

\$~6

*

IN THE HIGH COURT OF DELHI AT NEW DELHI

%

Date of Decision: 18th May, 2021

+

W.P.(C) 5280/2021

KARMODAYA CHARITABLE TRUST

..... Petitioner

Through Mr. Manoj V. George, Advocate

versus

UNION OF INDIA & ANR.

..... Respondents

Through

Mr. Chetan Sharma, Ld. ASG,
Mr. Apoorv Kurup, CGSC with
Ms. Vartika Mishra, Mr. Vinay
Yadav, Mr. Akshay Gadeock,
Mr. Amit Gupta &
Mr. Sahaj Garg, Advocates

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MS. JUSTICE JYOTI SINGH

JUDGMENT

D.N. PATEL, CHIEF JUSTICE(ORAL)

Proceedings have been conducted through video conferencing.

W.P.(C) 5280/2021 & CM APPLS. 16249-50/2021

1. This Public Interest Litigation has been preferred with the following prayers:-

“(i) Issue an appropriate writ in the nature of mandamus or any other Writ, Order or direction, thereby directing the Respondents to exempt the registered association, organization or person(s) defined under S.2(1)(m) of the Foreign Contribution (Regulation) Act, 2010, prior permission under S.11 of the said

Act, to receive foreign contributions in the form of life saving equipment/articles for COVID-19 insofar as to expedite the relief work in our country, in the interests of the general public at large; and/or,

(ii) Issue an appropriate writ in the nature of mandamus or any other Writ, Order or direction, thereby directing the Respondents to pass appropriate orders for relaxing the stringent and time-consuming pre-conditions for receiving foreign contributions in the form of donations, in the interests of the general public at large, by utilizing their powers mentioned under Section 50 of the Foreign Contribution (Regulation) Act, 2010”

2. We have heard learned counsel for the Petitioner and looked into the facts and circumstances of the case. Petitioner seeks directions to the Respondents to exempt the registered associations, organisations or persons, defined under Section 2(1)(m) of the Foreign Contribution (Regulation) Act, 2010, especially prior permission under Section 11 of the said Act to receive foreign contributions. Directions are also sought to relax the stringent and time consuming pre-conditions for receiving foreign contributions in the form of donations, by exercising powers under Section 50 of the Act.

3. It is a settled law that exemptions and relaxations under different Statutes are not a matter of right. It is the prerogative power of the Government to exempt or give relaxations with or without stringent conditions. It is not for the Court to direct the Government to exercise the power in a particular manner. It is evident from the pleadings and not denied by the learned counsel for the Petitioner during the course of hearing that before filing the present petition, Petitioner has not approached the Competent Authority seeking exemption under the Act.

4. We therefore direct the Competent Authority under the concerned Ministry to treat the present petition as a representation and decide the issues raised and grievances ventilated by the Petitioner, in accordance with law, relevant rules, regulations and Government policies applicable to the facts of the case, as early as practicable, keeping in mind the nature of relief sought.

5. With these observations writ petition along with pending applications is hereby disposed of.

CHIEF JUSTICE

JYOTI SINGH, J

MAY 18, 2021/rk