

- b) The impugned order has been issued without even show-cause notice to the petitioner, to explain its position, and so it is in gross violation of the principles of natural justice.
- c) The petitioner was not given to know the information and evidence on the petitioner, purported to be in possession of the respondent which are alleged to be prejudicial to the public interest, depriving the opportunity to the petitioner.
- d) The respondent has failed to consider the fact that the diocese has unblemished track record for more than 450 years and the society for around 75 years, in the field of religious and charitable activities.
- e) The impugned order has failed to consider the fact that it will cause undue hardship to the lakhs of marginalized people, who stand to benefit from the activities of the petitioner society.
- f) The respondent has failed to see that the impugned order is injurious to the fundamental civil right of the petitioner, adversely affecting the smooth functioning of the voluntary religious-charitable agency of a minority community.
- g) The respondent has failed to see the civil and social consequences to the citizens and the petitioner by the said impugned order.
- h) The respondent has failed to see that the impugned order has caused serious hurt and damage to the reputation of the petitioner Association and the Catholic Diocese of Tuticorin, which is doing voluntary social work for around 450 years and enjoys high reputation among the general public.
- i) The action of the respondent, has failed to consider that there will be an unwarranted public outcry against the reputed Association like the

petitioner, which is known for its integrity, service and for its commitment to constitutional values.

- j) The satisfaction of the respondent to the effect that the activities of the petitioner is prejudicial to the public interest, is not founded upon objective material, but based on a subjective approach and is an arbitrary and a colorable exercise of Executive power.
- k) The impugned order is non-speaking and is silent on the state of material on the basis of which the "satisfaction" was arrived at by the respondents.
- l) The impugned order suffers from the serious lacuna of not stating the reasons for passing such order or the reasons for the subjective 'satisfaction' of the respondent.
- m) The impugned order does not talk of any specific activity of the petitioner, which is prejudicial to the public interest, and is quiet generic.
- n) The impugned order failed to consider the fact that, it will jeopardize the sustenance of the religious, the priests, the nuns and the employees of the religious institutes, who depend on the petitioner, which is in violation of Article 21 of the Constitution of India.
- o) The impugned order failed to see that the prohibition of receiving foreign contribution by the religious society will greatly prejudice the minority community from exercising its religious rights in consonance with Article 25(1) and 26(b) of the Constitution of India.
- p) The impugned order, suffers from non-application of mind and smacks of selective political vendetta, indirectly threatening the voluntary and charitable body, to fall in line with the political position of the Government, for reasons extraneous to the provisions of law.

- q) The impugned order fails to consider the plight of the children, the old-aged, the orphans, the destitute and women, who draw their sustenance, from the petitioner society on a day to day basis.
- r) The allegation in the impugned order against the petitioner society is baseless, bald, motivated and therefore suffers from mala-fide.
- s) The exercise of inspection and the issuance of an illegal order in a hurry even without a notice will show the selective victimization of the petitioner society in the hands of the respondent, for reasons of bias, best known to the respondents.
- t) The respondent failed to consider the fact that at any point of time the petitioner has neither acted against the public interest nor there was any complaint or report in this regard, for the last 75 years.
- u) As the petitioner Association is running more than 260 educational institutions, the impact of the impugned order, over the maintenance of the said educational institutions, is in violation of Art. 21A of the Constitution of India and the provisions of The Right to Free and Compulsory Education of Children Act, 2009.

Under these circumstances, unless there is an urgent order of interim stay of the impugned proceedings dated 09-02-2011 in Order No: II/21022/58 (480)/2011/FCRA-MU, on the file of the 2nd respondent, the petitioner diocese will be greatly prejudiced. The freezing of funds and the prohibition to receive foreign funds has adversely affected the life of the orphans, the children, the sick, the disabled, the destitute and women, who are the immediate beneficiaries of the Association. It has also affected the network of educational institutions, health services, the charitable institutes

and their allied functions. The religious and liturgical activities of the minority catholic community, the maintenance of priests, nuns and catechists, the up-keeping of Churches, Chapels and Grottos and pending religious constructions have been greatly affected as a result of the impugned order. Therefore, an urgent order of interim stay is highly just and essential.

Therefore, it is humbly prayed that this Hon'ble Court may be pleased to stay the operation of the impugned order passed by the 2nd Respondent dated 09.02.2011, in Order No: II/21022/58 (480)/2011/FCRA-MU, pending disposal of the above Writ Petition and thus render justice.

For the reasons stated in the foregoing paragraphs, it is humbly prayed that this Hon'ble Court may be pleased to issue a **Writ of Certiorarified Mandamus** or any other appropriate writ or order or direction in the nature of writ, calling for the records pertaining to the order dated 09-02-2011 in Order No: II/21022/58 (480)/2011/FCRA-MU, on the file of the 2nd respondent and quash the same directing the respondents to lift the prohibition on the petitioner, Tuticorin Diocesan Association, in FCRA Registration No. 076030032 from receiving foreign contributions and consequently defreeze the designated bank Account Number 07080100000620 in the Bank of Baroda, Victoria Street, Tuticorin, Tamil Nadu or pass any further orders as it deems fit and proper and thus render justice.

Solemnly affirmed and signed
on this, the 4th day of April, 2012
at Madurai in my Presence

Before me,

Advocate, Chennai.

**MEMORANDUM OF MISCELLEANOUS PETITION
(UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA)
IN THE HIGH COURT OF JUDICATRE AT MADRAS
(MADURAI BENCH)**

M.P. No. of 2012

in

W.P. (MD) No. of 2012

The Tuticorin Diocesan Association,
Rep. by Rev. Fr. M. Jebanathan,
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.

... Respondents

STAY PETITION

For the reasons stated in the accompanying affidavit, it is humbly prayed that this Hon'ble Court may be pleased to stay the operation of the impugned order passed by the 2nd Respondent dated 09.02.2012, in Order No: II/21022/58 (480)/2011/FCRA-MU, pending disposal of the above Writ Petition and thus render justice.

Dated at Madurai on this the 4th day of April, 2012

Counsel for the Petitioner