CNR : KLHC010981512025

2026:KER:61636

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE BECHU KURIAN THOMAS

TUESDAY, THE 11TH DAY OF AUGUST 2026 / 20TH SRAVANA, 1948

WP(C) NO. 43936 OF 2025

PETITIONER :

SAVE A FAMILY PLAN INDIA
AISWARYAGRAM,
PARAPPURAM P.O,
KANJOOR, ERNAKULAM,
KERALA,
REPRESENTED BY ITS EXECUTIVE DIRECTOR,
PIN - 683 575

BY ADVS.
SHRI.SHINTO MATHEW ABRAHAM
SRI.ARUN THOMAS
SMT.KARTHIKA MARIA
SMT.VEENA RAVEENDRAN
SRI.ANIL SEBASTIAN PULICKEL
SHRI.MATHEW NEVIN THOMAS
SHRI.KURIAN ANTONY MATHEW
SHRI.KARTHIK RAJAGOPAL
SMT.LEAH RACHEL NINAN
SHRI.ARUN JOSEPH MATHEW
SHRI.NOEL NINAN NINAN
SHRI.ADEEN NAZAR
SMT.APARNNA S.
SHRI.ROHAN MATHEW
SHRI.SANTHOSH MATHEW (SR.)

CNR : KLHC010981512025

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RESPONDENTS :

1 **UNION OF INDIA**
REPRESENTED BY SECRETARY,
MINISTRY OF HOME AFFAIRS (FCRA WING),
1ST FLOOR,
MAJOR DHYAN CHAND NATIONAL STADIUM,
NEAR PRAGATI MAIDAN,
NEW DELHI,
PIN - 110 001

2 **DIRECTOR**
FCRA, FOREIGNERS DIVISION,
MINISTRY OF HOME AFFAIRS,
GOVERNMENT OF INDIA,
1ST FLOOR,
MAJOR DHYAN CHAND NATIONAL STADIUM,
NEAR PRAGATI MAIDAN,
NEW DELHI,
PIN - 110 001

3 **STATE BANK OF INDIA**
11, SANSAD MARG,
NEW DELHI,
REPRESENTED BY ITS AUTHORISED OFFICER,
PIN - 110 001

4 **STATE BANK OF INDIA**
MULLAPALLI BUILDING,
ALWAYE-MANNAR ROAD,
PERUMBAVOOR, ERNAKULAM,
KERALA,
REPRESENTED BY ITS AUTHORISED OFFICER,
PIN - 682 542

5 **FEDERAL BANK**
CATHOLIC CENTRE,
BROADWAY KOCHI,

KERALA,
REPRESENTED BY ITS AUTHORISED OFFICER,
PIN - 682 031

BY SHRI.HARIKUMAR G. NAIR, Sr.CGC
BY SHRI.K.JAYESH MOHANKUMAR

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 08.07.2026, THE COURT ON 11.08.2026 DELIVERED THE FOLLOWING:

CNR : KLHC010981512025

2026:KER:61636

"C.R."

BECHU KURIAN THOMAS, J.

W.P.(C) No.43936 of 2025

Dated this the 11th day of August, 2026

JUDGMENT

Petitioner inter-alia challenges an order, rejecting its application for renewal of registration under the Foreign Contribution (Regulation) Act, 2010 (for short, 'the FCRA') as well as the revisional order, declining to interfere with the order of rejection.

2. Petitioner was initially formed as an association in 1985 and is at present a Public Charitable Trust created as per a Trust Deed of 08.09.1989. Petitioner claims that its activities are primarily focused to achieve the goals of eradication of poverty, instill good health, provide quality education, ensure gender equality, provide clean water and sanitation apart from decent work and economic growth. Petitioner asserts that through its programmes as many as 12000 beneficiaries

derive benefits and the Community Development Programmes empowers the marginalized to address various local issues. Petitioner possesses a valid registration under section 12A of the Income Tax Act, 1961 and had also obtained initial registration under the FCRA on 20.08.1985 and thereafter, it has been renewed uninterruptedly all along.

3. When the petitioner applied for renewal of its certificate under section 16 of the FCRA on 07.10.2021, a clarification was sought by an e-mail dated 01.11.2023, regarding whether petitioner had transferred amounts to other FCRA registered NGO's including Trivandrum Social Service Society (TSSS) which had been noticed as having diverted funds to SAKHI and SEWA who had provided financial support to the agitators during protest programmes against Vizhinjam Seaport. The petitioner, in its reply, produced as Ext.P24, stated that amounts were given to TSSS till 28.09.2020, for the welfare of the aged widows and poor families, vocational training and housing programmes all of which were audited and supported by vouchers and

other documents. It was also stated that TSSS had not transferred any amount to SAKHI or SEWA as financial support to the agitators during the protest against any project and all documents were available to justify their claim. An opportunity of hearing was also requested for.

4. Petitioner alleges that without any reference to the explanation provided or the hearing sought for, by an e-mail dated 11.03.2024, it was informed that the renewal application was refused by merely referring to violation of sections 7(a), 12(4)(f)(i), 12(4)(f)(iii) and 12(4)(ii) of the FCRA. No reason of any nature was mentioned in the e-mail. Challenging the aforesaid order of refusal to renew the certificate, petitioner preferred a revision petition under section 32 of the FCRA. However, by Ext.P61 order dated 17.12.2024, the revision petition was also dismissed, after referring to the report of a Central Security Agency accusing the petitioner of transferring funds to other FCRA registered associations who financially supported agitators protesting against the setting up of Vizhinjam Port. An additional ground of refusal was also arbitrarily incorporated as a violation of section 12(4)

(a)(vi) of the FCRA. Petitioner alleges that the impugned orders are unsustainable and totally arbitrary. Petitioner has also alleged that its bank accounts have been frozen and an amount of Rs.16,72,27,681/- which were received while the license was in force is unable to be utilized, thereby crippling the beneficiaries.

5. A counter affidavit has been filed on behalf of respondents 1 and 2 questioning the very maintainability of the writ petition and stating that the right to receive foreign contribution is not a fundamental right and therefore no case of violation of Part III of the Constitution can be made out. According to the respondents, the petitioner was obligated to identify and select the final beneficiaries before any funds are distributed and cannot plead ignorance of the use of its foreign contribution by the recipients. It is also alleged that the FCRA is a national security legislation and foreign contributions received cannot be utilized for any activity detrimental to national interest and must fulfill the conditions stipulated in section 12(4) of the FCRA. Respondents have further averred that the field enquiry

disclosed that the petitioner had transferred considerable amount of foreign contribution received to other FCRA registered NGO’s which had diverted funds to provide financial support to agitators involved in protests against the Vizhinjam Seaport Project. It was also pleaded that there is no requirement of hearing the petitioner as per the statute. Further, since the registration has ceased to exist, petitioner cannot utilize any foreign contribution.

6. Smt. Karthika Maria, learned counsel for the petitioner contended that the application for renewal submitted by the petitioner was refused without any basis or reason. According to the learned counsel, the petitioner had transferred amounts only to NGO’s who were themselves registered with the FCRA, that too, till 28.09.2020, and the allegations to the contrary are baseless. The learned counsel also submitted that the TSSS to whom amounts were transferred itself is a body registered under the FCRA and therefore, petitioner could not be alleged to have violated the provisions of the FCRA. It was also submitted that the reason for rejecting the renewal application is too

far fetched and neither petitioner nor even TSSS have been identified as having given any amounts to the agitators. The learned counsel also argued that both the impugned orders fail to mention any reason, and further that the revisional order has in fact, added an additional violation as section 12(4)(a)(vi), which itself is perverse and irregular, vitiating the order. The learned counsel also submitted that for more than three decades petitioner had been receiving funds and not a single violation was ever noticed. Even during the last period, no violation was ever noticed. The learned counsel pointed out that an amount of more than Rs.16 Crores received by it while the license was in force, ought to be permitted to be utilized.

7. Sri.Harikumar G Nair, the learned Senior Central Government Counsel on the other hand contended that the scope of the FCRA has undergone a drastic change by the enactment of the 2010 statute. Referring to the various provisions of the statute, it was argued that the reasons for refusing renewal are not required to be divulged. The learned counsel also submitted, referring to the decisions in **Ex-**

Armymen's Protection Services Pvt. Ltd v. Union of India and Others [(2014) 5 SCC 409] and **Digi Cable Network (India) Private Limited v. Union of India and Others** [(2019) 4 SCC 451] that no reason needs to be given especially when the question of national security is at stake. The learned counsel also submitted that when the foreign contribution is used or when there is a likelihood of diversion for undesirable purposes, the competent authorities are entitled to exercise its discretion to refuse renewal, which decision ought not to be interfered with by this Court. Referring to the provisions of section 12 of the FCRA, it was argued that unless all conditions are fulfilled or satisfied, renewal cannot be granted. According to the learned Counsel, on account of national security, diversion of funds received and the use for undesirable purposes, petitioner is not entitled to have its registration renewed. It was further argued that once renewal is refused, the funds remaining in the account cannot be utilized.

8. I have considered the rival submissions.

9. The question that arises for consideration is the validity of

Ext.P58 order rejecting the application for renewal of the certificate under the FCRA and Ext.P61 order rejecting the revision petition filed by the petitioner. It needs to be mentioned at this juncture that during the course of hearing, since it was prima facie felt that reasons have not been provided in the impugned order Ext.P58, on a query by the Court regarding the reasons, the learned Central Government Counsel submitted that those reasons cannot be divulged to the petitioner, but can be provided in a sealed cover to the Court for consideration. Accordingly, the report of the Central Security Agency was furnished in a sealed cover.

10. Petitioner is a public charitable trust registered as per Ext.P1 on 08.09.1989. Numerous beneficiaries are claimed to be receiving aid and support through their programmes, which includes community development programmes and other altruistic measures initiated by the petitioner. The licence issued to the petitioner to receive foreign contribution has been in existence since 1985 and has always been renewed without there being a single instance of blemish.

However, when it applied for renewal in the year 2021, the application was rejected by the impugned order merely by referring to a few provisions as the reason for rejection. The revision petition was also dismissed wherein a semblance of reason has been mentioned.

