



**HIGH COURT OF ANDHRA PRADESH**  
THURSDAY ,THE TWENTY THIRD DAY OF DECEMBER  
TWO THOUSAND AND TWENTY ONE

**PRSENT**

**THE HONOURABLE SRI JUSTICE A V SSHA SAI**

**WRIT PETITION NO: 11342 OF 2021**

**Between:**

1. Promised Land Educational Trust Represented by M. Sundara Jonathan  
Timothi Babu  
Authorized Person  
50-39-4/1/1, CHIDAMBARA NILAYAM  
TPT COLONY, SEETHAMMADHARA,  
District- Visakhapatnam (U), State- Andhra Pradesh-530013

**...PETITIONER(S)**

**AND:**

1. Union of India Represented by the  
Secretary to the Government of India  
Ministry of Home Affairs  
FCRA Wing/ Foreigners Division  
1st Floor, A-Wing,  
NDCC-II Building, Jai Singh Road,  
New Delhi- 110001

**...RESPONDENTS**

**Counsel for the Petitioner(s): Y KOTESWARA RAO**

**Counsel for the Respondents: HARINATH N (ASST SOLICITOR  
GENERAL)**

**The Court made the following: ORDER**



**THE HON'BLE SRI JUSTICE A.V.SESHA SAI**

**WRIT PETITION No.11342 OF 2021**

**ORDER:-**

This Writ Petition is filed under Article 226 of the Constitution of India, challenging the order bearing No.0100015622020, dated 07.04.2021 of the Government of India, Ministry of Home Affairs, Foreign Division (FCRA Wing).

2. Heard Sri Y.Koteswara Rao, learned counsel for the petitioner and Sri N.Harinath, learned Assistant Solicitor General for Union of India for the respondent.

3. By way of the impugned order, the respondent herein refused to entertain the application of the petitioner for registration under the "Foreign Contribution (Regulation) Act, 2010 (for short 'the Act') on the ground that the case attracts Section 12(4)(a)(vii) and is a serious violation of the Act.

4. According to the petitioner, it is a Secular Public Charitable Trust, created vide Trust dated 10.04.2001 and is engaged in the charitable activities in the fields of education, relief to the rural poor, orphans, widows, handicapped, blind



and the people deserving need and assistance in the Society. The petitioner herein established a school in the name and style of “kings Ideal School” at Nutalagunta Palem, Kasimkota Mandal, Visakhapatnam District which has recognition by the State Government upto X class. Petitioner herein is also running a hostel, providing free boarding and accommodation to the students belonging to Scheduled Castes/Scheduled Tribes and Backward Communities. Vide order No.010350115, dated 10.08.2001, the respondent authorities granted registration in favour of the petitioner under Section 12 of the Act, permitting to receive foreign contributions.

5. By way of order No.0300000312017, dated 06.06.2017, the respondent herein granted renewal for a period of 5 years, commencing from 01.11.2016 to 31.10.2021. The respondent issued a General Notice No.II/21022/58 (069)/2018-FCRA(MU), dated 06.05.2019 on the aspect of non-submission of mandatory annual returns from 2011-12 to 2016-17 under the Act read with Rule 17(1) of the Foreign Contribution (Regulation) Rules, 2011 (for short ‘the Rules’).

6. Vide public notice No.II/21022/36(207)/2015-FCRA-II, dated 12.05.2017, the Ministry granted opportunity of one



month i.e., from 15.05.2017 to 14.06.2021 to file annual returns/accounts for the period 2011-12 to 2016-17 without penalty.

7. Vide public notice of the even number dated 24.04.2018, the respondent herein advised to submit report/accounts of the missing years immediately. Then a show-cause notice dated 16.11.2018 came to be issued to all Associations which failed to comply with the advice of the Ministry for action under Section 13.

8. According to the petitioner, it has submitted the annual returns in time.

9. Respondents passed order No.II/21022/58 (79)/2019-FCRA (MU), dated 18.10.2019, cancelling the registration of the associations mentioned in the Annexure attached to the said order under Section 14 of the Act on the ground that despite grant of sufficient time they did not submit annual returns for the period 2017-18 contrary to Section 18(1) of the Act read with the Rules.

