



WEB COPY

WP(MD)No.14439 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.06.2021

CORAM :

**THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM**

**AND**

**THE HONOURABLE MRS.JUSTICE S.ANANTHI**

W.P.(MD) No.14439 of 2019  
and W.M.P(MD).No.10868 of 2019

Sri Vasanthasai Charitable Trust,  
Rep. by its Chief Functionary;  
Mr.K.S.Venkatraman,  
Mukthi Nilayam, Rayapalayam Village,  
Madurai - Virudhunagar Road,  
Thirumangalam, Madurai,  
Tamil Nadu - 625 706.

.. Petitioner

Vs

Government of India,  
Rep. by its Under Secretary,  
Ministry of Home Affairs,  
Foreigners Division,  
FCRA Wing (Monitoring Unit),  
Major Dhyani Chand National Stadium,  
India Gate Circle,  
New Delhi - 110 001.

... Respondents

PRAYER: Petition under Article 226 of the Constitution of India seeking issuance of a Writ of Certiorarified Mandamus, calling for records pertaining to the proceedings in No.II/21022/67(0116)/2018-FCRA-II(MU) dated 10.06.2019 issued by the respondent to renew the FCRA registration No.075940489 of the petitioner as per the application submitted online on 28.02.2016.

|                |                                                        |
|----------------|--------------------------------------------------------|
| For Petitioner | : Mr.V.Chandra Sekara Bharathi<br>for Mr.S.P.Maharajan |
| For respondent | : Mr.Paul Pandi,<br>CGSC                               |

ORDER

[Order of the Court was made by **T.S.SIVAGNANAM, J.**]

We have heard Mr.V.Chandra Sekara Bharathi, learned counsel appearing for the petitioner and Mr.Paul Pandi, learned Central Government Standing Counsel appearing for the respondent.

2. The petitioner seeks for issuance of a Writ of Certiorarified Mandamus to quash the communication dated 10.06.2019, issued by the respondent and for a consequential direction to renew



the FCRA registration granted to the petitioner by taking note of the online application submitted by the petitioner on 28.02.2016.

3. On a perusal of the impugned proceedings, we find that it is neither an order nor a decision, but is only a show cause notice. The fact remains that, the FCRA registration granted to the petitioner had expired on 30.06.2016 and thereafter, extended up to 31.10.2016. The impugned notice alleges that the petitioner has received foreign contribution amounting to Rs.5,37,11,582.04/- after the date of cessation of FCRA registration i.e. 01.11.2016. The communication further states that this is an offence under the FCRA, 2010, however, this offence is compoundable in terms of the Ministry's notification S.O.2291(E) dated 5<sup>th</sup> June, 2018.

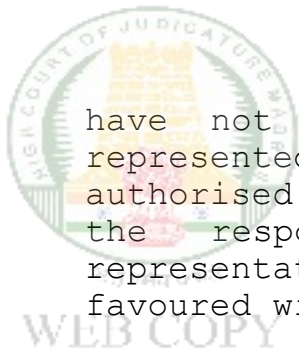
4. Further, the petitioner has been called upon to furnish the requisite information within a time limit. The petitioner is before this Court on the ground that the respondent has unreasonably delayed consideration of the renewal application for a technical error in not remitting the fee online, but through Demand Draft, without taking note of the charitable activities undertaken by the petitioner, more particularly, during the COVID-19 pandemic.

5. In our considered view, the communication dated 10.06.2019, which is impugned in the writ petition has neither taken any final decision on the matter except to point out that certain contributions have been received by the petitioner after the expiry of the license period. Therefore, it is for the petitioner to explain to the Authorities that the contents in the impugned notice is incorrect, for which, the details have to be produced. This is more so because, without obtaining a license, no person has got any vested right to bring foreign funds into India. Therefore, the petitioner has to submit to the jurisdiction of the respondent.

6. The learned counsel appearing for the respondent pointed out from the counter-affidavit that the petitioner has not submitted online application along with the requisite fee for renewal of his registration under FCRA, 2010, by using form FC-III. Further, in terms of Rule 12(7) of the Foreign Contribution Regulations Rules 2011, the petitioner has applied for fresh registration under the Act and the Ministry on examination found that the petitioner has accepted foreign contribution after cessation and therefore, the impugned communication has been sent calling for investigation. Reference has also been made under Section 41(5) of the Act.

7. In the light of above facts, the petitioner has to necessarily reply to the impugned communication by furnishing the relevant details.

8. The concern expressed by the learned counsel appearing for the petitioner is that the petitioner-Organization has been approached by the Authorities of the respondent-Department, but they



have not been favoured with any reply till date and it is represented that the Founder-Trustee of the petitioner through her authorised representative had met the concerned Joint Secretary of the respondent-Department and has also given a written representation on 16.04.2019 that the petitioner has not been favoured with any reply.

9. In the light of the above discussions, we are of the clear view that the impugned communication cannot be quashed on the grounds raised by the petitioner and the petitioner is required to submit the details called for by the respondent-Department.

10. Accordingly, we dispose of the writ petition by directing the petitioner to furnish all details as called for in the impugned communication within fifteen days from the date of receipt of a copy of this order. Along with the details, the petitioner shall make a fresh representation reiterating the stand taken by them in the representation dated 16.04.2019 and the respondent-Department upon being satisfied with the details furnished, and if any enquiry is required to be conducted, the same be conducted and thereafter, the petitioner's representation also may be considered and a speaking order be passed on merits and in accordance with law. The action to be initiated on the petitioner's representation shall be subject to the outcome of the proceedings that may be initiated pursuant to the impugned communication. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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*Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.*



To:

The Under Secretary,  
Government of India,  
Ministry of Home Affairs,  
Foreigners Division,  
FCRA Wing (Monitoring Unit),  
Major Dhyan Chand National Stadium,  
India Gate Circle,  
New Delhi - 110 001.

+1 CC to M/s.P.PAULPANDI, Advocate ( SR-20485[F] dated 29/06/2021 )  
+1 CC to M/s.S.P.MAHARAJAN, Advocate ( SR-20486[F] dated  
29/06/2021 )

W.P. (MD) No.14439 of 2019  
28.06.2021

na (CO)  
TR(05.07.2021) 4P 4C