11. Petitioner has specifically averred that it has always acted in strict compliance with the provisions of the FCRA. It is also specifically stated that the petitioner has always utilized the foreign contributions in its chosen field and for the benefit of the society and had never diverted the funds in any manner, not even to agitators of any protest. A clarification to that effect was also furnished to the competent authority on their query. Still, the renewal was declined by the impugned order Ext.P58, which reads as follows:

> "Your application 0300095002021 has been refused due to the following reasons:
> The Competent Authority has refused the renewal application under section 16(1) read with section 7(a), Section 12(4)(f)(i), 12(4)(ii) and 12(4)(f)(iii) of FCRA 2010."

12. The above cryptic order does not contain anything other than a reference to the provisions of law. Petitioner is an entity that

has been in existence for more than three decades. Unless an order is passed without specifying reasons, it cannot be said to be an order itself. As mentioned earlier, a clarification was sought for from the petitioner on 01.11.2023, regarding whether petitioner had transferred amounts to other FCRA registered NGO's including TSSS, which had been noticed as having diverted funds to SAKHI and SEWA, who were alleged to have provided financial support to the agitators during protest programmes against Vizhinjam Seaport. The petitioner, in its reply, produced as Ext.P24, stated that the amounts were given to TSSS till 28.09.2020, that too, for welfare programmes and not for any protest, all of which were audited and supported by vouchers. It was also stated that TSSS had not transferred any amount to SAKHI or SEWA as financial support to the agitators during the protest against any project and all documents were available to justify their claim. Despite the above, the application was rejected without any reason. On a perusal of the impugned order Ext.P58, it is explicit that it is totally arbitrary as it is devoid of any reason.

13. Though it was vehemently argued that reasons are not required to be shown or provided, as it is not explicitly mentioned in the statute, this Court is of the view that, reasons being the soul of every order, however short it be, it is essential for the authority to specify the reason for denial of even a renewal application. There is not even a whisper about the clarifications given by the petitioner or as to how the petitioner can even be blamed for the alleged nature of use of the funds it transferred to another FCRA registered organization.

14. To appreciate the contentions of the parties on merits, it is necessary to extract section 16 of the FCRA which deals with renewal. The said section reads as follows:

> **“16. Renewal of certificate.**
>
> (*1) Every person who has been granted a certificate under section 12 shall have such certificate renewed within six months before the expiry of the period of the certificate.*
>
> *Provided that the Central Government may, before renewing the certificate, make such inquiry, as it deems fit, to satisfy itself that such person has fulfilled all conditions specified in sub-section (4) of section 12.*
>
> *(2) The application for renewal of the certificate shall be made to the*

Central Government in such form and manner and accompanied by such fee as may be prescribed.

(3) The Central Government shall renew the certificate, ordinarily within ninety days from the date of receipt of application for renewal of certificate subject to such terms and conditions as it may deem fit and grant a certificate of renewal for a period of five years:

Provided that in case the Central Government does not renew the certificate within the said period of ninety days, it shall communicate the reasons therefor to the applicant:

Provided further that the Central Government may refuse to renew the certificate in case where a person has violated any of the provisions of this Act or rules made thereunder."

15. There is no dispute that the petitioner was an existing certificate holder under section 12 of the FCRA. Nevertheless, the renewal application can be refused if the petitioner has violated the provisions of the FCRA as specified in the proviso to section 16(3). Since some of the provisions of section 12 of the FCRA are alleged to have been violated, the relevant provisions of section 12 are extracted below:

*"**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.

(1A) … (omitted as not relevant)

(2) ……(omitted as not relevant).

(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 therefor 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."

16. A reading of the above provisions indicate that when an application for renewal is submitted, it has to be disposed of within ninety days and it can be rejected only if the person has violated any

of the provisions of the FCRA or its Rules. If the application is not disposed of within ninety days, the statute specifically states that reasons have to be given. Providing or furnishing reasons is one of the essentials of good governance and a pivot on which democratic institutions must function. Refusing to divulge reasons is in effect a mode of denying justice as the mind of the decision maker cannot be comprehended by the higher authorities including the courts, during an appeal or judicial review questioning the decision. The mind of the decision maker will be revealed only through reasons. In a democratic country, governed by the rule of law, for rejecting an application, even if it is a renewal application for permission to receive foreign contribution, reasons are essential. An order without reason is an action born of whim and not of law. The right to be furnished with reasons is, undoubtedly, an indispensable part of a sound judicial system.

17. In the decisions in **Raj Kishore Jha v. State of Bihar and Others** [(2003) 11 SCC 519] and **State of Orissa v. Dhaniram Luhar**

[(2004) 5 SCC 568], it was observed by the Supreme Court that "Reason is the heartbeat of every conclusion, and without the same it becomes lifeless." Reason introduces clarity in an order. It has further, quite often been observed by Courts that reasons are live links between the mind of the decision maker to the issue in question and the decision or conclusion arrived at and further that reasons substitute subjectivity by objectivity.

18. Viewed in the perspective of the above legal principles, the proviso to section 16(3) of the FCRA cannot be perceived as confined only to provide reasons for the delay. It would be quite preposterous to read the statute as laying down the principle that reasons must be given only for the delay and not when the application is rejected. The rights of the parties are affected not only when there is delay in considering the application for renewal, but also when the application is rejected. The very terminology used in the statute itself indicates that reasons have to justify rejection. Even if the permission to receive foreign contribution is a form of regulatory mechanism, instituted under

the FCRA, and no person has a fundamental right to receive foreign contribution, still, such a mechanism cannot discard the need for divulging reasons. Further, without understanding the reason for rejecting an application, an applicant will be put to serious prejudice. Hence, reasons for rejecting an application for renewal of a certificate under the FCRA has to be furnished and the said requirement emanates out of the proviso to section 16(3) of the FCRA itself.

19. The impugned e-mail communication dated 11.03.2024 issued by the competent authority is wholly perverse and cannot be sustained in law. Mere reference to statutory provisions cannot be a substitute for the mandate of furnishing and recording reasons. Unless an order is passed specifying any reason, it cannot be said to be an order itself. Hence Ext.P58 is liable to be set aside on that ground alone.

20. Notwithstanding the above, when the revision petition was dismissed as per Ext.P61, the revisional authority recorded that the competent authority had rejected the application for renewal in view of

adverse inputs obtained during field enquiry. Thus on both occasions, the petitioner has not been informed of any reason worth its name, while rejecting its application. Curiously even a summary of reasons was not provided by the competent authority, while rejecting the application and not even by the revisional authority. Without even the core irreducible minimum being revealed, the petitioner could not have been denied the renewal.

21. Nevertheless, there is a passing reference mentioned in Ext.P61 that the petitioner had provided financial support to the agitators during the protest programmes against the development project of Vizhinjam Port. Though the said passing reference cannot be elevated to the status of the 'core irreducible minimum', still, the contentions raised by the respondents entirely revolve around the said aspect of providing financial support to agitators. In this context, it is apposite to mention that a perusal of Ext.P61 reveals, as rightly contended by the learned counsel for the petitioner, an additional provision as section 12(4)(a)(vi) of the FCRA included as a reason for

refusing to renew the certificate, which was not mentioned in Ext.P58 by the competent authority. When such a violation was never mentioned in the original order, the entire procedure adopted by the respondents in refusing to renew the certificate under the FCRA to the petitioner is perverse, warranting interference by this Court.

22. As mentioned earlier, the report of the Intelligence Bureau was made available in a sealed cover to this Court. In Ext.P61, it is mentioned that a field inquiry was carried out through a central security agency which revealed that petitioner had transferred considerable amounts to other FCRA registered associations and with the help of those associations, had provided financial support to the agitators during the protest programme against development projects in Vizhinjam. It is also mentioned that the likely utilization of the funds for inciting protests is a violation of section 12(4)(a)(vi) of the Act. A reading of the revisional order reveals that the contents of the report of the central security agency is identified as the reason for denying the renewal of the licence. The concept of not divulging the reason on

account of a report of the security agencies was considered in the decisions in **Ex-Armymen's Protection Services** and **Digi Cable Network** cases (supra). However, in **Madhyamam Broadcasting Limited v. Union of India and Others** [(2023) 13 SCC 401] a claim was made by the Ministry of Home Affairs that all reports of investigative agencies are confidential. While dealing with the said contention, the Supreme Court observed as follows:

> "*MHA has made a general claim that all reports of the investigative agencies are confidential. We are unable to accept such an argument. Investigative agencies such as the CBI and IB are required to conduct background checks on innumerable personnel and entities for a multitude of reasons. The interaction between private individuals and the State has increased by virtue of which the involvement of intelligence agencies has also proliferated. The reports of the intelligence agencies are not merely fact - finding reports. As it would be evident from the extractions of the material below, reports of investigative agencies make observations and provide inferences on the conduct of individuals which are then relied upon by the decision making authority. To argue that reports of the intelligence agencies may contain confidential information is one thing but to argue that all such reports are confidential is another. Such an argument is misplaced and cannot be accepted on the touchstone of constitutional values. The reports by investigative agencies impact decisions on the life, liberty, and profession of individuals and entities, and to give such reports*

absolute immunity from disclosure is antithetical to a transparent and accountable system.

.......The MHA also opined that the relevant material must not be disclosed in the interest of national security. The issue before us is whether the court can judicially review this inference, and if it can, the extent of such review. We must refer to the jurisprudence on the extent of judicial review of national security claims before assessing if the action serves the purpose of national security."

23. While dealing with the question regarding divulging of information when the aspect of national security is raised by the Government, it was further observed in paragraph 95 to 98 of the above case, as follows:

"95. It is now settled that the Courts do not resort to a hands - off approach when it is claimed that national security implications are involved. In Manohar Lal Sharma v. Union of India (2021 SCC OnLine SC 985), a three - Judge Bench of this Court held that, though the extent of judicial review in matters concerning national security is limited, it does not mean that the State gets a free pass every time the argument of national security is made. This Court held that the State must plead on affidavit and prove that disclosure of information would injure national security. The court observed:

"54. Of course, the Respondent - Union of India may decline to provide information when constitutional considerations exist, such as those pertaining to the security of the State, or when there is a specific immunity

> *under a specific statute. However, it is incumbent on the State to not only specifically plead such constitutional concern or statutory immunity but they must also prove and justify the same in Court on affidavit. The Respondent - Union of India must necessarily plead and prove the facts which indicate that the information sought must be kept in secret as their divulgence would affect national security concerns. They must justify the stand that they take before a Court. The mere invocation of national security by the State does not render the Court a mute spectator."*

96. The issue is not whether the inference that national security concerns are involved is judicially reviewable. It is rather on the standard of proof that is required to be discharged by the State to prove that national security concerns are involved. It is necessary that we understand the meaning and implications of the term national security before embarking on an analysis of the issue.

