

IN THE HIGH COURT OF JUDICATURE AT MADRAS
MADURAI BENCH

(Special Original Jurisdiction)

W.P. No. 3061 of 2014

The Tuticorin Diocesan Association,
Rep. by Rev. Fr. A. Sahaya Joseph,
Procurator & Chief Functionary,
Catholic Bishop's House,
G.C. Road, Tuticorin – 628 001.

... Petitioner

Vs

1. The Government of India,
Rep. by The Secretary,
Ministry of Home Affairs,
Foreigners Division, (FCRA wing)
Jaisalamer House,
26, Man Singh Road, New Delhi – 110 011.
2. The Deputy Secretary,
Government of India,
Ministry of Home Affairs,
Foreigners Division, (FCRA wing)
Jaisalamer House,
26, Man Singh Road, New Delhi – 110 011.
3. The Under Secretary,
Government of India,
Ministry of Home Affairs,
Foreigners Division, (FCRA wing)
Jaisalamer House,
26, Man Singh Road, New Delhi – 110 011.
4. The Director,
Government of India,
Ministry of Home Affairs, (FCRA wing)
Opposite Jantar Mantar,
B-Wing, Ist floor, Jai Singh Road,
New Delhi City Centre-II,
5. The Manager,
Bank of Baroda,
159-A, Victoria Street,
Tuticorin – 628 001

... Respondents

AFFIDAVIT OF FR. A. SAHAYA JOSEPH

I, Fr. A. Sahaya Joseph, S/o. Swani Arulappan, Christian, Aged about
58, and having office at Catholic Bishop's House, G.C. Road, Tuticorin
– 628 001, and having come down to Madurai, do hereby solemnly

affirm and sincerely state as follows:

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Initial

1. I am the Chief Functionary and representative of the petitioner Association. I am well acquainted with the facts of the case. I am filing this affidavit on behalf of the Association.

2. I humbly submit that the petitioner Association represents the Catholic Diocese of Tuticorin, with a membership of 4.5 lakhs of Catholics, following Catholic Christian religious faith. The Catholic religion is rooted and practiced in the deep south of Tamil Nadu from the days of St. Francis Xavier, who landed in Tuticorin in 1542. From the later part of the 16th century, the Catholic religion is very vibrant in the said region. Tuticorin was erected as a separate Diocese, in the year 1923, by Pope. The petitioner Diocese of Tuticorin is comprised of parts of the civil Districts of Tuticorin, Tirunelveli and Kanyakumari.

3. I humbly submit that the petitioner Association has a time tested traditional administrative machinery to discharge its religious, charitable and social functions, especially for the practice of Catholic religion and for the welfare of the catholic population. Thus, the petitioner Diocese is involved in the life and development of the people, by its religious and charitable activities, for the last 450 years.

4. I humbly submit that for the purpose of legal perpetuity, the said Diocese was registered as a society, having Registration No.S.1 of 1937-38, under the Societies Registration Act 1860 (Act XXI of 1860). All the institutions and their functions are not owned by any individual. They are collectively owned by the catholic community. The Bishop, appointed by the Holy Father, the Pope in Vatican as per Canon Law, is

the head of the Diocese and presides over the society and all other allied institutions under the jurisdiction of the Diocese.

5. I humbly submit that the petitioner Association is deeply involved in charitable and religious services through the following institutions and centres:

Educational Institutions:	- 261
Hospitals & Dispensaries	- 25
Orphanages & Charity Homes	- 50

Apart from these well established institutions, the petitioner society has committed itself for the development of the people, especially the poor. Not only the Christians, but all the marginalized, have benefitted out of the developmental schemes, undertaken by the petitioner. The petitioner society has earnestly involved in relief programmes, during natural disasters, floods, fires and diseases. The petitioner, being a Catholic Diocese, naturally has duties arising out of religious precepts. There are more than 111 parish Churches and thousands of other small Churches, Chapels, Kurusadies and Grottos, which are maintained by the Diocese. There are around 125 convents and religious houses, wherein more than 500 nuns and 230 priests are engaged full-time, in the multifarious religious and humanitarian activities. There is regular religious activity such as celebration of Holy Mass, Sacraments like Baptism, first Communion, Confession, Confirmation, Marriages, Last Anointments, Para-liturgical services, involving thousands of people. The petitioner diocese, epitomizing the Catholic Community, has drawn from the local and foreign resources, for maintaining its religious and social structures and its innumerable functions.

6. I humbly submit that after the enactment of Foreign Contribution (Regulation) Act, 1976 (Act 49 of 1976), the petitioner had the statutory duty to register under Foreign Contribution (Regulation) Act, 1976. After the new enactment (Act 42 of 2010), the said registration is saved under the new Act, vide FCRA Registration No. 076030032. The foreign contributions, received by the diocese and the petitioner Association, previously all these years, thereafter came to be channelized through the said FCRA Number and the designated Bank Account No. 7080100000620 in Bank of Baroda, Victoria Street, Tuticorin, Tamil Nadu. The petitioner has fully complied with all the rules and regulations of the central and state laws. The Returns, Audited statements, FC-3 statements, have been regularly filed in stipulated form and in time. Apart from the statutory compliance, the petitioner Association is also accountable to the Church authorities in Vatican. The petitioner Association has never defaulted at any point of time, in respect of any legal compliance. It has an unblemished record of transparency and accountability in all its undertakings.

7. I humbly submit that while facts being so, the petitioner received a communication, dated 14.11.2011, in No. II/21022/58(460)/2011/FC-MU, from the 3rd respondent, requiring the petitioner to furnish "point-wise reply along with the requisite enclosures/documents" and send them to their office by 02.12.2011. A questionnaire was also enclosed along with the communication. The petitioner, vide its reply dated 02.12.2011, submitted all the details required by them as per the questionnaire. The petitioner has also stated in the said communication dated 02.12.2011, that the petitioner had immediately submitted the

documents pertaining to six preceding years, as per the requirement u/s 44AA of the Income Tax Act r/w Rule 6F(5) and further requested to grant some more time to collect and submit the rest of the required records from the Archives of the Diocese. Total number of 16 files, running to thousands of pages, were compiled and submitted along with the details furnished vide communication dated 02.12.2011.

8. I humbly submit that pursuant to the dispatch of enclosure and documents vide communication dated 2.12.2011, the 2nd respondent, vide communication dated 02.01.2012, in No. II/21022/58(480)/2011/FC-MU, informed the petitioner that the Central Government, U/S 20 and 23 of the FCR Act, has authorized two officers, an Under-Secretary, and an Accountant, to inspect any account or record maintained by the Association for the period from 2006-07 to 2010-11, at our office premises in Tuticorin from 10th to 13th January 2012. The said inspection was conducted as referred above. The petitioner fully cooperated with inspecting officers and provided all the documents and informations, vouchers and bills as required by them.

9. I humbly submit that all of a sudden, the Petitioner was shocked to receive an order dated 09-02-2011 in Order No:II/21022/58(480)/2011/FCRA-MU, under section 9 and 10 of the Foreign Contribution (Regulation) Act 2010, stating that the Association has violated certain provisions of the Act and so it is prohibited in public interest, to receive foreign contribution from the date of issue of the order. In the copy of the order, marked to the banker of the petitioner, there is a direction to freeze the bank account of the petitioner in