10. In the said annexure, the respondent showed the petitioner at Sl.No.95. According to Section 14(3) of the Act, any person whose certificate has been cancelled under



Section 14 shall not be eligible for registration or grant or permission for a period of three years from the date of cancellation of such certificate.

11. On the representations of Non Governmental Organisations/Associations, the Union Government vide notification No.II/21022/58(79)/2019-FCRA (MU), dated 18.03.2020, in exercise of its power under Section 50 of the Act, granted one time exemption from restrictive condition under Section 14(3) to apply for registration within 60 days with a condition that such associations should submit the missing annual returns electronically on FCRA Portal along with prescribed penalty.

12. Vide notification dated 26.05.2020, Union of India extended the time till 16.07.2020, in view of Covid-19 for uploading annual returns for the financial year 2017-18.

13. According to the petitioner, it paid penalty of Rs.3,60,394/- on 13.04.2020 for the year 2017-18 and uploaded annual returns for said financial year on 13.04.2020. It is also stated that the petitioner also paid penalty of Rs.5,53,302/- on 07.05.2020 for the year 2018-19 and uploaded annual returns for the said financial year as on 07.05.2020.



14. In the above background, it is the contention of the learned counsel for the petitioner that “in the aforesaid manner, the technical default of delay in filing annual returns got compounded as per the above said notification extending the time upto 16.07.2020 and the order dated 18.10.2019, cancelling registration is deemed to have been suspended, but the authorities have not bothered to lift the block on FCRA account”.

15. The petitioner herein made an application for registration under Section 12 of the Act obviously in terms of the exemption granted on 18.03.2020 by the Government on 01.07.2020 though 3 years of time did not expire as per Section 14(3) of the Act.

16. By way of the impugned order dated 07.04.2021, the respondent herein declined to consider the request of the petitioner and advised to submit application under Rule 9(3) of the Rules while assigning the following reasons:

*on enquiry and examination thereof, the case attracts Section 12(4)(a)(vii) of the Act. Accordingly, the competent authority has refused the application of the association, seeking registration under the Act. It is mentioned that receipt of foreign contribution without valid permission from MHA is a serious violation of the Act and may attract appropriate penal action, if found.”*



17. According to the learned counsel for the petitioner, the impugned order dated 07.04.2021 is highly illegal, arbitrary, unreasonable and violative of Articles 14, 19 and 21 of the Constitution of India. It is further contended by the learned counsel that in accordance with the exemption granted vide notification dated 18.03.2020, the petitioner herein paid penalty of Rs.3,60,394/- on 13.04.2020 for the year 2017-18 and uploaded annual returns for the said financial year and also paid penalty of Rs,5,53,302/- on 07.05.2020 for the year 2018-19, and also uploaded annual returns for the said financial year 2018-19. It is submitted further that in view of the same, the respondent grossly erred in rejecting the application of the petitioner.

18. On the contrary Sri N.Harinath, learned Assistant Solicitor General strenuously contends that having regard to the provisions of Section 18 of the Act read with Section 14(3) of the Rules, the petitioner herein is not entitled for any indulgence of this Court under Article 226 of the Constitution of India and having regard to the facts and circumstances of the case, the impugned action on the part of the respondent authorities cannot be faulted.



19. In the above back drop, now the issue which this Court is called upon to answer in the present Writ Petition is:> “whether the order of the respondent bearing No.0100015622020, dated 07.04.2021 is sustainable and tenable having regard to the facts and circumstances of the case and the provisions of the Act?”

20. The Parliament enacted the Act with an object and intention to consolidate the law to regulate the acceptance and utilisation of foreign contribution or foreign hospitality by certain individuals or associations or companies and to prohibit acceptance and utilisation of foreign contribution or foreign hospitality for any activities detrimental to the national interest and to matters connected therewith or incidental thereto. The said enactment came into force with effect from 01.05.2011 vide S.O.909(E), dated 29.04.2011. In order to examine the issue in the present Writ Petition, it would be apt and apposite to refer to certain provisions of the said legislation.

