



W.P.No.14343 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.10.2024

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

**W.P.No.14343 of 2024 and
W.M.P.Nos.15568 and 15569 of 2024**

Trust Children,
Represented by its Trustee,
Sabita Currimbhoy,
35B, Seahore Town, Panayur,
Chennai/MGR/Kancheepuram,
Tamil Nadu.

... Petitioner

Vs.

1. Union of India,
Represented by Secretary,
Ministry of Home Affairs,
Jaisalmer House,
26, Mansingh Road,
New Delhi-110 001.
- 2.The Under Secretary,
Ministry of Home Affairs,
Foreigners Division (FCRA Wing),
Jaisalmer House,
26, Mansingh Road,
New Delhi-110 001.

... Respondents



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PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, to call for the records relating to the proceedings of the first respondent viz., Union of India, Ministry of Home Affairs, Foreigners Division (FRCA) Wing, New Delhi, refusing the renewal application of the petitioner Trust in respect of File No.671542021 dated 27.03.2024 and quash the same and consequentially direct the first respondent to consider afresh the renewal application of the petitioner Trust for grant of FCRA Certificate in accordance with law.

For Petitioner : Mr.Karthikeyan Anbazhagan

For Respondents : Mr.K.Kangadasan
Central Government Standing Counsel

ORDER

This Writ Petition has been filed challenging the proceedings dated 27.03.2024 issued by the first respondent in respect of File No.6715242021, refusing the renewal application of the petitioner Trust and for a consequential direction to the first respondent to consider afresh the renewal application of the petitioner Trust for grant of FCRA Certificate



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in accordance with law.

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2. The Petitioner herein is a Trust created by a Trust Deed dated 29.07.2004 and registered as per the provisions of the Indian Trust Act, 1882. The Foreign Contribution (Regulation) Act was initially enacted in the year 1976 to regulate the acceptance and utilization of foreign contributions and hospitality by certain individuals and organizations, which was later repealed and replaced by the Foreign Contribution (Regulation) Act, 2010 (Act 42 of 2010) which came into force on May 1, 2011.

3. The Petitioner trust was established with the vision of alleviating poverty through education and has been reaching out to underprivileged children, women and adults through its school called "Gurukalam". The contributions obtained from foreign donors have been utilized for providing free English medium education to children belonging to economically weaker section to provide them free lunch, free snacks, free textbooks, free notebooks, free uniforms, free karate and yoga classes. The



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school run by the Trust supports 212 students from Nursery level to XIIth Grade and employs around 20 teachers and 7 non-teaching staffs at present.

4. According to the petitioner, the previous renewal certificate issued by the respondent No.2 was expired on 01.11.2021. Prior to the date of expiry i.e. on 30.09.2021, the petitioner Trust had uploaded its application for renewal for a period of five years in the designated portal. The said application of the petitioner was kept pending for almost three years, while the respondent No.1 was extending it periodically by way of public notice issued from time to time. While so, the respondent No.1 had sent an email dated 27.03.2024 to the Permanent trustee of the Petitioner Trust intimating the refusal of the renewal application by an one-line order stating that the acceptance of foreign contributions by the Petitioner trust is likely to prejudicially affect the public interest. Challenging the same, the petitioner has come forward with the present Writ Petition.



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5. A counter affidavit has been filed on behalf of the respondents, wherein, the reasons have been elaborately mentioned towards refusal of the renewal application of the petitioner. In brief, according to the respondents, the petitioner had not uploaded the affidavits of the members in a prescribed format, i.e. not notarized by a Notary Public, which is in contravention of the provisions contained in Section 1(2) of FCRA, 2010, etc. Therefore, since the petitioner association failed to meet the statutory requirements, the impugned order has been rightly passed, which requires no interference. It is also stated that as against the impugned order, the petitioner is having efficacious alternative remedy available under Section 32 of FCRA, 2010 and without resorting to the same, the present Writ Petition has been filed. Therefore, the respondents sought for dismissal of the Writ Petition.

6. Heard the learned counsel for the petitioner and the learned Senior Central Government Standing counsel for the respondents and perused the entire materials available on record.



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7. It appears that the petitioner Trust was registered under the Foreign Contribution (Regulation) Act, 2010 (Act 42 of 2010) and the registration was expired on 01.11.2021. Prior to the date of expiry (i.e.,) on 30.09.2021, the petitioner had made renewal application in the designated portal, however, after a lapse of three years, the first respondent has communicated the impugned order, dated 27.03.2024 to the petitioner, intimating the refusal of the renewal application filed by the petitioner. However, as per Section 16(3) of the Foreign Contribution (Regulation) Act, 2010, the Central Government shall renew the Certificate within ninety days from the date of receipt of application for renewal of Certificate and in case the Central Government does not renew the Certificate within the said period, it shall communicate the reasons to the applicant. In this case, a bare perusal of the impugned order reveals that no reasons have been assigned for refusal of the renewal application filed by the Petitioner Trust and the impugned order was communicated to the petitioner on 27.03.2024 after a lapse of three years intimating the refusal of the renewal application. Further, the impugned order simply states in one line that, *'the competent*



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authority has refused the renewal application under Section 16(2) read with Section 12(4)(f)(iii) of FCRA, 2010'. Therefore, as rightly contended by the learned counsel for the petitioner, without assigning the reasons, the respondent No.1 has passed a non-speaking order, which in the opinion of this Court is in violation of the principles of natural justice. Therefore, this Court feels it appropriate to remand the matter back to the 1st respondent for fresh consideration, after affording an opportunity to the petitioner. In such view of the matter, the impugned order dated 27.03.2024 passed by the first respondent is set aside and the matter is remanded back to the first respondent for fresh consideration. The first respondent is directed to hear the petitioner and pass a reasoned order within a period of 12 weeks from the date of receipt of a copy of this order.



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8. Accordingly, this Writ Petition is allowed. There shall be no order as to costs. Connected miscellaneous petitions are closed.

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NCC: Yes / No
Index : Yes / No
Speaking Order : Yes / No
ssb

To

1. Union of India,
represented by Secretary,
Ministry of Home Affairs,
Jaisalmer House,
26, Mansingh Road,
New Delhi-110 001.
2. The Under Secretary,
Ministry of Home Affairs,
Foreigners Division (FCRA Wing),
Jaisalmer House,
26, Mansingh Road,
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M.DHANDAPANI,J.

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