

(2000) 10 KAR CK 0028
In the Karnataka High Court
Case No : Writ Petition No. 17869/98

Asian Aid Organisation Welfare Trust

APPELLANT

Vs

Union of India (UOI)

RESPONDENT

Date of Decision : 24-10-2000

Acts Referred:

Foreign Contribution (Regulation) Act, 1976 — Section 10 (a), 6 (1), 6 (1A)

Citation : (2000) 72 ECC 715

Hon'ble Judges : V. Gopala Gowda, J

Bench : Single Bench

Judgement

V. Gopala Gowda, J.—Petitioner is a Trust. It is engaged in philanthropic activities. It is receiving aid from Asian Aid Organisation, Australia, in order to meet the expenses for its activities. The Income Tax Department has recognised it as a charitable institution and petitioner is exempted from income tax on the donations received by it. In the year 1995 the petitioner received huge contribution equivalents to 50,000 dollars from Asian Aid Organisation. In order to receive the foreign funds, petitioner had to apply for registration under the Foreign Contribution (Regulation) Act, 1976 (hereinafter referred to as "the Act") in Form FC-B. Petitioner was informed under Annexure-C dated 28.7.1995 that it was not registered under the Act. However, it was further informed that the petitioner can receive foreign contribution after obtaining prior permission from the Central Government u/s 6(1A) of the Act. After correspondence, under the impugned orders at Annexure-F1 the petitioner was prohibited from accepting any foreign contribution, under Annexure-F2 the petitioner and its branches and units as also its office bearers from paying, delivering, transferring or dealing with in any manner the foreign contributions and under Annexure -F3 the petitioner was informed that it was not possible to accord permission sought for by it. Being aggrieved by the same, the petitioner has filed this writ petition seeking to quash the orders at Annexure-C and F-1 to F-3.

2. In Annexure-C except stating that it has been decided not to register the

petitioner association under the provisions of the Act, no reasons are assigned. Hence, the same is liable to be quashed. In Annexure-F1 the reason assigned is that the acceptance of foreign contribution by the petitioner is not in public interest. Consequently, prohibition is imposed from accepting the foreign contribution. Before imposing such a prohibition the petitioner was not heard in the matter. Added to this, such a prohibition cannot be imposed on the petitioner as long as donors offer contributions. The petitioner may accept such foreign contributions subject to fulfilment of the requirements of law. Hence, Annexure-F1 is liable to be quashed as the same is violative of principles of natural justice.

3. Under Annexure-F2 the petitioner, its branches and office bearers have been prohibited from operating the foreign funds. Section 6(1) of the Act imposes restriction from receiving or accepting foreign contribution unless the recipient registers with the Central Government. Section 10(a) confers power upon the Central Government to prohibit any association from accepting foreign contribution. In the instant case, since the petitioner is not registered under the provisions of the Act, the prohibition under Annexure-F2 has been rightly imposed. Until the petitioner obtains permission from the Central Government, the same cannot be quashed.

4. Annexure-F3 is also liable to be quashed as it is merely informed that it is not possible to accord permission to the petitioner under the Act. It is a mere communication without any reasons and it is vague.

5. In the statement of objections filed on behalf of the respondent it is stated that the application of the petitioner for registration was rejected for non-compliance of certain things pointed-out in Annexure-R1. Hence, it would be proper to direct the petitioner to comply with the said requirements.

6. In the circumstances, this writ petition is partly allowed quashing Annexure-C and F-1 and F-2 and liberty is granted to the petitioner to comply with the requirements of Annexure-R1. Within four weeks of such compliance, the respondent shall consider and dispose of the applications of the petitioner for registration on merits as expeditiously as possible.