21. Clauses (a),(e),(g),(h),(i),(j),(m) of Section 2(1) of the Act and Section 2(2) read as follows :

*“(a) “association” means an association of individuals, whether incorporated or not, having an office in India and includes a society, whether registered under the Societies*





*Registration Act, 1860 (21 of 1860), or not, and any other organisation, by whatever name called;*

**(e) “certificate”** means certificate of registration granted under sub-section (3) of section 12;

**(g) “foreign company”** means any company or association or body of individuals incorporated outside India and includes—

(i) a foreign company within the meaning of section 591 of the Companies Act, 1956 (1 of 1956);

(ii) a company which is a subsidiary of a foreign company;

(iii) the registered office or principal place of business of a foreign company referred to in sub-clause (i) or company referred to in sub-clause (ii);

(iv) a multi-national corporation.

*Explanation.—For the purposes of this sub-clause, a corporation incorporated in a foreign country or territory shall be deemed to be a multi-national corporation if such corporation,—*

(a) has a subsidiary or a branch or a place of business in two or more countries or territories; or

(b) carries on business, or otherwise operates, in two or more countries or territories;

**(h) “foreign contribution”** means the donation, delivery or transfer made by any foreign source,—

(i) of any article, not being an article given to a person as a gift for his personal use, if the market value, in India, of such article, on the date of such gift, is not more than such sum as may be specified from time to time, by the Central Government by the rules made by it in this behalf;

(ii) of any currency, whether Indian or foreign;

(iii) of any security as defined in clause (h) of section 2 of the Securities Contracts (Regulation) Act, 1956 (42 of 1956) and includes any foreign security as defined in clause (o) of section 2 of the Foreign Exchange Management Act, 1999 (42 of 1999).

*Explanation 1.—A donation, delivery or transfer of any article, currency or foreign security referred to in this clause by any person who has received it from any foreign source, either directly or through one or more persons, shall also be deemed to be foreign contribution within the meaning of this clause.*

*Explanation 2.—The interest accrued on the foreign contribution deposited in any bank referred to in sub-section (1) of section 17 or any other income derived from the foreign contribution or interest thereon shall also be deemed to be foreign contribution within the meaning of this clause.*

*Explanation 3.—Any amount received, by any person from any foreign source in India, by way of fee (including fees*



*charged by an educational institution in India from foreign student) or towards cost in lieu of goods or services rendered by such person in the ordinary course of his business, trade or commerce whether within India or outside India or any contribution received from an agent of a foreign source towards such fee or cost shall be excluded from the definition of foreign contribution within the meaning of this clause;*

**(i) “foreign hospitality”** means any offer, not being a purely casual one, made in cash or kind by a foreign source for providing a person with the costs of travel to any foreign country or territory or with free boarding, lodging, transport or medical treatment;

**(j) “foreign source”** includes,—

(i) the Government of any foreign country or territory and any agency of such Government;

(ii) any international agency, not being the United Nations or any of its specialised agencies, the World Bank, International Monetary Fund or such other agency as the Central Government may, by notification, specify in this behalf;

(iii) a foreign company;

(iv) a corporation, not being a foreign company, incorporated in a foreign country or territory;

(v) a multi-national corporation referred to in sub-clause (iv) of clause (g);

(vi) a company within the meaning of the Companies Act, 1956 (1 of 1956), and more than one-half of the nominal value of its share capital is held, either singly or in the aggregate, by one or more of the following, namely:—

(A) the Government of a foreign country or territory;

(B) the citizens of a foreign country or territory;

(C) corporations incorporated in a foreign country or territory;

(D) trusts, societies or other associations of individuals (whether incorporated or not), formed or registered in a foreign country or territory;

(E) foreign company;

(vii) a trade union in any foreign country or territory, whether or not registered in such foreign country or territory;

(viii) a foreign trust or a foreign foundation, by whatever name called, or such trust or foundation mainly financed by a foreign country or territory;

(ix) a society, club or other association of individuals formed or registered outside India;

(x) a citizen of a foreign country;

**(m) “person”** includes—

(i) an individual;



- (ii) a Hindu undivided family;
- (iii) an association;
- (iv) a company registered under section 25 of the Companies Act, 1956 (1 of 1956);

22. Chapter-II of the Act deals with Regulation of foreign contribution and foreign hospitality contains Section 3 to 10.

