

Account Number 07080100000620, till further direction from the Ministry of Home Affairs.

10. I humbly submit that this petitioner challenged the said order of the respondents u/s 9 & 10, in W.P. (MD) No. 7587 of 2012 on various grounds. This Hon'ble Court was pleased to order notice in the Writ Petition and granted interim stay by its order, dated 07.06.2012 and made in M.P.NO 1 of 2012 in W.P. (MD) No. 7587 of 2012. The 3rd respondent has filed a counter in W.P. (MD) No. 7587 of 2012, which is very frivolous and motivated only to serve the purpose of victimizing the petitioner. The order of stay granted by this Hon'ble Court is still in force.

11. I humbly submit that in spite of the order of interim stay in the above writ petition, the 4th respondent vide proceedings, dated 14.5.2012, in No. II/21022/58(480) 2011/FCMU, informed the petitioner that five persons will conduct another round of inspection of the accounts and records maintained by the petitioner from 4th June to 8th June of 2012, in respect of the period from 01.04.2006 to 31.03.2011, for five financial years. Ultimately, the inspection was conducted from 2nd of July to 6th of July, 2012. They raised many irrelevant questions and somehow wanted to link the petitioner with the ongoing agitation by the people against Koodankulam Nuclear Power Project. The respondents are acting on mala-fide and vindictive motive, and were unduly harassing the petitioner in the name of inspection. But, the petitioner, without objecting to the inspection, cooperated in good faith with the officers. Thereafter, there was no communication from the respondents.

The petitioner was on the bona-fide impression that the respondents are satisfied, from the inspection, as there was no further query regarding any of the record or accounts, inspected by the respondents.

12. I humbly submit that however, vide proceedings dated 25.09.2012, in No. F.II/21022/58(480)/2011-FCRA(MU), the 4th respondent suddenly issued the impugned Office Order u/s 13 of the Act, suspending the Certificate of Registration under FCRA of the petitioner, bearing Regn. No. 076030031R, with immediate effect for a period of 180 days. The said impugned order of suspension reads further as follows:

“ the Central Government hereby SUSPEND the FCRA Regn. Certificate bearing No. 076030031R with immediate effect for a period of one hundred and eighty days.”

13. I humbly submit that while facts being so, the petitioner submitted a cheque to the 5th respondent Banker, in Account Number 07080100000620, on 17.02.2014 for an amount of Rs. 3,00,000/- for the purpose of charities in respect of Inigo Mercy Home for the maintenance of the orphan children. The Bankers returned the cheque, stating that they cannot honour the cheque, as the order of suspension of the said Foreign Contribution Registration Certificate has not been revoked still. They fail to understand that the order of suspension statutorily lapses after 180 days from the date of suspension. As such the impugned order itself has lapsed after 180 days. But the respondents do not understand the same. The 5th respondent is a nationalized bank. In as much as the stand of the 5th respondent is purportedly pursuant to the order of suspension dated 25.09.2012, the above writ petition is maintainable.

The 5th respondent has to conduct its affairs in a fair and just manner. It is amenable to writ jurisdiction.

Aggrieved by the order of the 4th respondent dated 25.09.2012 and by the consequential returning of the cheque by the 5th respondent Banker on 17.02.2014, and having no other alternative and effective remedy open, the petitioner begs to invoke the extra-ordinary jurisdiction of this Hon'ble High Court under Article 226 of the Constitution of India for issuance of a **WRIT OF MANDAMUS** for the following among other grounds:

GROUNDS

- a) The communication of the 5th respondent Banker refusing to honour the cheque presented by the petitioner as against the statute u/s 13(1) of the Foreign Contribution (Regulation) Act, is highly erroneous and illegal.
- b) The impugned communication has been issued without application of mind, as it has been issued on the same day of the application of the petitioner to honour his cheque.
- c) The impugned communication has not taken into account that the period of suspension itself is only for 180 days as stated clearly in the suspension order dated 25.09.2012.
- d) The impugned communication, amounting to nullify the order of stay of this Hon'ble Court dated 07.06.2012, only reflects the utter disregard of the respondents, for this Hon'ble Court and for the rule of law.
- e) The respondent has failed to see that the impugned communication 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.

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- f) The respondent has failed to see that the impugned communication 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 irrespective of caste and creed and enjoys high reputation among the general public.
- g) The impugned communication failed to consider the fact that, it will jeopardize the sustenance of the religious, the priests, the nuns and the employees of the administration of the Diocese, who depend on the financial viability of the petitioner, which is in violation of Article 21 of the Constitution of India.
- h) The impugned communication 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, from orphanages and Homes for the disabled.
- i) The impugned order failed to see that the prohibition of receiving foreign contribution by the religious society will greatly prejudice the minority Catholic community from exercising its religious rights in consonance with Article 25(1) and 26(b) of the Constitution of India.
- j) 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 order of interim direction to the Bankers of the petitioner to honour the cheques presented by the petitioner Diocese, without emphasizing for an order

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of revocation of suspension order dated 25.09.2012, the charitable and religious activities of the petitioner society cannot be continued. The prolonged suspension and the freezing of Bank Accounts, resulting in refusal to honour the cheque on 17.02.2014 even after lapse of 180 days, is a continued cause of action arising from the order dated 25.09.2012.

Therefore, it is humbly prayed that this Hon'ble Court may be pleased to issue an order of interim direction to the 5th respondent Banker, to honour the cheques by permitting the petitioner to operate the Bank Account in Account Number 07080100000620 of the petitioner, without emphasizing on the revocation of order of suspension dated 25.09.2012, 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 Declaration** or any other appropriate writ or order or direction in the nature of writ declaring that the suspension order bearing No. F.II/21022/58(480)/2011-FCRA(MU), the 4th respondent dated 25.09.2012 is statutorily lapsed as per sec. 13(1) of the Foreign Contribution (Regulation) Act, 2010, or pass any further orders as it deems fit and proper and thus render justice.

Solemnly affirmed and signed
on this, the day of February, 2014
at Madurai in my Presence

Before me,

Advocate, Madurai.