97. This Court has held that it is not possible to define national security in strict terms. National security has numerous facets, a few of which are recognised under Article 19(2) of the Constitution. In Ex-Armymen's Protection Services (supra), a two - Judge Bench of this Court observed that the phrase national security would include factors like 'socio - political stability, territorial integrity, economic stability and strength, ecological balance cultural cohesiveness and external peace. Justice Patanjali Sastri writing for the majority in Romesh Thappar v. State of Madras demarcated the fields of 'public order' and 'security of state' as they find place in Article 19 of the Constitution. This Court held that the expression 'security of the state' was defined to include a 'distinct category of those offences against public order which aim at *undermining the security of the State or overthrowing it'.*

98. In Ram Manohar Lohia v. State of Bihar, Justice M Hidayatullah (as the learned Chief Justice then was) distinguished the expressions 'security of State', 'law and order', and 'public disorder'. He observed that disorders affecting the security of State are more aggravated than disorders that affect public order and law and order:

> *“52. It will thus appear that just as "public order" in the rulings of this Court (earlier cited) was said to comprehend disorders of less gravity than those affecting "security of State", "law and order" also comprehends disorders of less gravity than those affecting "public order". One has to imagine three concentric circles. Law and order represents the largest circle within which is the next circle representing public order and the smallest circle represents security of State. It is then easy to see that an act may affect law and order but not public order just as an act may affect public order but not security of the State............”*

99. Thus, the expression national security does not have a fixed meaning. While courts have attempted to conceptually distinguish national security from public order, it is impossible (and perhaps unwise) to lay down a text - book definition of the expression which can help the courts decide if the factual situation is covered within the meaning of the phrase. The phrase derives its meaning from the context. It is not sufficient for the State to identify its purpose in broad conceptual terms such as national security and public order. Rather, it is imperative for the State to prove through the submission of cogent material that non - disclosure is in the interest of national security. I<u>t is the Court's duty to assess if there is sufficient material for forming such an opinion. A claim</u>

> *cannot be made out of thin air without material backing for such a conclusion. The Court must determine if the State makes the claim in a bona fide manner. The Court must assess the validity of the claim of purpose by determining (i) whether there is material to conclude that the non-disclosure of the information is in the interest of national security; and (ii) whether a reasonable prudent person would arrive at the same conclusion based on the material. ………..The court allows due deference to the State to form its opinion but reviews the opinion on limited grounds of whether there is nexus between the material and the conclusion." (emphasis supplied)*

24. A perusal of the report of the Central Security Agency does not reveal any material to claim a privilege under concerns of national security. The claim of confidentiality or secretive nature of the report, is not justified by any material in the report of the Central Security Agency. The proviso to section 12(5) of the FCRA uses the term 'may' which itself indicates a discretion. Hence, there is no mandate that can be read into section 12(5) of the FCRA that merely because there is a report of a Central Security Agency, the reasons cannot be divulged or furnished. A contrary interpretation would lead to an anomalous and arbitrary situation wherein the statutory authority can pick and choose

applicants for grant or renewal of certificate of registration and deny furnishing any reason, by merely referring to a report of a Central Security Agency. Hence the Constitutional Court ought to verify and ascertain whether there are any reasons justifying non-revelation of the reason for rejection made out from the report of the Central Security Agency.

25. In view of the above principle of law and the binding precedents laid down in **Manohar Lal Sharma v. Union of India and Others** (2023) 11 SCC 401 **Madhyamam Broadcasting** case (supra) , this Court perused the report of the Central Security Agency handed over to the Court in a sealed cover. Surprisingly, other than references to some agitations and vaguely about the involvement of few persons in the agitations against the launch of the Vizhinjam port, there are no materials of a confidential nature in the report, to be granted a secretive umbrella. On a perusal of the said report, this Court could not even identify any material which is of a sensitive nature or that needs to be withheld from the petitioner or any person. The report of the

Central Security Agency only refers to some agitations by the local fishermen community, against the Vizhinjam Project on account of their grievance regarding displacement of their landholdings, restriction on their right to fish and also against their apprehensions on environmental impacts. It fails all comprehension, as to how those agitations, which to a large extent are common, whenever a new project is announced, can amount to an issue relating to national security.

26. After reading through the intelligence report, this Court is of the opinion that there is nothing that warrants confidentiality and the claim of the Government to retain the report as secret is not bonafide. In such circumstances, the relevant portion of the report relating to the petitioner is reproduced below:

INTELLIGENCE BUREAU
(MINISTRY OF HOME AFFAIRS)

"1) Is there any fictitious or benami office bearers in the NGO? Please give details.

No.

2). Whether the association has been prosecuted or convicted for indulging in any activities aimed at conversion through inducement or force, either directly or indirectly, from one religious faith to another?

No.

3) Whether the association has been prosecuted or convicted for creating communal tension or disharmony in any specified district or any other part of the country?

No.

4) Whether the association has been found guilty of diversion or misutilization of its fund?

No.

5) Whether members/key functionaries are engaged or likely to engage in propagation of sedation or advocating violent methods of achieving the stated objectives?

No.

6) While utilising the foreign contribution, is there likelihood of personal gain or diversion of foreign contribution for undesirable purposes by members/office bearers of NGO?

No.

7) Whether the association has contravened any of the provision of the FCRA 2010?

No.

8) Whether in case the person being an individual, such individual has neither been convicted under any law for the time being in force nor prosecution for any offence is pending against him?

No.

9) Whether 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?

No.

10) Whether anything adverse is noted from FCRA purpose angle regarding utilisation of the assets created out of FC?

No.

11) Whether foreign contribution has been utilised for activities aimed directly or indirectly at inducing of forcing project beneficiaries for religious conversion?

No.

12) Whether members/key functionaries are in any way involved in creating communal tension or disharmony in society? Is there any criminal case against any of the officer bearers? Has any office bearers ever been convicted by court of law?

No.

13) Whether any assets (lands, building, etc.) created during the project implementation are lying unutilized?

No.

14) Whether the acceptance of foreign contribution by the NGO is likely to attract the violations mentioned in the provisions contained under section 12(4)(f) of the FCRA 2010?

No.

15) Whether the acceptance of foreign contributions under the FCRA 2010 (i) shall lead to incitement of an offence and (ii) shall endanger the life or physical safety of any person?

No.

16) Recommendation/overall remarks: The NGO has transferred considerable amounts to other FCRA registered NGOs including Trivandrum Social Service Society (TSSS). TSSS has come to adverse notice of diverting funds to Sakhi and Sewa, which had provided financial support to the agitators during protest programmes against Vizhinjam seaport. In this regard MHME referred to DIB U.O. No.28/D1/2022 (127)-1076-1084 dated 17.10.2022 while deciding FCRA renewal of the NGO.

Sd/-

Joint Deputy Director.”

27. On a reading of the above Intelligence Bureau Report, it is evident that there is absolutely no violation found against the petitioner, except for in the recommendation column, (in question No. 16). Questions No. 1 to 15 extracted above, are practically questions relating to the various conditions specified in section 12, all of which are wholly in favour of the petitioner. In question No. 16, which is a recommendatory column, there is a reference to another FCRA registered NGO to whom the petitioner had transferred funds. The said NGO (TSSS) is alleged to have provided funds to two other NGO's called SAKHI and SEWA, who are alleged to have provided financial support to the agitators during protest programmes against Vizhinjam Port. The connection attempted to be created with the petitioner is too far fetched and not based on any material. The report of the Central Security Agency has not identified any direct or indirect transaction connecting the petitioner with agitators or any financial assistance. Petitioner had, in fact, even denied any financial support provided by it to any of the agitators. Merely because some of the agitators derived

benefits out of the financial assistance received from the NGO to whom the petitioner transferred funds for their beneficial activities, cannot be a reason to assume that petitioner had funded the agitators. The audited accounts of the petitioner were not even verified by the competent authority or the revisional authority to come to such a conclusion. Hence such an assumption without any basis is itself perverse and illegal.

28. Apart from the above, the agitation referred to in the report of the central security agency, extracted earlier, was the objection raised by the local fishermen community who protested against the setting up of the new port project at Vizhinjam, a small fishing hamlet near the capital city of Kerala. With a natural depth of 24 metres, developing the Vizhinjam Port was identified as a chance to boost trade and commerce. However, the nearby fisherfolk community raised objections about setting up such a large port at Vizhinjam. Various environmentalists, local fishermen community and others raised their objections and concerns in the setting up of the port. Their grievances

related to possible coastal erosion, environmental concerns, displacement of the fishermen and blocking of their access to sea. The intelligence report does not indicate any demonstrations using force or arms and on the other hand, the protests were largely in the form of shouting slogans, fasting, strikes as well as occasional obstructions. There is no reference to any incident of violence even. Though several crimes were registered against protesters, the Government has later withdrawn all those prosecutions.

29. The intelligence report states that the Latin Catholic Archdiocese of Trivandrum (LCAT) representing the agitating fisherfolk community, had led the agitation and that out of the 29 NGO’s involved in the agitation, 9 are FCRA registered with 5 of them having active FCRA status. The petitioner's name does not figure as part of either the five active FCRA status organisations or even in the list of 29 NGO’s who have participated in the agitation. It is a travesty of justice that despite not being part of any of the protest, petitioner's application for renewal of FCRA status has been rejected.

30. Viewed from another angle, even if it is assumed that the petitioner had funded the peaceful protests, still, can it be held to be a reason to deny renewal of the certificate? The answer has to be in the negative. The right to protest is an integral part of a democracy. Every citizen has the right to demonstrate or to protest in a peaceful manner. The said right emanates from the right to freedom of speech and expression under Article 19(1)(a) of the Constitution of India. Expression of public opinion, expression of ideas and objections, peaceful modes of objecting to or criticising Government policies are all facets of the freedom of speech and expression. Moreover, the Preamble of the Indian Constitution promises to its people liberty of thought and expression. The aforesaid promise and the freedom guaranteed under Article 19(1)(a) has to be real and cannot be imaginary. The right to peacefully protest and object to actions of the Government and its policies are indubitably facets of these rights.