Sections 3, 7, 8 are as follows:

**“Section 3-Prohibition to accept foreign contribution:**

- (1) No foreign contribution shall be accepted by any—
- (a) candidate for election;
  - (b) correspondent, columnist, cartoonist, editor, owner, printer or publisher of a registered newspaper;
  - <sup>1</sup>[(c) public servant, Judge, Government servant or employee of any corporation or any other body controlled or owned by the Government;]
  - (d) member of any Legislature;
  - (e) political party or office-bearer thereof;
  - (f) organisation of a political nature as may be specified under sub-section (1) of section 5 by the Central Government;
  - (g) association or company engaged in the production or broadcast of audio news or audio visual news or current affairs programmes through any electronic mode, or any other electronic form as defined in clause (r) of sub-section (1) of section 2 of the Information Technology Act, 2000 (21 of 2000) or any other mode of mass communication;
  - (h) correspondent or columnist, cartoonist, editor, owner of the association or company referred to in clause (g).

<sup>2</sup>[Explanation.1--For the purpose of clause (c), public servant means a public servant as defined in section 21 of the Indian Penal Code (45 of 1860).

Explanation 2.--In clause (c) and section 6, the expression "corporation" means a corporation owned or controlled by the Government and includes a Government company as defined in clause (45) of section 2 of the Companies Act, 2013 (18 of 2013).]

- (2) (a) No person, resident in India, and no citizen of India resident outside India, shall accept any foreign contribution, or acquire or agree to acquire any currency from a foreign source, on behalf of any political party, or any person referred to in sub-section (1), or both.



(b) No person, resident in India, shall deliver any currency, whether Indian or foreign, which has been accepted from any foreign source, to any person if he knows or has reasonable cause to believe that such other person intends, or is likely, to deliver such currency to any political party or any person referred to in sub-section (1), or both.

(c) No citizen of India resident outside India shall deliver any currency, whether Indian or foreign, which has been accepted from any foreign source, to—

(i) any political party or any person referred to in sub-section (1), or both; or

(ii) any other person, if he knows or has reasonable cause to believe that such other person intends, or is likely, to deliver such currency to a political party or to any person referred to in sub-section (1), or both.

(3) No person receiving any currency, whether Indian or foreign, from a foreign source on behalf of any person or class of persons, referred to in section 9, shall deliver such currency—

(a) to any person other than a person for which it was received, or

(b) to any other person, if he knows or has reasonable cause to believe that such other person intends, or is likely, to deliver such currency to a person other than the person for which such currency was received.

**Section 7-Prohibition to transfer foreign contribution to other person:**

**<sup>1</sup>[7. Prohibition to transfer foreign contribution to other person.--No person who—**

(a) is registered and granted a certificate or has obtained prior permission under this Act; and

(b) receives any foreign contribution, shall transfer such foreign contribution to any other person.]

**Section 8-Restriction to utilise foreign contribution for administrative purpose:**

(1) Every person, who is registered and granted a certificate or given prior permission under this Act and receives any foreign contribution,--

(a) shall utilise such contribution for the purposes for which the contribution has been received:

Provided that any foreign contribution or any income arising out of it shall not be used for speculative business:

Provided further that the Central Government shall, by rules, specify the activities or business which shall be construed as speculative business for the purpose of this section;



*(b) shall not defray as far as possible such sum, not exceeding <sup>1</sup>[twenty per cent.] of such contribution, received in a financial year, to meet administrative expenses:*

*Provided that administrative expenses exceeding <sup>1</sup>[twenty per cent.] of such contribution may be defrayed with prior approval of the Central Government.*

*(2) The Central Government may prescribe the elements which shall be included in the administrative expenses and the manner in which the administrative expenses referred to in sub-section (1) shall be calculated.*

