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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 16<sup>th</sup> OCTOBER, 2023

IN THE MATTER OF:

+ **W.P.(C) 11139/2023 & CM APPL. 43448/2023**

**CENTRE FOR POLICY RESEARCH** ..... Petitioner

Through: Mr. Shashwat Goel and Ms. Palak  
Vashisth, Advs.

versus

**UNION OF INDIA** ..... Respondent

Through: Ms. Arunima Dwivedi, CGSC with  
Mr.Prashant, GP, Ms. Pinky Panwar,  
Mr. Aakash Pathak, Advocates for  
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**CORAM:**  
**HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD**

**JUDGMENT (ORAL)**

**CM APPL. 50404/2023**

1. This is an application on behalf of the Petitioner for a direction to the Respondent to release/permit the Petitioner to utilize 25% of the total foreign contribution amount/funds held by the Petitioner under Section 13(2)(b) of the Foreign Contribution (Regulation) Act, 2010 (FCRA) read with Rule 14 (a) of the Foreign Contribution (Regulation) Rules, 2011 (FCRR).

2. The instant writ petition has been filed challenging the Order dated 27.02.2023 bearing No. F.No. II/ 21022/ 58(472) /2022 - FCRA (MU) and all consequential proceedings issued by the Respondent suspending the registration of the Petitioner bearing RC No. 231650007R under the FRRA, pending consideration of the cancellation of certificate of registration



granted to the Petitioner.

3. The Petitioner has been granted certificate of registration under the FRRA. Allegations surfaced to the effect that the foreign contribution received by the Petitioner has been utilised for purposes other than for what it was registered and that the said amount is being used for undesirable purposes which amounts to violation of the FCRA.

4. It is stated that Respondent herein passed an Order dated 27.02.2023 (Impugned Order) suspending the certificate of registration of the Petitioner pending consideration for cancellation of certificate of registration granted to the Petitioner.

5. Section 13(2) of the FCRA provides that every person whose certificate has been suspended shall not receive any foreign contribution during the period of suspension and can utilize in the prescribed manner the foreign contribution in his custody with the prior approval of the Central Government.

6. Rule 14 of the FCRR provides that in case of suspension of certificate of registration 25% of the unspent amount can be utilized for the declared aims and objects for which the foreign contribution has been received. Certain clarifications had been sought by the Respondent/Union of India regarding the application made by the Petitioner for utilising the unspent amount and this Court while considering the interim application on 29.08.2023 observed that it is expected that the application given by the Petitioner for utilization of the unspent amount will be decided by the Central Government on or before 05.09.2023.

7. Material on record discloses that on 12.09.2023 the application given by the Petitioner for utilising the 25% of the contribution amount was



considered and Respondent herein passed the following order:-

*“In exercise of the powers conferred under section 13(2) of the Foreign Contribution (Regulation) Act, 2010 (FCRA, 2010) read with rule 14 of the Foreign Contribution (Regulation) Rules, 2011, and in view of request vide letters dated 16.03.2023 and 15.05.2023 of Centre For Policy Research (CPR), Delhi an FCRA registered association (vide RC No. 231650007R) and the Order dated 29.08.2023 of the Hon'ble High Court of Delhi in Writ Petition (C) No. 11139/2023, the competent authority hereby permits CPR, Delhi, to utilize 25% of the foreign contribution amount lying in its custody (which works out to Rs. 1,79,10,236/-. The CPR, Delhi will maintain an account of expenses and furnish a copy of the same to this Ministry on a monthly basis.*

*2. This issues with the approval of the competent authority.”*

8. It is stated by the Petitioner that the Respondent has calculated the 25% of the contribution held by the Petitioner only of the current bank accounts. It is stated that the total available balance in the current bank accounts was Rs.7,16,40,945/- and the Petitioner has not taken into account the unutilized amount which is lying in different deposit accounts/schemes like FDs, Government Bonds etc. which also ought to be taken into consideration.

