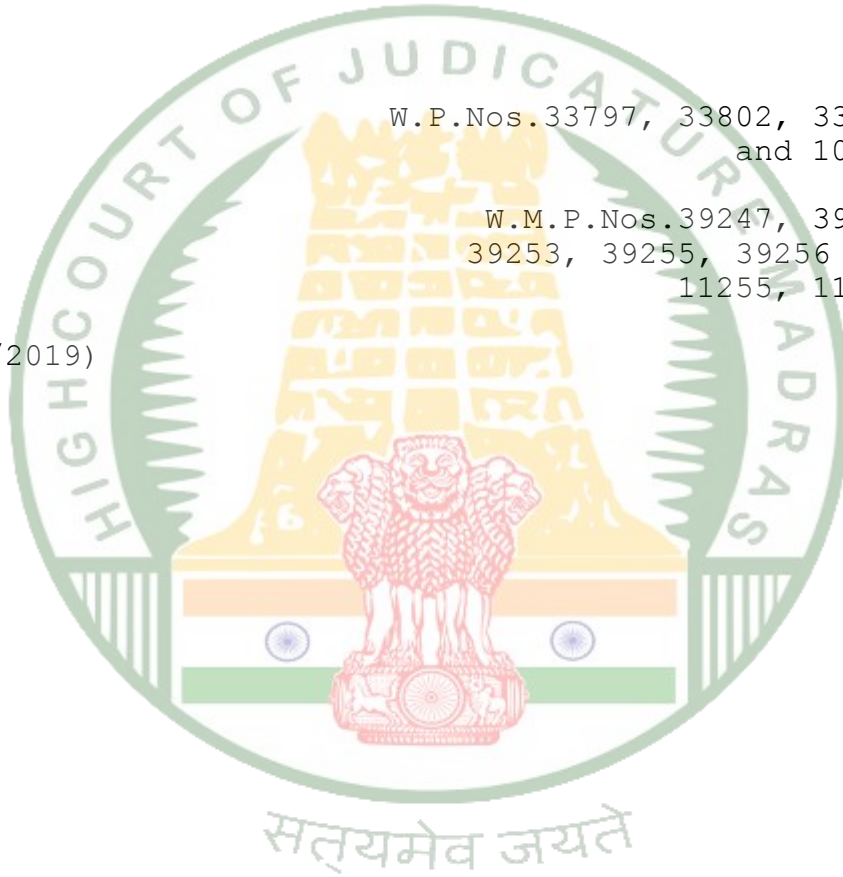
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To

The Union of India,
Ministry of Home Affairs,
Foreigners Division (FCRA wing),
NDCC-II Building,
Jai Singh Road,
New Delhi - 110 001.

+6ccs to Mr.V.Athikesavan, Advocate, SR.Nos.103539,103538&103536
+2ccs to M/s.MCGAN Law Firm, Advocate, SR.Nos.103472 &103470.

PP (CO)
CSR (31/12/2019)



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