23. Chapter-III which deals with Registration consists of Sections 11 to 16. Sections 11, 12, 14 are as follows:

**“Section 11-Registration of certain persons with Central Government:**

*(1) Save as otherwise provided in this Act, no person having a definite cultural, economic, educational, religious or social programme shall accept foreign contribution unless such person obtains a certificate of registration from the Central Government:*

*Provided that any association registered with the Central Government under section 6 or granted prior permission under that section of the Foreign Contribution (Regulation) Act, 1976 (49 of 1976), as it stood immediately before the commencement of this Act, shall be deemed to have been registered or granted prior permission, as the case may be, under this Act and such registration shall be valid for a period of five years from the date on which this section comes into force.*

*(2) Every person referred to in sub-section (1) may, if it is not registered with the Central Government under that sub-section, accept any foreign contribution only after obtaining the prior permission of the Central Government and such prior permission shall be valid for the specific purpose for which it is obtained and from the specific source:*



<sup>1</sup>*[Provided that the Central Government, on the basis of any information or report, and after holding a summary inquiry, has reason to believe that a person who has been granted prior permission has contravened any of the provisions of this Act, it may, pending any further inquiry, direct that such person shall not utilise the unutilised foreign contribution or receive the remaining portion of foreign contribution which has not been received or, as the case may be, any additional foreign contribution, without prior approval of the Central Government:*

*Provided further that if the person referred to in sub-section (1) or in this sub-section has been found guilty] of violation of any of the provisions of this Act or the Foreign Contribution (Regulation) Act, 1976 (49 of 1976), the unutilised or unreceived amount of foreign contribution shall not be utilised or received, as the case may be, without the prior approval of the Central Government.*

*(3) Notwithstanding anything contained in this Act, the Central Government may, by notification in the Official Gazette, specify*

*(i) the person or class of persons who shall obtain its prior permission before accepting the foreign contribution; or*

*(ii) the area or areas in which the foreign contribution shall be accepted and utilised with the prior permission of the Central Government; or*

*(iii) the purpose or purposes for which the foreign contribution shall be utilised with the prior permission of the Central Government; or/*

*(iv) the source or sources from which the foreign contribution shall be accepted with the prior permission of the Central Government.*

**Section 12- Grant of certificate of registration:**

*(1) An application by a person, referred to in section 11 for grant of certificate or giving prior permission, shall be made to the Central Government in such form and manner and along with such fee, as may be prescribed.*



<sup>2</sup>[(1A) Every person who makes an application under sub-section (1) shall be required to open "FCRA Account" in the manner specified in section 17 and mention details of such account in his application.]

(2) On receipt of an application under sub-section (1), the Central Government shall, by an order, if the application is not in the prescribed form or does not contain any of the particulars specified in that form, reject the application.

(3) If on receipt of an application for grant of certificate or giving prior permission and after making such inquiry as the Central Government deems fit, it is of the opinion that the conditions specified in sub-section (4) are satisfied, it may, ordinarily within ninety days from the date of receipt of application under sub-section (1), register such person and grant him a certificate or give him prior permission, as the case may be, subject to such terms and conditions as may be prescribed:

Provided that in case the Central Government does not grant, within the said period of ninety days, a certificate or give prior permission, it shall communicate the reasons therefore to the applicant:

Provided further that a person shall not be eligible for grant of certificate or giving prior permission, if his certificate has been suspended and such suspension of certificate continues on the date of making application.

