

petitioner professes and promotes the cultural and religious heritage of the Catholic community. All these activities have their supportive infra-structure and personnel founded on convention and periodicity.

7. I humbly submit that out of the above mentioned functions of the petitioner society, except the specific religious work, which benefits the Catholic community, all other activities are secular in character, benefiting one and all, irrespective of caste, creed, language and gender. All these 450 years, 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.

8. I humbly submit that the activities of the diocese, dating back to 450 years, came to be taken over by the society, after its formation in the year 1937 and has been continued for the last 75 years. The diocese undertakes these above mentioned activities, in coordination with the other sister organizations of the diocese, such as Tuticorin Multipurpose Social Service Society, ~~St. Loucia Society for the Blind and Vallioor Multipurpose Social Service Society~~. The Bishop of Tuticorin Diocese, who is the president of the petitioner by virtue of his office, also becomes the president of the other sister organizations. All of the said organizations, established by the diocese and presided over by the Bishop, work in tandem for the welfare of the catholic community and for the secular objects, such as humanitarian actions and nation-building. Only for the purpose of legal perpetuity, these organizations are registered as societies. Even otherwise, they will have their identity and functions, because they are founded on a minority catholic community.

9. I humbly submit that after the enactment of Foreign Contribution (Regulation) Act, 1976 (Act 49 of 1976), the petitioner had the statutory duty

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Corns.:

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.

10. I humbly submit that during the process of implementation of the above referred projects, that are secular – humanitarian and cultural – religious, 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. One of the reasons for its integrity is because it is a representative organization of the catholic community and not under the exclusive control of any particular individual or a group of individuals, only by creation of law. It has its own checks and balances in time-tested organizational structure.

11. I humbly submit that the activities of the petitioner, either religious or secular has never been prejudicial to the sovereignty, the security and the territorial integrity of the nation. On the other hand, it has positively contributed towards communal harmony, nation-building and public interest. The petitioner Association and the Catholic Diocese of Tuticorin is in the public domain for more than 450 years, enjoying a high degree of integrity,

good-will and confidence of the general public and the Government. It can be verified from the track record of the society. Its functions and performance is well-founded in the historical and traditional charitable legacy of the catholic community, benefitting millions of people, especially the weaker sections, the children, the women, the old-aged, the disabled, victims of diseases and disasters, all these years. The catholic community has invested incalculable material and human resources, by way of land, building, infra-structure in establishing this religious-charitable network. Lot of local resources and contributions from the catholic community have gone into the making of these structures and functions, apart from foreign contributions.

12. 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 3<sup>rd</sup> 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 2500 pages, were compiled and submitted along with the details furnished vide communication dated 02.12.2011.

13. I humbly submit that pursuant to the dispatch of enclosure and documents vide communication dated 2.12.2011, the 2<sup>nd</sup> respondent, vide

Page:  
Corrns.:

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 10<sup>th</sup> to 13<sup>th</sup> 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. The inspecting team orally expressed their satisfaction that the records were in compliance with law and as such there was no violation. However they further stated that they will contact us, if they require any further documents or informations.

14. I humbly submit that all of a sudden, the Petitioner was shocked to receive the impugned order dated 09-02-2012 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. It further states that the Central Govt. is in possession of certain information and evidence and so it is satisfied that the acceptance of foreign contribution by the Petitioner is likely to prejudicially affect the public interest. 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 Account Number 07080100000620, till further direction from the Ministry of Home Affairs.

15. I humbly submit that the abovesaid developments are situated in the wake of demonstration against the commissioning of a Nuclear Power

Project in Koodankulam, though not specifically referred to, in the impugned order. However there are repeated statements by the Hon'ble Ministers of the Central Government, to the effect that foreign contribution is being diverted towards these demonstrations. One of the Central Ministers has also stated that the inspection is conducted by the authorities, into the activities of the NGOs, operating in the said area, only in this context. This allegations is unfounded and not supported by any evidence in respect of the petitioner. The petitioner Association has not violated any law, by diverting funds for the said demonstrations, as alleged by the Hon'ble Ministers of the Central Government. At no point of time, the petitioner had diverted any foreign contribution to any other purpose, than that for which it was received. The petitioner Diocese or the Association has no role in the said demonstrations. The respondents and the Central Government cannot malign the reputation of the reputed Association like the diocese of the petitioner, as if it is acting against the public interest, that too through the foreign contributions, received by it for other purposes. Except morally sympathizing with the people of the area, who are afraid of their life and livelihood, the petitioner has no other financial connection with the said demonstrations. The Church has a moral duty to sympathize with the suffering people. It has no independent stand on nuclear policy. The respondents are acting on baseless presumptions, harassing the petitioner Association, for reasons, not mentioned in the impugned order. Thus the impugned order suffers from malafide and selective victimization. While the petitioner diocese is in existence for around 450 years, actively involved in nation-building and public interest, it cannot be adjudged to be against public interest only in the light of the recent developments and controversies that arose in the last six months in respect of

Koodankulam nuclear issue. That will be an unfair criteria to assess the petitioner.

16. I humbly submit that the petitioner has also preferred a Revision u/s 32(1), r/w Rule 20, before the statutory authorities, on 06.03.2012. But, the authorities have not acted upon the same. In any event, the authorities cannot independently decide over the said Revision, as they act upon the political positions of the Government and the very impugned order has been issued only in the light of the recent political developments. Hence, the petitioner prefers this Writ Petition, especially in the light of gross violation of the principles of natural justice.

Aggrieved by the order of the 2<sup>nd</sup> respondent in Order No: II/21022/58 (480)/2011/FCRA-MU dated 9<sup>th</sup> of February 2012, and having no other alternative and effective remedy open, the petitioner begs to invoke the extraordinary jurisdiction of this Hon'ble High Court under Article 226 of the Constitution of India for issuance of a **WRIT OF CERTIORARIFIED MANDAMUS** for the following among other grounds:

#### GROUNDS

- a) The said order of prohibition, vide Order No: II/21022/58 (480)/2011/FCRA-MU dated 9<sup>th</sup> of February 2012 - Ministry of Home Affairs, Foreigners Division, (FCRA wing), from receiving foreign contribution from the date of issue of the order and freezing of the connected Bank Account Number is illegal and contrary to the facts of the petitioner.