31. Similarly, the Constitution guarantees the right of every citizen to assemble peacefully, without arms while the right to form

associations for collective bargaining flows out of the right under Article 19(1)(c) of the Constitution of India. Reference to the decisions in **In Re Ramlila Maidan Incident** [(2012) 5 SCC 1], and in **Mazdoor Kisan Shakti Sangathan v. Union of India and Another** [(2018) 17 SCC 324], wherein it was declared that the right to protest is a fundamental right. The following observations in the latter case are appropriate:

> *" "The right to protest is, thus, recognised as a fundamental right under the Constitution. This right is crucial in a democracy which rests on participation of an informed citizenry in governance. This right is also crucial since it strengthens representative democracy by enabling direct participation in public affairs where individuals and groups are able to express dissent and grievances, expose the flaws in governance and demand accountability from State authorities as well as powerful entities. This right is crucial in a vibrant democracy like India but more so in the Indian context to aid in the assertion of the rights of the marginalised and poorly represented minorities."*

32. When the right to protest is constitutionally guaranteed, exercise of such rights cannot be labelled as 'an undesirable purpose' or against public interest. The term 'undesirable purpose' in Section

12(4)(a)(ii) of the FCRA cannot be interpreted to mean undesirable to the Government or undesirable to the political will. The characterization of a purpose as 'undesirable' has to be rooted in a legal prohibition or a public injury. A peaceful protest against a project by persons who have a grievance or who apprehend injury to them, cannot be viewed as an 'undesirable purpose' due to a political disapproval. Executive or administrative distaste for protests or dissents, cannot convert the exercise of a constitutionally protected right into an 'undesirable purpose' or as against 'public interest'. Thus, even if it is assumed that some financial support was provided to the protestors, it cannot be treated as diversion of foreign contribution for an undesirable purpose or against public interest, tantamounting to violation of any provision in the FCRA. At this juncture, with the fear of repetition, it needs to be reiterated that the report has not even identified any financial trail between the petitioner and any of the protestors directly. Thus, action of the respondents in denying the renewal is illegal and liable to be interfered with. Irrelevant considerations have been made the basis for rejecting renewal of FCRA status after ignoring the relevant considerations.

33. In the decision in **Sharma Centre for Heritage Education v. Director, FRCA Wing** (2025 SCC Online Mad 3005) a learned Single Judge of the Madras High Court had observed that the contention of the respondent that they need not communicate the reasons for refusal to grant a certificate by bringing the case within the proviso of sub-section (5) of section 12 of the Act is unsustainable. In the said case, the Madras High Court came to the conclusion that the application for renewal ought to be allowed after observing that just because some institutions run with the aid of foreign contribution, it is not necessary to look at the institutions with suspicion unless there are materials to show that such foreign contribution is being misused and it is being used against public interest/national interest. It was further observed that this is more so where persons of Indian origin, settled in foreign countries, earn money and want to give something back to their country by contributing funds. In such cases, unless there are

serious violations of misuse of foreign contribution, the authorities must deal with it with an open mind.

34. In the instant case, no serious violation or misuse of foreign contribution received by the petitioner is evident or borne out by the records. The authorities ought to have viewed the application for renewal with an open mind. Thus, the refusal to renew the certificate of the petitioner under FCRA is arbitrary and illegal. The petitioner is entitled to have its certificate renewed.

Hence, the orders refusing to renew the certificate of registration of the petitioner under FCRA (Ext.P58 and Ext.P61) are set aside and the competent amongst the respondents is directed to pass fresh orders in the light of the observations made above, in a time bound manner, at any rate within three months from the date of receipt of this judgement. Till such orders are passed, the FCRA certificate of the petitioner shall remain valid for enabling it to utilize the funds already received. However, it shall not be used for receiving foreign contributions until fresh order is issued as directed above. It is clarified that petitioner will be entitled to utilize the amount of FCRA contribution received during the period of its earlier validity and lying in its utilization account.

The writ petition is allowed as above.

Sd/-

BECHU KURIAN THOMAS
JUDGE

vps

APPENDIX OF WP(C) NO. 43936 OF 2025

PETITIONER'S/S' EXHIBITS :

Exhibit P1	**A TRUE COPY OF THE TRUST DEED DATED 08-09-1989**
Exhibit P2	**A TRUE COPY OF THE REVISED TRUST DEED, DATED 14-09-1990**
Exhibit P3	**A TRUE COPY OF THE REPORT DATED 28-07-2025 PUBLISHED BY THE PRESS INFORMATION BUREAU OF INDIA, INFORMING ABOUT THE PRESENTATION OF INDIA'S THIRD VOLUNTARY NATIONAL REVIEW (VNR) BY THE VICE-CHAIRPERSON OF NITI AAYOG AT THE UN HIGH LEVEL POLITICAL FORUM IN 2025**
Exhibit P4	**A TRUE COPY OF THE ANNUAL REPORT OF THE PETITIONER FOR 2022-2023**
Exhibit P5	**A TRUE COPY OF THE LATEST LIST OF BENEFICIARIES OF THE FDP PROGRAM**
Exhibit P6	**A TRUE COPY OF THE SELECTION CRITERIA FOR FAMILY DEVELOPMENT PLAN**
Exhibit P7	**A TRUE COPY OF THE LIST OF FIELD COORDINATORS OF THE PETITIONER ALONG WITH THEIR LOCATION AND CONTACT DETAILS**
Exhibit P8	**A TRUE COPY OF THE PAN CARD OF PETITIONER**
Exhibit P9	**A TRUE COPY OF THE REGISTRATION UNDER SECTION 12A OF INCOME TAX ACT, DATED 09-09-1991**
Exhibit P10	**A TRUE COPY OF THE SECTION 12A EXEMPTION UNDER INCOME TAX ACT, DATED 24-09-2021**
Exhibit P11	**A TRUE COPY OF THE PETITIONER'S DARPAN ID**
Exhibit P12	**A TRUE COPY OF THE LICENSE, DATED 20-08-1985, ISSUED UNDER FOREIGN CONTRIBUTION (REGULATION) ACT, 1976**
Exhibit P13	**A TRUE COPY OF THE FCRA LICENSE RENEWAL DATED 05-08-2016**

Exhibit P14	**A TRUE COPY OF THE RENEWAL APPLICATION DATED 07-10-2021**
Exhibit P15	**A TRUE COPY OF THE PAYMENT RECEIPT FOR THE TRANSACTION DATED 07-10-2021**
Exhibit P16	**A TRUE COPY OF THE PUBLIC NOTICE ISSUED BY 1ST RESPONDENT ON 31-12-2021**
Exhibit P17	**A TRUE COPY OF THE PUBLIC NOTICE ISSUED BY 1ST RESPONDENT ON 24-03-2022**
Exhibit P18	**A TRUE COPY OF THE PUBLIC NOTICE ISSUED BY 1ST RESPONDENT ON 22-06-2022**
Exhibit P19	**A TRUE COPY OF THE PUBLIC NOTICE ISSUED BY 1ST RESPONDENT ON 23-09-2022**
Exhibit P20	**A TRUE COPY OF THE PUBLIC NOTICE ISSUED BY 1ST RESPONDENT ON 24-03-2023**
Exhibit P21	**A TRUE COPY OF THE PUBLIC NOTICE ISSUED BY 1ST RESPONDENT ON 25-09-2023**
Exhibit P22	**A TRUE COPY OF THE EMAIL COMMUNICATION ISSUED BY THE 1ST RESPONDENT DATED 01-11-2023**
Exhibit P23	**A TRUE COPY OF THE SCREENSHOT FROM THE FCRA PORTAL SHOWING THE QUERY CLARIFICATION REQUEST DATED 03-11-2023**
Exhibit P24	**A TRUE COPY OF THE REPLY TO CLARIFICATIONS, DATED 14-11-2023**
Exhibit P25	**A TRUE COPY OF THE FOREIGN CONTRIBUTION (REGULATION) AMENDMENT ACT, 2020**
Exhibit P26	**A TRUE COPY OF THE TABLE SHOWING THE LIST OF ORGANISATIONS WITH FCRA LICENSES WHO RECEIVED THE SUPPORT FROM THE PETITIONER ORGANISATION IN COMPLIANCE WITH FCRA,2010, PRIOR TO EXHIBIT P25 AMENDMENT**
Exhibit P27	**A TRUE COPY OF THE FCRA LICENSE REGISTRATION OF TSSS, DATED 25-04-2016**
Exhibit P28	**A TRUE COPY OF THE LETTER SENT BY PETITIONER TO TSSS IN ITS LAST TRANSFER, DATED 30-07-2020**
Exhibit P29	**A TRUE COPY OF THE LETTER SENT BY**

	PETITIONER TO TSSS IN ITS LAST TRANSFER, DATED 17-08-2020
Exhibit P30	**A TRUE COPY OF THE LETTER SENT BY PETITIONER TO TSSS IN ITS LAST TRANSFER, DATED 04-09-2020**
Exhibit P31	**A TRUE COPY OF THE LETTER SENT BY PETITIONER TO TSSS IN ITS LAST TRANSFER, DATED 16-09-2020**
Exhibit P32	**A TRUE COPY OF THE LETTER SENT BY PETITIONER TO TSSS IN ITS LAST TRANSFER, DATED 23-09-2020**
Exhibit P33	**A TRUE COPY OF FORM-FC4 FOR THE YEAR 2020-2021, FILED ON 30-12-2021**
Exhibit P34	**A TRUE COPY OF FORM-FC4 FOR THE YEAR 2021-2022, FILED ON 30-12-2022**
Exhibit P35	**A TRUE COPY OF FORM-FC4 FOR THE YEAR 2022-2023, FILED ON 15-12-2023**
Exhibit P36	**A TRUE COPY OF FORM-FC4 FOR THE YEAR 2023-2024, FILED ON 21-12-2024**
Exhibit P37	**A TRUE COPY OF THE LEDGER RECORD OF PETITIONER SHOWING THE PAYMENTS TO TSSS FOR THE FINANCIAL YEAR 2016-2017**
Exhibit P38	**A TRUE COPY OF THE LEDGER RECORD OF PETITIONER SHOWING THE PAYMENTS TO TSSS FOR THE FINANCIAL YEAR 2017-2018**
Exhibit P39	**A TRUE COPY OF THE LEDGER RECORD OF PETITIONER SHOWING THE PAYMENTS TO TSSS FOR THE FINANCIAL YEAR 2018-2019**
Exhibit P40	**A TRUE COPY OF THE LEDGER RECORD OF PETITIONER SHOWING THE PAYMENTS TO TSSS FOR THE FINANCIAL YEAR 2019-2020**
Exhibit P41	**A TRUE COPY OF THE LEDGER RECORD OF PETITIONER SHOWING THE PAYMENTS TO TSSS FOR THE FINANCIAL YEAR 2020-2021**
Exhibit P42	**A TRUE COPY OF THE LEDGER RECORD OF TSSS SHOWING THE CREDIT OF AMOUNT FROM PETITIONER AND PAYMENT TO BENEFICIARIES**