(4) The following shall be the conditions for the purposes of sub-section (3), namely:

(a) the person making an application for registration or grant of prior permission under sub-section (1),

(i) is not fictitious or benami;

(ii) has not been prosecuted or convicted for indulging in activities aimed at conversion through inducement or force, either directly or indirectly, from one religious faith to another;

(iii) has not been prosecuted or convicted for creating communal tension or disharmony in any specified district or any other part of the country;



*(iv) has not been found guilty of diversion or mis-utilisation of its funds;*

*(v) is not engaged or likely to engage in propagation of sedition or advocate violent methods to achieve its ends;*

*(vi) is not likely to use the foreign contribution for personal gains or divert it for undesirable purposes;*

*(vii) has not contravened any of the provisions of this Act;*

*(viii) has not been prohibited from accepting foreign contribution;*

*(b) the person making an application for registration under sub-section (1) has undertaken reasonable activity in its chosen field for the benefit of the society for which the foreign contribution is proposed to be utilised;*

*(c) the person making an application for giving prior permission under sub-section (1) has prepared a reasonable project for the benefit of the society for which the foreign contribution is proposed to be utilised;*

*(d) in case the person being an individual, such individual has neither been convicted under any law for the time being in force nor any prosecution for any offence pending against him;*

*(e) in case the person being other than an individual, any of its directors or office bearers has neither been convicted under any law for the time being in force nor any prosecution for any offence is pending against him;*

*(f) the acceptance of foreign contribution by the person referred to in sub-section (1) is not likely to affect prejudicially*

*(i) the sovereignty and integrity of India; or*

*(ii) the security, strategic, scientific or economic interest of the State; or*

*(iii) the public interest; or*

*(iv) freedom or fairness of election to any Legislature; or*

*(v) friendly relation with any foreign State; or*

*(vi) harmony between religious, racial, social, linguistic, regional groups, castes or communities;*

*(g) the acceptance of foreign contribution referred to in sub-section (1),--*





*(i) shall not lead to incitement of an offence;*

*(ii) shall not endanger the life or physical safety of any person.*

*(5) Where the Central Government refuses the grant of certificate or does not give prior permission, it shall record in its order the reasons therefor and furnish a copy thereof to the applicant:*

*Provided that the Central Government may not communicate the reasons for refusal for grant of certificate or for not giving prior permission to the applicant under this section in cases where there is no obligation to give any information or documents or records or papers under the Right to Information Act, 2005 (22 of 2005).*

*(6) The certificate granted under sub-section (3) shall be valid for a period of five years and the prior permission shall be valid for the specific purpose or specific amount of foreign contribution proposed to be received, as the case may be.*

**Section 14-Cancellation of certificate:**

*(1) The Central Government may, if it is satisfied after making such inquiry as it may deem fit, by an order, cancel the certificate if*

*(a) the holder of the certificate has made a statement in, or in relation to, the application for the grant of registration or renewal thereof, which is incorrect or false; or*

*(b) the holder of the certificate has violated any of the terms and conditions of the certificate or renewal thereof; or*

*(c) in the opinion of the Central Government, it is necessary in the public interest to cancel the certificate; or*

*(d) the holder of certificate has violated any of the provisions of this Act or rules or order made thereunder; or*

*(e) if the holder of the certificate has not been engaged in any reasonable activity in its chosen field for the benefit of the society for two consecutive years or has become defunct.*

*(2) No order of cancellation of certificate under this section shall be made unless the person concerned has been given a reasonable opportunity of being heard.*



*(3) Any person whose certificate has been cancelled under this section shall not be eligible for registration or grant of prior permission for a period of three years from the date of cancellation of such certificate.”*

24. Chapter-IV of the Act which deals with Accounts, Intimation, Audit and Disposal of Assets etc., consists of Sections 17 to 22. Sections 18, 19, 20 read as follows:

**“Section 18-Intimation:**

*(1) Every person who has been granted a certificate or given prior approval under this Act shall give, within such time and in such manner as may be prescribed, an intimation to the Central Government, and such other authority as may be specified by the Central Government, as to the amount of each foreign contribution received by it, the source from which and the manner in which such foreign contribution was received, and the purposes for which, and the manner in which such foreign contribution was utilised by him.*

*(2) Every person receiving foreign contribution shall submit a copy of a statement indicating therein the particulars of foreign contribution received duly certified by officer of the bank or authorised person in foreign exchange and furnish the same to the Central Government along with the intimation under sub-section (1).*

**Section 19-Maintenance of accounts:**

*Every person who has been granted a certificate or given prior approval under this Act shall maintain, in such form and manner as may be prescribed,*

