

By RPAD

Proceedings of the District Registrar Chennai (Central)(Incharge)
Present: Thiru.U.Shunmugasundaram, M.A., B.G.L.,

Proceeding No.6994/D2/2015 Dated 04.11.2015.

Sub: Tamil Nadu Societies Registration Act 1975 - The Green Peace India Society (Reg.No.49/2006) – Violation of Certain provisions of the Act – Show cause notice – Explanation offered and Considered – Allowed to inspect the records in the office of the Registrar, as directed by the Hon'ble High Court of Madras – Final orders passed.

- Ref:
1. Notice dated 28.05.2015 from District Registrar, Chennai Central, to the Green Peace India Society for enquiry.
 2. Show- Cause Notice dated .16.06.2015 from the District Registrar, Chennai Central, to the Green Peace India Society
 3. The President's Letter dated 24.06.2015, by way of explanation.
 4. Executive Directors reply dated 03.07.15.
 5. This office Letter No.6994/D2/15 dated 27.07.2015, extending time for giving reply.
 6. Order dated 04.08.2015 of the High Court of Madras in W.P.No.22883/2015 and M.P.Nos.1 to 4 of 2015.
 7. This office letter dated 24.08.2015, requesting the President to inspect the records in the Registrar's office.
 8. This office letter dated 04.09.2015, to the Executive Director, reminding her to go over for inspection.
 9. Letter dated 07.09.2015 from the Executive Director of the society, for inspection of the records in the Registrar's office.
 10. Letter dated 07.09.2015 of the Society's Advocate.

ORDER:

The Green Peace India Society, had been registered with the Registrar Chennai (South), with registration No.377/2002 on 22.07.2002, when the Society was functioning from No.6, 3rd Avenue, Besant Nagar, Chennai 600 090. But when that office had been shifted to No.47, 2nd Cross street, Ellaiyamman Colony, Gopalapuram, Chennai – 600 086, on the petition of the said society, it had been registered with the Registrar, Chennai Central under Registration No.49/2006, on 17.03.2006.

2. The, Green Peace India Society had not filed the document specified in section 16(3)(b) of the Tamil Nadu Societies Registration Act 1975, with in a period of six months after date of approval in Annual General Body meeting as required in Rule 22 of the Tamil Nadu Societies Registration Rules 1978, for the years 2004-05, 2005-06 and 2009-10. In respect of those years the return has been submitted belatedly i.e. after the statutory time limit.

3. The notice dated 28.05.2015, has been sent by the District Registrar, Chennai Central to the President of the Green Peace India Society, intimating to him that the Sub-Registrar (Chit & Society) would inspect the document/records specified in that notice, on 29.05.2015. E-mail was also sent about that inspection. The same message was conveyed over the phone also on 28.05.2015.

4. Later the staff of the Society informed the Sub-Registrar (Chit & Society) over phone that it would be holiday for them, up to 31.05.2015. Hence, the Sub-Registrar (Chit & Society) Registrar had visited that office on 01.06.2015 by 3.00 p.m. after due notice. On that day also the office had been found closed. Finally on 03.06.2015, the Sub-Registrar (Chit & Society) was able to inspect that Society's office.

5. On the basis of the information collected in the inspection and the reports filed by the Society which was perused by the District Registrar on 03.06.2015, it has been found that that society had violated the provisions of law. Hence, the show-cause notice dated 16.06.2015 was issued to the Society.

6. The following irregularities had been set out in that show cause notice dated 16.06.2015.

(i) "According to the result of the enquiry the society does not seem to be functioning independently but under control of "STICHTING Green Peace Council" at Netherlands. Even the elected President of the society has to be approved by the STICHTING Green Peace Council and also only the approved person by the said council can be appointed as a Executive Director to look after functioning of the Society. This Society has received crores of rupees from foreign countries. There is discrepancy in the account between the details of the foreign donation furnished by the Society in Form FC III / FC VI to Government of India and that of the details furnished in the annual reports submitted to the Registrar of societies under the Tamil Nadu Societies Registration Act, 1975, which suggest fraudulent dealings.

The following charges were framed against the Society.

The said Society has contravened the provisions of the Tamil Nadu Societies Registration Act. According to Section 47 of the said Act, "Any person who wilfully makes or causes to be made any false entry in, or any omission from, any register, account balance sheet, or other document, required by this Act to be maintained by a registered society, shall be punishable with fine which may extend to five hundred rupees." Now on the inspection by me the following falsification of account has been noted.