	FOR THE FINANCIAL YEAR 2016-2017
Exhibit P43	**A TRUE COPY OF THE LEDGER RECORD OF TSSS SHOWING THE CREDIT OF AMOUNT FROM PETITIONER AND PAYMENT TO BENEFICIARIES FOR THE FINANCIAL YEAR 2017-2018**
Exhibit P44	**A TRUE COPY OF THE LEDGER RECORD OF TSSS SHOWING THE CREDIT OF AMOUNT FROM PETITIONER AND PAYMENT TO BENEFICIARIES FOR THE FINANCIAL YEAR 2018-2019**
Exhibit P45	**A TRUE COPY OF THE LEDGER RECORD OF TSSS SHOWING THE CREDIT OF AMOUNT FROM PETITIONER AND PAYMENT TO BENEFICIARIES FOR THE FINANCIAL YEAR 2019-2020**
Exhibit P46	**A TRUE COPY OF THE LEDGER RECORD OF TSSS SHOWING THE CREDIT OF AMOUNT FROM PETITIONER AND PAYMENT TO BENEFICIARIES FOR THE FINANCIAL YEAR 2020-2021**
Exhibit P47	**A TRUE COPY OF THE RECEIPTS AND PAYMENTS ACCOUNT FOR THE FINANCIAL YEAR 2016-2017**
Exhibit P48	**A TRUE COPY OF THE RECEIPTS AND PAYMENTS ACCOUNT FOR THE FINANCIAL YEAR 2017-2018**
Exhibit P49	**A TRUE COPY OF THE RECEIPTS AND PAYMENTS ACCOUNT FOR THE FINANCIAL YEAR 2018-2019**
Exhibit P50	**A TRUE COPY OF THE RECEIPTS AND PAYMENTS ACCOUNT FOR THE FINANCIAL YEAR 2019-2020**
Exhibit P51	**A TRUE COPY OF THE RECEIPTS AND PAYMENTS ACCOUNT FOR THE FINANCIAL YEAR 2020-2021**
Exhibit P52	**A TRUE COPY OF THE CERTIFICATE ISSUED BY TSSS FOR THE FINANCIAL YEAR 2016-2017**
Exhibit P53	**A TRUE COPY OF THE CERTIFICATE ISSUED BY TSSS FOR THE FINANCIAL YEAR 2017-2018**
Exhibit P54	**A TRUE COPY OF THE CERTIFICATE ISSUED BY TSSS FOR THE FINANCIAL YEAR 2018-2019**
Exhibit P55	**A TRUE COPY OF THE CERTIFICATE ISSUED BY TSSS FOR THE FINANCIAL YEAR 2019-2020**
Exhibit P56	**A TRUE COPY OF THE CERTIFICATE ISSUED BY TSSS FOR THE FINANCIAL YEAR 2020-2021**

CNR : KLHC010981512025

2026:KER:61636

Exhibit P57	**A TRUE COPY OF THE UTILISATION CERTIFICATES FOR SHARMI V. (SERIAL NO: 7071 IN EXHIBIT P5; FDP ID: R182 FROM TRIVANDRUM, KERALA) A BENEFICIARY WHO OBTAINED SUPPORT FOR STITCHING BUSINESS FROM 2017 TO 2020**
Exhibit P58	**A TRUE COPY OF THE EMAIL FROM 1ST RESPONDENT, DATED 11-03-2024**
Exhibit P59	**A TRUE COPY OF THE SCREENSHOT OF THE FCRA PORTAL SHOWING REFUSAL OF THE AUTHORITY TO RENEW**
Exhibit P60	**A TRUE COPY OF THE REVISION APPLICATION SUBMITTED BY PETITIONER UNDER SECTION 32, FCRA,2010, DATED 25-04-2024**
Exhibit P61	**A TRUE COPY OF THE ORDER DATED 17-12-2024 REJECTING EXHIBIT P60 REVISION APPLICATION**
Exhibit P62	**A TRUE COPY OF THE EMAIL DATED 10-01-2025 SENT BY PETITIONER TO 2ND RESPONDENT**
Exhibit P63	**A TRUE COPY OF THE EMAIL REQUEST SENT TO 2ND RESPONDENT BY PETITIONER, DATED 16-06-2025**
Exhibit P64	**A TRUE COPY OF THE EMAIL DATED 25-06-2024 SENT TO THE PETITIONER BY TINCY ABRAHAM, FIELD COORDINATOR OF PALAKKAD**
Exhibit P65	**A TRUE COPY OF THE EMAIL DATED 25-06-2024 SENT TO THE PETITIONER BY RAVICHANDRAN, FIELD COORDINATOR OF CHENNAI**
Exhibit P66	**A TRUE COPY OF THE EMAIL DATED 25-06-2024 SENT TO THE PETITIONER BY SHABANIYA BABU, FIELD COORDINATOR OF KANNUR**
Exhibit P67	**A TRUE COPY OF THE EMAIL DATED 21-11-2024 SENT TO THE PETITIONER FROM FATHER JOSE SEBASTIAN KUNNAPPALLY OF AMARAVATHY**
Exhibit P68	**A TRUE COPY OF THE EMAIL DATED 10-01-2025 SENT TO THE PETITIONER BY SHABANIYA BABU, FIELD COORDINATOR OF KANNUR**

Exhibit P69	**A TRUE COPY OF THE WHATSAPP CONVERSATION BY PETITIONER'S OFFICIAL WITH RAVICHANDRAN, DATED 21-04-2025**
Exhibit P70	**A TRUE COPY OF THE EMAIL DATED 30-04-2025 SENT TO THE PETITIONER BY SHABANIYA BABU, FIELD COORDINATOR OF KANNUR**
Exhibit P71	**A TRUE COPY OF THE EMAIL SENT BY THE PETITIONER TO JAMES, FIELD COORDINATOR OF HYDERABAD, DATED 18-07-2025, INFORMING THAT PENDING SALARY WILL BE CREDITED AT THE EARLIEST**
Exhibit P72	**A TRUE COPY OF THE INTERIM ORDER DATED 06-11-2025 IN W.P.(C) 41301 OF 2025 OF THIS HON'BLE COURT**
Exhibit P73	**A TRUE COPY OF THE COMMUNICATION, DATED 03-11-2025, SENT BY THE 1ST RESPONDENT TO THE PETITIONER, ALONG WITH THE ANNEXED LETTER DATED 05-05-2022**
Exhibit P74	**A TRUE COPY OF THE CLARIFICATION LETTER WITH ANNEXURES, SUBMITTED BY THE PETITIONER TO THE 1ST RESPONDENT, DATED 15-11-2025**

CNR : KLHC010960572025

2026:KER:61621

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE BECHU KURIAN THOMAS

TUESDAY, THE 11TH DAY OF AUGUST 2026 / 20TH SRAVANA, 1948

WP(C) NO. 42996 OF 2025

PETITIONER :

KERALA SOCIAL SERVICE FORUM,
AMOS CENTRE, ADICHIRA,
THELLAKOM P.O, KOTTAYAM,
KERALA, REPRESENTED BY EXECUTIVE DIRECTOR,
FR. SHAJI MJ,
PIN - 686630

BY ADVS.
SMT.KARTHIKA MARIA
SMT.ANJALY ELIAS
SMT.AMBIKA SANKAR
SMT.NAVYA SEBY
SRI.ARUN THOMAS
SRI.ANIL SEBASTIAN PULICKEL
SMT.VEENA RAVEENDRAN
SMT.LEAH RACHEL NINAN
SHRI.MATHEW NEVIN THOMAS
SHRI.SHINTO MATHEW ABRAHAM
SHRI.KURIAN ANTONY MATHEW

RESPONDENTS :

1 UNION OF INDIA,
MINISTRY OF HOME AFFAIRS,
FCRA WING, 1ST FLOOR,

MAJOR DHYAN CHAND NATIONAL STADIUM,
NEAR PRAGATI MAIDAN,
NEW DELHI,
REPRESENTED BY SECRETARY,
PIN – 110 001

2 THE DIRECTOR,
FCRA WING,
MINISTRY OF HOME AFFAIRS,
1ST FLOOR,
MAJOR DHYAN CHAND NATIONAL STADIUM,
NEAR PRAGATI MAIDAN,
NEW DELHI,
PIN - 110001

BY SMT.O.M.SHALINA, DEPUTY SOLICITOR GENERAL OF INDIA

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 08.07.2026, THE COURT ON 11.08.2026 DELIVERED THE FOLLOWING:

BECHU KURIAN THOMAS, J.

W.P.(C) No.42996 of 2025

Dated this the 11th day of August, 2026

JUDGMENT

Petitioner challenges an order refusing to renew the certificate under the Foreign Contribution (Regulation) Act, 2010 (for short, 'the FCRA') as well as the revisional order declining to interfere with the rejection. Ext.P6 is the order rejecting the application for renewal and Ext.P9 is the order dismissing the revision petition.

2. Petitioner – The Kerala Social Service Forum, is a charitable organization engaged in various social welfare activities. Petitioner was established for promoting, facilitating and co-ordinating the social action initiatives of the 32 Catholic Diocesan Social Service Societies across the State of Kerala. Petitioner has a valid registration under section 12A of the Income Tax Act, 1961 and obtained initial

registration under the FCRA on 25.04.1985 and thereafter, it has been renewed uninterruptedly, without any blemish. According to the petitioner, the last renewal under the FCRA was on 01.11.2016 for a period of five years and hence, it applied for further renewal on 07.05.2021, in accordance with section 16 of the FCRA. Petitioner alleges that, without even issuing any show-cause notice or affording an opportunity of hearing, the respondent rejected the renewal application as per Ext.P6 communication dated 04.10.2023, by merely referring to sections 12(4)(a)(vi) and 12(4)(f)(iii) of the FCRA. Challenging the order of refusal to renew the certificate, petitioner preferred a revision petition under section 32 of the FCRA. However, by Ext.P9 order dated 10.06.2024, the revision petition was dismissed, after referring to the report of a Central Security Agency accusing the petitioner of financially supporting certain agitators protesting against the setting up of Vizhinjam Port. Petitioner alleges that the impugned orders are unsustainable, issued without any basis and in violation of the principles of natural justice.

