

\$~16

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

+ **W.P.(C) 5310/2021 & CM APPLs.16330-32/2021**

COMFORT MINISTRIES & ANR. .... Petitioners  
Through: Mr. Abhishek Jebaraj and Mr.  
Chandratany Chaube, Advocates.  
versus

UNION OF INDIA & ANR. .... Respondents  
Through: Mr. Manish Mohan, CGSC with Ms.  
Manisha Saroha, Advocate for R-1.  
Mr. Rajiv Kapur and Mr. Akshit  
Kapur, Advocates for R-2 (M:  
9716076533).

**CORAM:**  
**JUSTICE PRATHIBA M. SINGH**

**ORDER**  
% **13.05.2021**

1. This hearing has been done through video conferencing.
2. The Petitioners are NGOs operating out of Telangana and Andhra Pradesh. The issues raised in this writ petition relate to the opening of the FCRA account in the SBI, New Delhi, pursuant to the amendment to Section 17 of the Foreign Contribution Regulation Act, 2010 w.e.f. September, 2020.
3. As per the said amendment, read with the public notice issued by the Ministry of Home Affairs (*hereinafter*, "MHA") on 7<sup>th</sup> October, 2020, NGOs which receive foreign contributions are required to open an FCRA account in the State Bank of India, New Delhi Main Branch, 11, Sansad Marg, New Delhi - 110001 (*hereinafter*, "SBI NDMB"), for the purpose of receiving foreign contributions. As per the public notice issued by the MHA on 13<sup>th</sup> October, 2020, the deadline for applying for opening such an account

was fixed as 31<sup>st</sup> March, 2021.

4. NGOs are stated to be facing tremendous difficulty both in the opening of the FCRA account, as also in the subsequent approval which is to be obtained from the MHA as, without the approval of the MHA, no foreign contributions can be received by them. Hence, a prayer is made for extending the deadline of 1<sup>st</sup> April, 2021 permitting receiving of foreign contributions by a period of six months and for directing the MHA to grant FC6C certificates to the Petitioners in an expeditious manner.

5. In this petition, the FCRA accounts of the Petitioners are stated to have been opened in the SBI New Delhi Branch on 27<sup>th</sup> March, 2021. The next step would be the filing of the form for the FC6 form with the MHA, which form is stated to have been filed by the Petitioner No.1 on 30<sup>th</sup> March, 2021 and by Petitioner No.2 on 17<sup>th</sup> April, 2021. However, the MHA has not processed the same to grant the approval. In a similar matter listed yesterday, on the basis of the submissions made by the MHA, this Court had directed that the approval be granted within one day.

6. Since the FC6 form has already been filed by the Petitioners and as per the amended Section 17, until the approval of the MHA, foreign contributions cannot be received by the Petitioners, there is an urgency in the matter. Accordingly, the MHA is directed to process the documents and grant the approval, if there are no defects, by the next date of hearing. If there are any defects in the forms, the same shall be pointed out to the Petitioners by 17<sup>th</sup> May, 2021, so that the approvals can be granted within the deadline.

7. This Court has noticed that there are several organisations, including NGOs, who have been approaching the Court in respect of the opening of

their FCRA accounts and the approvals by the MHA. The amendment to Section 17 is not under challenge in these petitions, however, owing to the second wave of the Covid-19 pandemic and various difficulties which the organisations are stated to be facing, the MHA shall consider as to whether the deadline of 1<sup>st</sup> April, 2021 can be extended and if so, till when.

8. Ld. counsel for the Respondents is also directed to seek instructions on whether, while the MHA's approval is pending, the Petitioners could be allowed to receive the foreign contributions, so long as they maintain records of the same, in accordance with the provisions of the Foreign Contribution Regulation Act, 2010, inasmuch as non-receipt of this contribution would lead to non-rendering of services, especially during the pandemic situation where there is an enormous need for such services.

9. The MHA shall place on record a report/affidavit on the above two directions.

10. List on 20<sup>th</sup> May, 2021 for ld. counsel for the Respondents to seek instructions on the above aspects.

11. The digitally signed copy of this order, duly uploaded on the official website of the Delhi High Court, [www.delhihighcourt.nic.in](http://www.delhihighcourt.nic.in), shall be treated as the certified copy of the order for the purpose of ensuring compliance. No physical copy of orders shall be insisted by any authority/entity or litigant.

**PRATHIBA M. SINGH, J.**

**MAY 13, 2021**  
**MR**