Year	The funds received by the Society from foreign countries as donation, as furnished in Form FC 3/ FC 6.	The donation received by the Society as found in the Statement of Receipt and Expenditure furnished to the Registrar of Societies.
2004-05	2,31,33,460	2,31,33,460
2005-06	4,66,81,865	92,23,996
2006-07	9,96,84,592	2,56,86,712
2007-08	2,60,10,365	2,08,96,661
2008-09	3,38,58,314	2,97,06,047
2009-10	6,96,33,340	6,59,58,502
2010-11	5,58,65,669	5,45,39,253
2011-12	6,84,69,525	6,72,54,834
2012-13	10,14,72,417	10,14,72,417
2013-14	13,17,63,375	13,17,63,375

It is seen from the above that different amounts were shown in the report for the year 2005-06 to 2011-12 submitted to different authorities. This is seen as fraudulent activities of the Society"

(ii) In effect it had been stated in that show cause notice that the above society has contravened the provisions of Tamil Nadu Societies Registration Act, 1975 and that the business of the society was conducted fraudulently by falsifying balance sheets and filing the same with other documents. It was also stated there in that this kind of activities of the Society warrants taking action under section 37 of the Tamil Nadu Society Registration Act.

(iii) Pointing out the above lapses and violations, the Society had been asked to offer their explanation, by that show-cause notice dated 16.06.15.

7. The President of the said society, has by is letter dated 24.06.2015, asked for time up to 10.07.2015, to submit their reply, after consulting lawyers and Chartered Accountants.

8. The Executive Director of that Society, has by his letter dated 03.07.2015, mentioned certain irrelevant matters and asked for clarification. The Clarification sought for, was off the mark of the contents of the show cause.

9. By the letter dated 27.07.2015, a detailed reply to President of the above Society had been given and the Society was requested to offer their explanation to the show cause notice dated 16.06.15, giving 7 more day's time.

10. The Executive Director of the above Society had filed the Writ petition in W.P.No.22883/2015 and M.P.Nos. 1 to 4 of 2015, in the Madras High Court, for a direction to call for the records and quash the letter no 6994/D2/2015, dated 16.06.15, and its enclosed result of inquiry report. The Hon'ble High Court passed order dated 04.08.2015, thereon, directing the Respondent, District Registrar Chennai Central "to permit the petitioner to inspect books and the documents kept by the Respondent making it clear that it is not entitled to take copies of the same as the request has been made only under Rule 41 of the Tamil Nadu Societies Registration Act, 1975, The said exercise will have to be done within a period of two weeks from the date of receipt of a copy of the order. Thereafter, the petitioner is at liberty to give an appropriate reply within a period of four weeks and the further orders have to be passed by the respondent on the representation given by the petitioner within a period of eight weeks thereafter".

11. In deference to the order of the Hon'ble High Court letter dated 24.08.2015 had been sent to the Executive Director of the Society, asking him to inspect the books and documents relating the Society in the Registrar's Office. But there was no response from the Executive Director of the said Society.

12. Because the Executive Director was not responsive to the order of the Hon'ble High Court and to my letter dated 24.08.2015, I had again reminded him by letter dated 04.09.2015. In that letter I have focused on the direction of the Hon'ble High Court and the need for him and for me to adhere to the time schedule fixed by the Hon'ble High Court and wanted her to inspect the records within 7 days.

13. On 07.09.2015, the Executive Director, Trmt.Vinuta Gopal had come to the office of the District Registrar Chennai Central and perused the records and documents at her will. She had also given a letter dated 07.09.2015 on that date.

14. When the facts are so ripe for me to examine the whole matter and pass appropriate order, I was surprised to receive a notice dated 7.09.2015 from an Advocate claiming to be on behalf the said Society. In that letter he had come out with statements contra to the true position. He had never stated therein that the Executive Director had inspected the records on 07.09.2015 and left with satisfaction. On 07.09.2015, the Executive Director had never stated she would have to continue to inspect on some other day, as alleged by the Advocate. If the Executive Director had desired to have further inspection she would have told the Registrar on the day of inspection or would have written to the Registrar to that effect. No such letter was received from the Executive Director. The Advocate notice is silent about any request for inspection of records with a view to offer proper explanation to the items indicated in show cause notice. Thus I find that the Advocate's letter dated 07.09.2015 is full of falsehood, perhaps to stall the impending order of the Registrar, in as much as the direction of the Hon'ble High Court had been fulfilled, in that the Executive Director of the Society had completely inspected the records and documents in the office of the Registrar Chennai Central on 07.09.2015. After inspection by the Executive Director on 07.09.2015, it is obligatory on the part of the Executive Director to give reply to the show cause notice within 4 weeks, as per High Court's Order. But she has not given her reply as directed by the Hon'ble High Court and thereby she had defied the Court's order. The Advocates letter dated 07.09.2015, is nothing but a camouflage to wriggle out of the commitment of the Executive Director enshrined in the Court's direction, to give her explanation to the show cause notice within the stipulated time.