3. A counter affidavit has been filed on behalf of respondents 1 and 2 questioning the very maintainability of the writ petition and stating that the right to receive foreign contribution is not a fundamental right and therefore no case of violation of Part III of the Constitution of India can be made out. Respondents alleged that the FCRA is a national security legislation and foreign contributions received cannot be utilized for any activity detrimental to national interest and must fulfill the conditions stipulated in section 12(4) of the FCRA. Respondents have further averred that the provisions of the FCRA are implemented with the assistance of Central Security Agencies and after petitioner applied for renewal, under section 16 of the FCRA, the field enquiry revealed that the petitioner had extended financial support to agitators during protest programmes opposing the Vizhinjam Port Project. According to the respondents, the Kerala Catholic Bishops Council had declared its support to another association which led the said protest and hence the activities undertaken by the said association opposing the project was contrary

to public interest. It is further alleged that the findings of the field enquiry disclosed that the petitioner had misutilized foreign contribution by funding agitators in protests against the development and construction of Vizhinjam Port, thereby violating the conditions stipulated in section 12(4) of the FCRA. According to the respondents, Ext.P10 constitutes an admission that the foreign contributions received were diverted and utilised for activities contrary to public interest and inconsistent with the objects and purposes set out in the Memorandum of Association of the petitioner organisation. Respondents allege that petitioner's case comes under the purview of section 16(1) read with the conditions of registration under section 12(4)(a)(vi) and section 12(4)(f)(iii) of the FCRA and hence the denial of renewal application, which was communicated through email as well as SMS, is justified. Respondents also rely upon section 12(5) of the FCRA for not communicating the reasons for refusal as the classified documents and information relied upon by them were furnished through a Central Security Agency, which finds mention in Schedule II to the Right to Information Act, 2005 (for short 'RTI Act'), as a result of which, the report is exempted from disclosure under section 24(1) of the RTI Act. Further, respondents allege that Ext.P9 revision order specifies the reasons for rejection of petitioner's application for renewal of certificate and therefore the allegation regarding non communication of reasons is not justified. It is also alleged that since petitioner's FCRA certificate of registration has ceased to be in force due to the refusal to renew the application, petitioner is not entitled to utilize any unutilized foreign contribution or the assets created out of such foreign contribution, unless and until a fresh certificate of registration is granted by the Central Government. Reliance is made to rules 12(5) and 12(6-A) of the Foreign Contribution (Regulation) Rules, 2011 in that regard. Respondents also relied upon the judgment in **Noel Harper and Others v. Union of India and Another** [(2023) 3 SCC 544] to contend that there is no right to receive unbridled and unregulated foreign contributions. It was also stated that interference with policy decisions will have a cascading effect especially since the petitioner seeks to overturn a security based regulatory decision.

4. Smt. Karthika Maria, learned counsel for the petitioner contended that the application for renewal submitted by the petitioner was refused without any basis or reason. The learned counsel submitted that the allegation that the petitioner provided financial assistance to the agitators protesting against Vizhinjam Port is baseless. She submitted that the petitioner disbursed the funds to its beneficiaries in compliance with the provisions of the FCRA. The learned counsel also argued that apart from the impugned order Ext.P6 does not mention any reason, the revisional order also does not contain any valid reason. The learned counsel also submitted that for more than three decades, petitioner had been receiving funds and not a single violation was ever noticed. Even during the last period, no violation was ever noticed. According to the learned counsel, refusal to furnish reason is only a conscious attempt to deny renewal of certificate under the FCRA arbitrarily and hence the impugned orders ought to be set aside.

5. On behalf of the Deputy Solicitor General of India it was contended that the scope of the FCRA has undergone a drastic change by the 2010 statute. Referring to the various provisions of the statute, it was argued that the reasons for refusing renewal are not required to be divulged. The learned counsel also submitted, referring to the decisions in **Ex-Armymen's Protection Services Pvt. Ltd v. Union of India and Others** [(2014) 5 SCC 409] and **Digi Cable Network (India) Private Limited v. Union of India and Others** [(2019) 4 SCC 451] that no reasons need be given especially when the question of national security is at stake. The learned counsel also submitted that when the foreign contribution is used or when there is a likelihood of diversion of funds for undesirable purposes, the competent authorities are entitled to exercise its discretion to refuse renewal, which decision ought not to be interfered with by this Court. Referring to the provisions of section 12 of the FCRA, it was argued that unless all conditions are fulfilled or satisfied, renewal cannot be granted. According to the learned counsel, on account of national

security, diversion of funds received and its use for undesirable purposes, petitioner is not entitled to have its registration certificate renewed.

6. I have considered the rival submissions.

7. The question that arises for consideration is the validity of the order rejecting the application for renewal of the certificate under the FCRA. It needs to be mentioned at this juncture that during the course of hearing, since it was prima facie felt that reasons have not been provided in the impugned order Ext.P6, on a query by the Court regarding the reasons, the learned Central Government Counsel submitted that those reasons cannot be divulged to the petitioner, but can be provided in a sealed cover to the Court for consideration. Accordingly, the report of the Central Security Agency was furnished in a sealed cover.

8. Petitioner is a charitable organization engaged in various social welfare activities. Petitioner's certificate to receive foreign contribution has been in existence since 1985 and it was always

renewed, without even a single instance of blemish. However, when it applied for renewal in the year 2021, the application was kept pending till 2023 and thereafter, rejected, referring to few provisions as the reason for rejection. The revision petition was also dismissed wherein a semblance of reason has been mentioned.

9. Petitioner has specifically contended that it has always acted in good faith and in strict compliance with the provisions of the FCRA. It is also specifically stated that the petitioner has always utilized the foreign contributions in its chosen field and for the benefit of the society and had never diverted the funds in any manner.

10. The impugned order of rejection, which is produced as Ext.P6, reads as below:

> "Your application 0300029622021 has been refused due to the following reasons:
> The Competent Authority has refused the renewal application under section 16(1) read with Section 12(4)(a)(vi), and section 12(4)(f)(iii) of FCRA 2010."

11. The above cryptic order does not contain anything other than a reference to the provisions of law. Though it was vehemently

argued on behalf of the respondents that reasons are not required to be shown or provided, as it is not explicitly mentioned in the statute, this Court is of the view that, reasons being the soul of every order, however short it be, it is essential for the authority to specify the reason for denial of even a renewal application.

12. To appreciate the contentions of the parties on merits, it is necessary to extract section 16 of the FCRA which deals with renewal. The said section reads as follows:

> "**16. Renewal of certificate**.
>
> (*1) Every person who has been granted a certificate under section 12 shall have such certificate renewed within six months before the expiry of the period of the certificate.*
>
> *Provided that the Central Government may, before renewing the certificate, make such inquiry, as it deems fit, to satisfy itself that such person has fulfilled all conditions specified in sub-section (4) of section 12.*
>
> *(2) The application for renewal of the certificate shall be made to the Central Government in such form and manner and accompanied by such fee as may be prescribed.*
>
> *(3) The Central Government shall renew the certificate, ordinarily within ninety days from the date of receipt of application for renewal of certificate subject to such terms and conditions as it may deem fit and grant a certificate of renewal for a period of five years:*

Provided that in case the Central Government does not renew the certificate within the said period of ninety days, it shall communicate the reasons therefor to the applicant:

Provided further that the Central Government may refuse to renew the certificate in case where a person has violated any of the provisions of this Act or rules made thereunder."

13. There is no dispute that the petitioner was an existing certificate holder under section 12 of the FCRA. Nevertheless, the renewal application can be refused if the petitioner has violated the provisions of the FCRA as specified in the proviso to section 16(3). Since some of the provisions of section 12 of the FCRA are alleged to have been violated, the relevant provisions of section 12 are extracted below:

*"**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.

(1A) … (omitted as not relevant)

(2) ……(omitted as not relevant).

(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 therefor 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."

14. A reading of the above provisions indicate that when an application for renewal is submitted, it has to be disposed of within ninety days and it can be rejected only if the person has violated any of the provisions of the FCRA or its rules. If the application is not disposed of within ninety days, the statute specifically states that reasons have to be given. Providing or furnishing reasons is one of the essentials of good governance and a pivot on which democratic institutions must function. Refusing to divulge reasons is in effect a mode of denying justice as the mind of the decision maker cannot be

comprehended by the higher authorities including the courts, during an appeal or judicial review questioning the decision. The mind of the decision maker will be revealed only through reasons. In a democratic country, governed by the rule of law, for rejecting an application, even if it is a renewal application for permission to receive foreign contribution, reasons are essential. The right to reason is undoubtedly an indispensable part of a sound judicial system.

15. In the decisions in **Raj Kishore Jha v. State of Bihar and Others** [(2003) 11 SCC 519] and **State of Orissa v. Dhaniram Luhar** [(2004) 5 SCC 568], it was observed by the Supreme Court that “Reason is the heartbeat of every conclusion, and without the same it becomes lifeless.” Reason introduces clarity in an order. It has further, quite often been observed by Courts that reasons are live links between the mind of the decision maker to the issue in question and the decision or conclusion arrived at and further that reasons substitute subjectivity by objectivity.

16. Viewed in the perspective of the above legal principles, the

proviso to section 16(3) of the FCRA cannot be perceived as confined only to provide reasons for the delay. It would be quite preposterous to read the statute as laying down the principle that reasons must be given only for the delay and not when the application is rejected. The rights of the parties are affected not only when there is delay in considering the application for renewal, but also when the application is rejected. The very terminology used in the statute itself indicates that reasons have to justify rejection. Even if the permission to receive foreign contribution is a form of regulatory mechanism, instituted under the FCRA, and no person has a fundamental right to receive foreign contribution, still, such a mechanism cannot discard the need for divulging reasons. Further, without understanding the reason for rejecting an application, an applicant will be put to serious prejudice. Hence, reasons for rejecting an application for renewal of a certificate under the FCRA has to be furnished and the said requirement emanates out of the proviso to section 16(3) of the FCRA itself. .