9. It is stated by the Petitioner that the Petitioner is facing a severe cash crunch and is even unable to pay salaries of the employees. It is stated that a reading of Section 13(2) of the FCRA and Rule 14 (1)(a) of the FCRR permits utilization, in the prescribed manner, the foreign contribution in the custody of the entity whose certificate has been suspended with the approval of the Central Government and that the Petitioner has approached this Court



for a direction to permit the Petitioner to utilize the actual 25% of the foreign contribution received by it.

10. Mr. Arvind Datar, learned Senior Counsel for the Petitioner, contends that the Order dated 12.09.2023 passed by the Respondent is contrary to Section 13(2)(b) of the FCRA. He states that Section 13(2)(b) of the FCRA permits the utilization of the foreign contribution which is in the custody of the Petitioner. He states that at this juncture, the Petitioner is only praying that it may be permitted to utilize the 25% of the whole unutilized foreign contribution including that which is lying in fixed deposits, government bonds etc.

11. Mr. Datar contends that there are 113 employees of the Petitioner and the salaries and other expenses which are payable till September, 2023, is Rs.6,60,83,370/-.

12. *Per contra*, Ms. Arunima Dwivedi, learned CGSC for the Respondent, contends that 25% of the amount which is available in the current account alone can be taken into consideration.

13. Section 13(2) of the FCRA and Rule 14 of the FCRR reads as under:-

***“13 Suspension of certificate.***

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*(1) Where the Central Government, for reasons to be recorded in writing, is satisfied that pending consideration of the question of cancelling the certificate on any of the grounds mentioned in sub-section (1) of section 14, it is necessary so to do, it may, by order in writing, suspend the certificate for such period not exceeding one hundred and eighty days as may be specified in the order.*

*(2) Every person whose certificate has been suspended shall—*

*(a) not receive any foreign contribution during the*



*period of suspension of certificate:*

*Provided that the Central Government, on an application made by such person, if it considers appropriate, allow receipt of any foreign contribution by such person on such terms and conditions as it may specify;*

*(b) utilise, in the prescribed manner, the foreign contribution in his custody with the prior approval of the Central Government.*

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***14. Extent of amount that can be utilised in case of suspension of the certificate of registration. -The unspent amount that can be utilised in case of suspension of a certificate of registration may be as under:***

*(a) In case the certificate of registration is suspended under sub-section (1) of section 13 of the Act, up to twenty-five tier cent of the unutilised amount may be spent, with the prior approval of the Central Government, for the declared aims and objects for which the foreign contribution was received.*

*(b) The remaining seventy-five per cent of the unutilised foreign contribution shall be utilised only after revocation of suspension of the certificate of registration.”*

14. This Court at this juncture is not entering into the debate as to whether a show cause notice is necessary to be issued to the entity before an order under Section 13 of the FCRA is passed.

15. Section 13(2) of the FCRA permits utilization of foreign contribution which is in custody of the person whose certificate has been suspended. There is no occasion to restrict the term “*his custody*” only to the current account. The amounts which are held in fixed deposits or in government bonds etc. are also unutilized foreign contributions which can be made



available to the person whose account has been suspended pending the inquiry under Section 14 of the FCRA.

16. There is no reason for this Court to disbelieve the statement that the Petitioner has already utilized the figures given by it regarding the expenses to be incurred for its survival pending consideration of the cancellation of registration under Section 14 of the FCRR.

17. In view of the fact that there is nothing in the said Section which restricts that only the amounts lying in the current account can be permitted to be utilized, this Court is inclined to allow the Petitioner to utilize the 25% of the total FCRA funds held in fixed deposits, government bonds etc. pending consideration of the cancellation of registration under Section 14 of the FCRR.

18. Needless to state that the outward disbursement of the amounts shall only be for the purpose of carrying out the day-to-day activities and for no other expenses.

19. A complete statement of the Petitioner's FCRA account and the amounts deposited in fixed deposits and government bonds etc. along with expenses incurred from the date of suspension shall be submitted to the Respondent periodically.

20. With these observations, the application is allowed.

**W.P.(C) 11139/2023**

List on 11.01.2024.

**SUBRAMONIUM PRASAD, J**

**OCTOBER 16, 2023**

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