*(a) an account of any foreign contribution received by him; and*

*(b) a record as to the manner in which such contribution has been utilised by him.*

**Section 20-Audit of accounts:**

*Where any person who has been granted a certificate or given prior permission, fails to furnish any intimation under this Act within the time specified therefor or the intimation so furnished is not in accordance with law or if, after inspection of such intimation, the Central Government has any reasonable cause to believe that any provision of this Act has been, or is being, contravened, the Central Government may, by general or special order, authorise such gazetted officer, holding a Group A post under the Central Government or any other officer or authority or organisation, as it may think fit, to audit any books of account kept or maintained by such person and thereupon every such officer shall have the right to enter in or upon any premises at any reasonable hour, before sunset and after sunrise, for the purpose of auditing the said books of account:*

*Provided that any information obtained from such audit shall be kept confidential and shall not be disclosed except for the purposes of this Act.”*

25. The issue in the present Writ Petition is required to be examined and adjudicated in the light of the above referred provisions of law. The grant of registration in the year 2001 under the Act and the renewal of the same in favour of the petitioner till 31.10.2021 and cancellation of registration of the petitioner vide order dated 18.03.2019 are absolutely not in controversy. The Union Government, obviously taking into account the representations of various Non-Governmental Organisations and Associations, in exercise of the powers conferred under Section 50 of the Act granted exemption from restrictive condition under Section 14(3) to apply for



registration within 60 days with a condition that such associations should submit missing annual returns electrically on FCRA Portal along with prescribed penalty. It is also important to note in this context that on the ground that the petitioner failed to submit annual returns for the financial year 2017-18, the respondent cancelled the registration vide proceedings dated 18.03.2019.

26. Now it is the categoric case of the petitioner that it paid penalty of an amount of Rs.3,60,394/- on 13.04.2020 for the financial year 2017-18 and uploaded the annual returns for the said period on 13.04.2020 and also paid penalty of Rs.5,53,302/- on 07.05.2020 for the financial year 2018-19 and uploaded annual returns for the said financial year 2018-19 on 07.05.2020. Submission of application on 01.07.2020 by the petitioner for registration under Section 12 of the Act is not in dispute. By way of the questioned order dated 07.04.2021, the respondent herein declined to consider the request of the petitioner precisely on the ground that the petitioner received foreign contribution without valid permission of the Ministry of Home Affairs which is a violation of Section 12(4)(a)(vii) of the Act. Section 12(4)(a)(vii) stipulates that the condition precedent for grant of certificate of registration is that there should not be



contravention of any of the provisions of the Act. Section 3 imposes prohibition on receipt of foreign contribution and Section 11 mandates to obtain the certificate of registration from Central Government, before acceptance of any contributions.

27. Admittedly in pursuance of the exemption granted vide notification dated 18.03.2020 to Section 14(3) of the Act, the petitioner herein made an application on 01.07.2020 after paying penalties for the financial year 2017-18 and 2018-19 and uploaded annual returns. Therefore, it should be necessarily construed that the default on the part of the petitioner stood compounded and the petitioner cannot be penalised further on the ground that it violated the penal provisions. Therefore, this Court has absolutely no scintilla of hesitation nor any shadow of doubt to arrive at a conclusion that the impugned order cannot be sustained in eye of law.

28. For the aforesaid reasons, the Writ Petition is allowed, setting aside the impugned order of intimation bearing No.0100015622020, dated 07.04.2021 of the respondent and consequentially the respondent is directed to grant registration for the petitioner's organisation under the Act,



subject to compliance of other statutory requirements, if any. This exercise shall be completed within a period of six (6) weeks from the date of receipt of a copy of this order. There shall be no order as to costs.

Miscellaneous Petitions pending, if any, in this Writ Petition shall stand closed.

Date: 23.12.2021  
*LR copy to be marked.*  
B/o  
VSL

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**JUSTICE A.V.SESHA SAI**



**THE HON'BLE SRI JUSTICE A.V.SESHA SAI**

**WRIT PETITION No.11342 OF 2021**

**Date: 23.12.2021**

VSL