17. The impugned e-mail communication dated 04.10.2023

issued by the competent authority is wholly perverse and cannot be sustained in law. Mere reference to statutory provisions cannot be a substitute for the mandate of furnishing and recording reasons. Unless an order is passed specifying any reason, it cannot be said to be an order itself. Hence Ext.P6 is liable to be set aside on that ground alone.

18. Notwithstanding the above, when the revision petition was dismissed as per Ext.P9, the revisional authority recorded that the competent authority had rejected the application for renewal in view of adverse inputs obtained during field enquiry. It is stated in Ext.P9 order, while narrating the facts, that the field enquiry was conducted through a Central Security Agency whose report is not liable to be disclosed as per section 12(5) of the FCRA, as it is classified as “SECRET”. The revisional authority also, without referring to any specific reasons, other than by stating that the FCRA does not provide any requirement to state the reasons, dismissed the revision petition by merely stating that no grounds are made out to revise the order

dated 04.10.2023. Thus on both occasions, the petitioner has not been informed of any reason worth its name, while rejecting its application. Curiously even a summary of reasons was not provided by the competent authority, while rejecting the application and not even by the revisional authority. Without even the core irreducible minimum being revealed, the petitioner could not have been denied the renewal.

19. Nevertheless, there is a passing reference mentioned in Ext.P9 that the petitioner had provided financial support to the agitators during the protest programmes against the development project of Vizhinjam Port. Though the said passing reference cannot be elevated to the status of the 'core irreducible minimum', still, the contentions raised by the respondents entirely revolve around the said aspect of providing financial support to agitators.

20. As mentioned earlier, the report of the Intelligence Bureau was made available in a sealed cover to this Court. In Ext.P9, it is mentioned that the report of the Central Security Agency is classified as "SECRET" and it is not advisable to bring the report in public

domain. The contents of the said report is identified as the reason for denying renewal of the certificate as the field inquiry carried out through a Central Security Agency apparently revealed that petitioner had transferred amounts to the agitators during protest programmes against development projects in Vizhinjam. It is also mentioned that the foreign contribution is likely to be used for personal gains or likely to be diverted for undesirable purposes and also likely to affect public interest, thereby violating sections 12(4)(a)(vi) and 12(4)(f)(iii) of the FCRA. A reading of the revisional order reveals that the contents of the report of the Central Security Agency is classified as secret and hence reasons cannot be divulged.

21. The concept of not divulging the reason on account of a report of the security agencies was considered in **Ex-Armymen's Protection Services** and **Digi Cable Network** cases (supra). However, in **Madhyamam Broadcasting Limited v. Union of India and Others** [(2023) 13 SCC 401] a claim was made by the Ministry of Home Affairs that all reports of investigative agencies are confidential.

While dealing with the said contention, the Supreme Court observed as follows:

> "*MHA has made a general claim that all reports of the investigative agencies are confidential. We are unable to accept such an argument. Investigative agencies such as the CBI and IB are required to conduct background checks on innumerable personnel and entities for a multitude of reasons. The interaction between private individuals and the State has increased by virtue of which the involvement of intelligence agencies has also proliferated. The reports of the intelligence agencies are not merely fact - finding reports. As it would be evident from the extractions of the material below, reports of investigative agencies make observations and provide inferences on the conduct of individuals which are then relied upon by the decision making authority. To argue that reports of the intelligence agencies may contain confidential information is one thing but to argue that all such reports are confidential is another. Such an argument is misplaced and cannot be accepted on the touchstone of constitutional values. The reports by investigative agencies impact decisions on the life, liberty, and profession of individuals and entities, and to give such reports absolute immunity from disclosure is antithetical to a transparent and accountable system.*
>
> *.......The MHA also opined that the relevant material must not be disclosed in the interest of national security. The issue before us is whether the court can judicially review this inference, and if it can, the extent of such review. We must refer to the jurisprudence on the extent of judicial review of national security claims before assessing if the action serves the purpose of national security.*"

22. While dealing with the question regarding divulging of

information when the aspect of national security is raised by the Government, it was further observed in paragraphs 95 to 98 of the above case, as follows:

> *"95. It is now settled that the Courts do not resort to a hands - off approach when it is claimed that national security implications are involved. In Manohar Lal Sharma v. Union of India (2021 SCC OnLine SC 985), a three - Judge Bench of this Court held that, though the extent of judicial review in matters concerning national security is limited, it does not mean that the State gets a free pass every time the argument of national security is made. This Court held that the State must plead on affidavit and prove that disclosure of information would injure national security. The court observed:*
>
> > *"54. Of course, the Respondent - Union of India may decline to provide information when constitutional considerations exist, such as those pertaining to the security of the State, or when there is a specific immunity under a specific statute. However, it is incumbent on the State to not only specifically plead such constitutional concern or statutory immunity but they must also prove and justify the same in Court on affidavit. The Respondent - Union of India must necessarily plead and prove the facts which indicate that the information sought must be kept in secret as their divulgence would affect national security concerns. They must justify the stand that they take before a Court. The mere invocation of national security by the State does not render the Court a mute spectator."*

96. The issue is not whether the inference that national security concerns are involved is judicially reviewable. It is rather on the standard of proof that is required to be discharged by the State to prove that national security concerns are involved. It is necessary that we understand the meaning and implications of the term national security before embarking on an analysis of the issue.

97. This Court has held that it is not possible to define national security in strict terms. National security has numerous facets, a few of which are recognised under Article 19(2) of the Constitution. In Ex-Armymen's Protection Services (supra), a two - Judge Bench of this Court observed that the phrase national security would include factors like 'socio - political stability, territorial integrity, economic stability and strength, ecological balance cultural cohesiveness and external peace. Justice Patanjali Sastri writing for the majority in Romesh Thappar v. State of Madras demarcated the fields of 'public order' and 'security of state' as they find place in Article 19 of the Constitution. This Court held that the expression 'security of the state' was defined to include a 'distinct category of those offences against public order which aim at undermining the security of the State or overthrowing it'.

98. In Ram Manohar Lohia v. State of Bihar, Justice M Hidayatullah (as the learned Chief Justice then was) distinguished the expressions 'security of State', 'law and order', and 'public disorder'. He observed that disorders affecting the security of State are more aggravated than disorders that affect public order and law and order:

> *"52. It will thus appear that just as "public order" in the rulings of this Court (earlier cited) was said to comprehend disorders of less gravity than those affecting "security of State", "law and order" also comprehends disorders of less gravity than those affecting "public order". One has to imagine three concentric circles. Law and order*

> *represents the largest circle within which is the next circle representing public order and the smallest circle represents security of State. It is then easy to see that an act may affect law and order but not public order just as an act may affect public order but not security of the State...........”*

99. Thus, the expression national security does not have a fixed meaning. While courts have attempted to conceptually distinguish national security from public order, it is impossible (and perhaps unwise) to lay down a text - book definition of the expression which can help the courts decide if the factual situation is covered within the meaning of the phrase. The phrase derives its meaning from the context. It is not sufficient for the State to identify its purpose in broad conceptual terms such as national security and public order. Rather, it is imperative for the State to prove through the submission of cogent material that non - disclosure is in the interest of national security. I<u>t is the Court's duty to assess if there is sufficient material for forming such an opinion. A claim cannot be made out of thin air without material backing for such a conclusion</u>. The Court must determine if the State makes the claim in a bona fide manner. The Court must assess the validity of the claim of purpose by determining (i) whether there is material to conclude that the non-disclosure of the information is in the interest of national security; and (ii) whether a reasonable prudent person would arrive at the same conclusion based on the material. ………..The court allows due deference to the State to form its opinion but reviews the opinion on limited grounds of whether there is nexus between the material and the conclusion.” (emphasis supplied)

23. The claim of confidentiality or secretive nature of the report is not justified by any material in the report of the Central Security

Agency. The proviso to section 12(5) of the FCRA uses the term ‘may’ which itself indicates a discretion. There is hence no mandate that can be read into section 12(5) of the FCRA that merely because there is a Central Security Agency report the reasons cannot be divulged or furnished. A contrary interpretation would lead to an anomalous and arbitrary situation wherein the statutory authority can pick and choose applicants for grant or renewal of certificate and deny furnishing any reason, by merely referring to the report of the Central Security Agency. Hence the Constitutional Court ought to verify and ascertain whether there are any reasons justifying non-revelation of the reason for rejection made out from the report of the central security agency.

24. In view of the above principle of law and the binding precedents laid down in **Manohar Lal Sharma v. Union of India and Others** (2023) 11 SCC 401 **Madhyamam Broadcasting** case (supra), this Court perused the report of the Central Security Agency handed over to the Court in a sealed cover. Surprisingly, other than references to some agitations and vaguely about the involvement of few persons

in the agitations against the launch of the Vizhinjam port, there are no materials of a confidential nature in the report, to be granted a secretive umbrella. On a perusal of the said report, this Court could not even identify any material which is of a sensitive nature or that needs to be withheld from the petitioner or any person. The report of the Central Security Agency only refers to some agitations by the local fishermen community, against the Vizhinjam Project on account of their grievance regarding displacement of their landholdings, restriction on their right to fish and also against their apprehensions on environmental impacts. It fails all comprehension, as to how those agitations, which to a large extent are common, whenever a new project is announced, can amount to an issue relating to national security.

25. After reading through the intelligence report, this Court is of the opinion that there is nothing that warrants confidentiality and the claim of the Government to retain the report as secret is not bonafide. In such circumstances, the relevant portion of the report relating to the

petitioner is reproduced below:

INTELLIGENCE BUREAU
(MINISTRY OF HOME AFFAIRS)

"1) Is there any fictitious or benami office bearers in the NGO? Please give details.

No.

2) Whether the association has 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?

No.

3) Whether the association has been prosecuted or convicted for creating communal tension or disharmony in any specified district or any other part of the country?

No.

4) Whether the association has been found guilty of diversion or misutilization of its fund?

No.

5) Whether members/key functionaries are engaged or likely to engage in propagation of sedation or advocating violent methods of achieving the stated objectives?

No.

6) While utilising the foreign contribution, is there likelihood of personal gain or diversion of foreign contribution for undesirable purposes by members/office bearers of NGO?