15. From the above factual position the following emerge:

(i) For the years, 2004-05, 2005-06 and 2009-10 The Green Peace India Society, has not filed the annual returns within the stipulate time of six month from the date of Annual General Body meeting, in violation of Rule 22 of Tamil Nadu Societies Registration Rule 1978, read with Section 16(3)(b) of the Tamil Nadu Societies Registration Act 1975,

(ii) On the inspection by the Registrar under the said Act made on 03.06.15, a series of irregularities and violations of the rules had been

noticed. On the basis of the findings in that enquiry a show-cause notice dated 16.06.15 had been issued, calling for explanation as to why the Registration of the Green Peace India Society should not be cancelled.

(iii) The Executive Director of the Society has by her letter dated 03.07.2015, made irrelevant and invalid statements and sought for clarification and requested time to give her explanation. Her statement and her seeking clarification is irrelevant and is aimed at procrastination. To give an example of her seeking clarification the following is cited.

"We have already addressed one letter (Ref.2) setting out our immediate thoughts and a few examples of the totality of information required from you. Please note that we have not yet received any response"

Her letter under reference 2 is her letter dated 24.06.15. Para 8 of her letter reads, "We are unable to understand your allegation that our Society is not functioning independently but under control of the Stitching Greenpeace Council (SGC). In the Report you have referred to provisions of the Memorandum of Association to assert that the President / EG is subject to the approval of SGR. However, the Memorandum of Association was duly filed, and as per the Tamil Nadu Societies Registration Act, 1975 it can have effect only, if the Registrar of Societies is satisfied that it does not contravene the Act. You did not raise any objection when it was filed, and also registered it. We don't understand how the same provision which you approved and registered has suddenly become illegal. We request that you may kindly consider this, and explain the anomaly so that we can respond appropriately". When the charge in the show cause notice dated 16.6.2015, is so clear, as extracted in para 7 above, why this distortion and frivolous clarification? The Executive Director has only to give her explanation against the charge, with the data available with her. Because she has nothing to refute the charges, she had resorted to this sort of unnecessary correspondence.

(iv) Section 37 of the Tamil Nadu Societies Registration Act is very specific that if the Registrar is satisfied, after due enquiry under Section 36 of that Act, the Registered Society has contravened any of the provisions of the Act or Rules made there under or the fraudulent conduct in the business etc.,. In this case there is falsification of account as furnished in the show-cause notice dated 16.06.15, for the years 2005-2006 to 2011-2012. The fund received by the Society from foreign countries as donation, as furnished in Form FC 3/FC6, varies from the account furnished in the return submitted by

the Society, to the Registrar of Society. This, the Society could not controvert.

I am satisfied that The Green Peace India Society has contravened the provisions of the law as narrated above and it has slipped in to the domain of Section 37 of the Tamil Nadu Societies Registration Act 1975, warranting the Registrar to cancel the Registration of that Society. Accordingly I hereby cancel the Registration No. 49/2006 (Chennai Central), formerly it was 377/2002, when the office of that Society was functioning within the jurisdiction of Chennai (South).

The Green Peace India Society is directed to pass a special resolution and dissolve itself in the manner provided in Section 41 of the said Act.

If, The Green Peace India society fails to pass the resolution as stated, above within 1 month from the date of this order, the Registrar will appoint suitable Liquidator to wind up the Society, under Rule 34(1) of the Tamil Nadu Societies Registration Act read with Section 40(1) of that Act.

If The Green Peace India society, feels aggrieved by this order, the Society has avenue in Section 45(1) of the said Act, to prefer an appeal to the Inspector General of Registration, Chennai.


District Registrar
Chennai (Central)


11/11/11

To

1. The President
The Green Peace India Society,
No.47, 2nd Cross Street,
Ellaiamman Colony, Gopalapuram,
Chennai - 86.
2. The Executive Director
The Green Peace India Society
47-2nd Cross street
Ellaiamman Colony, Gopalapuram,
Chennai - 86.

Copy to

The Inspector General of Registration
Chennai - 600 028.
(Submitted for kind information)