No.

7) Whether the association has contravened any of the provisions of the FCRA 2010?

No.

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

No.

9) Whether 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?

No.

10) Whether anything adverse is noted from FCRA purpose angle regarding utilisation of the assets created out of FC?

No.

11) Whether foreign contribution has been utilised for activities aimed directly or indirectly at inducing or forcing project beneficiaries for religious conversion?

No.

12) Whether members/key functionaries are in any way involved in creating communal tension or disharmony in society? Is there any criminal case against any of the officer bearers? Has any office bearers has ever been convicted by court of law?

No.

13) Whether any assets (lands, buildings, etc.) created during the project implementation are lying unutilized?

No.

14) Whether the acceptance of foreign contribution by the NGO is likely to attract the violations mentioned in provisions contained under section 12(4)(f) of the FCRA 2010?

No.

15) Whether the acceptance of foreign contributions under the FCRA 2010 (i) shall lead to insightment of an offence, and (ii) shall endanger the life or physical safety of any person?

No.

16) Recommendation/overall remarks: The Society is an official state level body of Kerala Catholic Church functioning under Kerala Catholic Bishops Council (KCBC), which has come to adverse notice of providing financial support to the agitators during protest programmes against Vizhinjam Port. In this regard, DIB U.O No. 28/D1.2022(127)-1076-1084 dated 17-10-2022 may be referred while deciding FCRA renewal of the NGO.

Sd/-

Joint Deputy Director."

26. On a reading of the above Intelligence Bureau Report, it is

evident that there is absolutely no violation found against the petitioner, except for in the recommendation column (In question No. 16). Questions No. 1 to 15 extracted above, are practically questions relating to the various conditions specified in section 12, all of which are wholly in favour of the petitioner. In question No. 16, which is a recommendatory column, there is a reference to providing financial support to the agitators during protest programmes against Vizhinjam Port by KCBC. Petitioner has denied any financial support provided by it to any of the agitators. Merely because a portion of the agitators belong to the Catholic community, or that the Bishops Council of the Catholic Church supported the agitation, cannot be a reason to assume that petitioner had funded the protests. Hence such an assumption without any basis is itself perverse and illegal.

27. Apart from the above, the agitation referred to in the report of the Central Security Agency, extracted earlier, was the objection raised by the local fishermen community who protested against the setting up of the new port project at Vizhinjam, a small fishing hamlet

near the capital city of Kerala. With a natural depth of 24 metres, developing the Vizhinjam Port was identified as a chance to boost trade and commerce. However, the nearby fisherfolk community raised objections about setting up such a large port at Vizhinjam. Various environmentalists, local fishermen and others raised their objections and concerns in the setting up of the port. Their grievances related to possible coastal erosion, environmental concerns, displacement of the fishermen community and blocking of their access to sea. The intelligence report does not indicate any demonstrations using force or arms and on the other hand, the protests were largely in the form of shouting slogans, fasting, strikes as well as occasional obstructions. There is no reference to any incident of violence even. Though several crimes were registered against protestors, the Government has later withdrawn all those prosecutions.

28. The intelligence report states that the Latin Catholic Archdiocese of Trivandrum (LCAT) representing the agitating fisherfolk community, had led the agitation and that out of the 29 NGO’s

involved in the agitation, 9 are FCRA registered with 5 of them having active FCRA status. The petitioner's name does not figure as part of either the five active FCRA status organisations or even in the list of 29 NGO’s who have participated in the agitation. The report nowhere mentions the involvement of the petitioner in any agitation either directly or indirectly. No trail of money is even traced from the petitioner to any of the agitators. It is a travesty of justice that despite not being part of any of the agitations, petitioner's application for renewal of FCRA certificate has been rejected.

29. Viewed from another angle, even if it is assumed that the petitioner had funded the peaceful protests, still, can it be held to be a reason to deny renewal of the certificate? The answer has to be in the negative. The right to protest is an integral part of a democracy. Every citizen has the right to demonstrate or to protest in a peaceful manner. The said right emanates from the right to freedom of speech and expression under Article 19(1)(a) of the Constitution of India. Expression of public opinion, ideas and objections, peaceful modes of

objecting to or criticising Government policies are all facets of the freedom of speech and expression. Moreover, the Preamble of the Indian Constitution promises to its people liberty of thought and expression. The aforesaid promise and the freedom guaranteed under Article 19(1)(a) has to be real and cannot be imaginary. The right to peacefully protest and object to actions of the Government and its policies are indubitably facets of these rights.

30. Similarly, the Constitution guarantees the right of every citizen to assemble peacefully, without arms while the right to form associations for collective bargaining flows out of the right under Article 19(1)(c) of the Constitution of India. Reference to the decisions in **In Re Ramlila Maidan Incident** [(2012) 5 SCC 1], and in **Mazdoor Kisan Shakti Sangathan v. Union of India and Another** [(2018) 17 SCC 324], wherein it was declared that the right to protest is a fundamental right. The following observations in the latter case are appropriate:

> *"The right to protest is, thus, recognised as a fundamental right under the Constitution. This right is crucial in a democracy which rests on*

participation of an informed citizenry in governance. This right is also crucial since it strengthens representative democracy by enabling direct participation in public affairs where individuals and groups are able to express dissent and grievances, expose the flaws in governance and demand accountability from State authorities as well as powerful entities. This right is crucial in a vibrant democracy like India but more so in the Indian context to aid in the assertion of the rights of the marginalised and poorly represented minorities."

31. When the right to protest is constitutionally guaranteed, exercise of such right cannot be labelled as 'an undesirable purpose' or against public interest. The term 'undesirable purpose' in Section 12(4)(a)(vi) of the FCRA cannot be interpreted to mean undesirable to the Government or undesirable to the political will. The characterization of a purpose as 'undesirable' has to be rooted in a legal prohibition or a public injury. A peaceful protest against a project by persons who have a grievance or who apprehend injury to them, cannot be viewed as an 'undesirable purpose' due to a political disapproval. Executive or administrative distaste for protests or dissents, cannot convert the exercise of a constitutionally protected right into an 'undesirable purpose' or as against 'public interest'. Thus

even if it is assumed that some financial support was provided to the protestors, it cannot be treated as diversion of foreign contribution for an undesirable purpose or against public interest, tantamounting to violation of any provision in the FCRA. At this juncture, with the fear of repetition it needs to be reiterated that the report has not even identified any financial trail between the petitioner and any of the protestors directly. Thus the action of the respondents in denying the renewal is illegal and liable to be interfered with. Irrelevant considerations have been made the basis for rejecting the renewal certificate which is highly arbitrary.

32. In the decision in **Sharma Centre for Heritage Education v. Director, FRCA Wing** (2025 SCC Online Mad 3005) a learned Single Judge of the Madras High Court had observed that the contention of the respondent that they need not communicate the reasons for refusal to grant a certificate by bringing the case within the proviso of sub-section (5) of section 12 of the FCRA is unsustainable. In the said case, the Madras High Court came to the conclusion that the

application for renewal ought to be allowed after observing that just because some institutions run with the aid of foreign contribution, it is not necessary to look at the institutions with suspicion unless there are materials to show that such foreign contribution is being misused and it is being used against public interest/national interest. It is further observed that this is more so where persons of Indian origin, settled in foreign countries, earn money and want to give something back to their country by contributing funds. In such cases, unless there are serious violations of misuse of foreign contribution, the authorities must deal with it with an open mind. The Court further held that under such circumstances, denying them that opportunity must have strong reasons to refuse renewal of the applications.

33. In the instant case, no serious violation or misuse of foreign contribution received by the petitioner is evident or borne out by the records. The authorities ought to have viewed the application for renewal with an open mind. Thus, the refusal to renew the certificate of the petitioner under FCRA is arbitrary and illegal. The petitioner is entitled to have its certificate renewed.

Hence, the orders refusing to renew the certificate of registration of the petitioner under FCRA (Ext.P6 and Ext.P9) are set aside and the competent amongst the respondents is directed to pass fresh orders in the light of the observations made above, in a time bound manner, at any rate within three months from the date of receipt of this judgement.

The writ petition is allowed.

Sd/-

BECHU KURIAN THOMAS
JUDGE

vps

CNR : KLHC010960572025

2026:KER:61621

APPENDIX OF WP(C) NO. 42996 OF 2025

PETITIONER'S/S' EXHIBITS :

Exhibit P1	**TRUE COPY OF THE FCRA REGISTRATION CERTIFICATE ISSUED BY THE 1ST RESPONDENT DATED 25.04.1985**
Exhibit P2	**TRUE COPY OF THE REGISTRATION CERTIFICATE ISSUED BY THE COMMISSIONER OF INCOME TAX DATED 29.11.1991**
Exhibit P3	**TRUE COPY OF THE FORM 10AC ORDER DATED 02.10.2021**
Exhibit P4	**TRUE COPY OF THE RENEWAL CERTIFICATE ISSUED BY THE 1ST RESPONDENT DATED 26.10.2016**
Exhibit P5	**TRUE COPY OF THE PAYMENT RECEIPT ISSUED BY THE 1ST RESPONDENT IN RESPECT OF THE RENEWAL APPLICATION DATED 07.05.2021**
Exhibit P6	**TRUE COPY OF THE EMAIL COMMUNICATION SENT BY THE RESPONDENTS TO THE PETITIONER DATED 04.10.2023**
Exhibit P7	**TRUE COPY OF THE ANNUAL RETURNS FILED BY THE PETITIONER BEFORE THE RESPONDENTS FOR THE FINANCIAL YEARS 2018 TO 2022**
Exhibit P8	**TRUE COPY OF THE REVIEW PETITION FILED BY THE PETITIONER BEFORE THE RESPONDENTS DATED 09.10.2023**
Exhibit P9	**TRUE COPY OF THE ORDER ISSUED BY THE RESPONDENTS TO THE PETITIONER DATED 10.06.2024**
Exhibit P10	**TRUE COPY OF THE LIST OF BENEFICIARIES TO WHOM THE PETITIONER DISBURSED THE FCRA FUNDS**

<u>RESPONDENTS'/S' EXHIBITS</u>:

Exhibit R1(a)	**TRUE COPY OF THE MEMORANDUM OF ASSOCIATION OF THE PETITIONER ORGANIZATION ALONG WITH TYPED COPY OF THE RELEVANT PORTION OF MOA**