



FORM III - A
IN THE HIGH COURT OF KARNATAKA AT BENGALURU

WRIT PETITION NOS 47822 / 2018 (GM-FE)
& 48133-48143/2018

20891/18
Shreshth kishore

[Notice under Rule 13(a) proviso]

Petitioner

1 GREENPEACE INDIA SOCIETY
A SOCIETY REGISTERED UNDER THE TAMIL NADU SOCIETIES
REGISTRATION WITH REGISTERED OFFICE AT NEW NO.47
(OLD NO.22) 2ND CROSS STREET, ELLAIYAMMAN COLONY,
GOPALPURAM, CHENNAI-600086
ALSO WITH OFFICE AT SHUBHARAM COMPLEX, 5TH FLOOR,
OLD NO.22/1 NEW NO.144 144/1, M G ROAD, BANGALORE-560 001
REPRESENTED BY THE EXECUTIVE DIRECTOR DR. KSHITIJA URS

By M/s.JSM LAW PARTNERS
Vs

Respondents

- 1 UNION OF INDIA
MINISTRY OF FINANCE, NORTH BLOCK, CABINET SECRETARIAT,
RAISINA HILL, NEW DELHI-110 001
REPRESENTED BY ITS SECRETARY
- 2 DIERECTORATE OF ENFORCEMENT
BENGALURU ZONAL OFFICE, 3RD FLOOR, B BLOCK, BMTC,
SHANTHINAGAR-TTMC, K H ROAD, SHANTHINAGAR, BANGALORE-560027
REPRESENTED BY THE JOINT DIRECTOR
- 3 IDBI BANK LIMITED
2ND FLOOR NO.7, CHEVALIER SIVAJI GANESANSALAI
(SOUTH BOAG ROAD), T NAGAR, CHENNAI-600017
REPRESENTED BY ITS MANAGER

(Sri Unnikrishnan.M, CGSPC)

Whereas, a Writ Petition filed by the above named petitioner
under Article 226 of the Constitution of India, as in the
copy annexed hereunto, has been registered by this court.

Notice is hereby given to you to appear in this court in
person or through an Advocate duly instructed or through some
one authorised by law to act for you in this case, at 10.30 AM
in the forenoon within 10 days of the service of this notice
to show cause why rule nisi should not be issued.

If you fail so to appear on the said date or any subsequent
date to which the matter may be posted as directed by the
court, without any further notice, the petition will be
dealt with, heard and decided on merits in your absence.

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Received



INTERIM ORDER

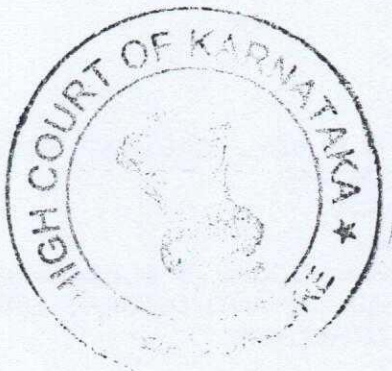
Pending issue of Rule nisi in the aforesaid Writ Petition it is hereby ordered by this Court on

Monday THE 05TH DAY OF November 2018

By Hon'ble Mr. Justice B.VEERAPPA
as follows:-

XEROX COPY OF THE ENTIRE ORDER DATED 05/11/2018 IS ENCLOSED
HEREWITH SEPARATELY.

RA-141118.6



11/11/18
[M.V.SUSHEELA]
Assistant Registrar
14/11
11/11/18



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BVJ:
5.11.2018

W.P. No.47822/2018

ORDER

Heard the learned counsel for the parties on the interim prayer.

2. It is the case of the petitioner – Society that under a license agreement dated 30.11.2004, it has secured license from the Stitching Greenpeace Council (commonly known as 'Greenpeace International') for using the mark and name 'Greenpeace'. The petitioner – society was registered under the Tamil Nadu Societies Registration Act, 1975. For facilitating fund raising, the petitioner has entered into a contractual agreement with a company engaged in the services of fund-raising, called Direct Dialogue Initiatives India private Limited. Staff of Respondent No.2 visited the Regional office of the petitioner at M.G. Road and sought to inspect all documents pertaining to the petitioner, for which the staff and all



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managerial members of the petitioner society rendered full cooperation and furnished all requisite information and material sought by Respondent No.2. While the petitioner was in the process of preparing a detailed clarification to the queries of Respondent No.2, the petitioner received an e.mail from Respondent No.3 that the operations of bank account bearing No.005103000004169 maintained by the petitioner-Society with Respondent No.3 had been frozen on the instructions of Enforcement Directorate.

3. It is submitted by the learned counsel for the petitioner that the total outstanding amount in the accounts of the petitioner, which are freezed by the respondents is about Rs.3.00 crores. The petitioner has to pay statutory payments, office maintenance cost, staff insurance, credit card payments etc., totally amounting to Rs.50,66,320/-. If the said amount is not released, the staff of the petitioner will be put to great hardship and loss.

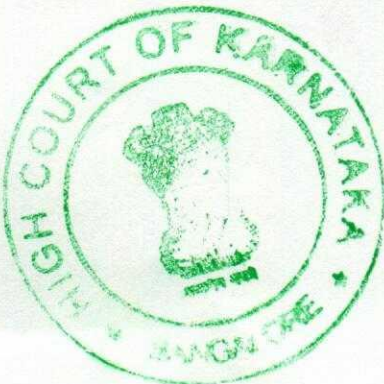
/s/



4. The respondents filed objections denying the averments made in the writ petition.

5. I have heard the learned counsel for the parties to the *lis*.

6. Smt. Monica Patil, learned counsel for the petitioner contended that the ground raised in the impugned order that any attempt to withdraw the amount lying in the accounts might hamper the ongoing investigation, is without any basis. The impugned order is in utter violation of Section 37 r/w Section 13 of the Foreign Exchange Management Act, 1999 ('FEMA' for short). She further contended that ever since the accounts of the petitioner are freezed, the day-to-day activities of the petitioner i.e, payment of staff salary, recurring expenses and statutory dues are affected. She would further contend that after investigation, ultimately if the petitioner is found guilty, the only action under the provisions of Section-13 of the FEMA



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is imposing penalty and the same can be initiated. Therefore she sought for grant of interim prayer.

7. Learned counsel appearing for the respondents sought to justify the impugned action and contended that if any interim order sought for is granted, it will come in the way of fair investigation. Therefore he sought to reject the interim prayer.

8. Having heard the learned counsel for the parties, it is an undisputed fact that the respondents by the impugned order dated 5.10.2018 exercising the powers under the provisions of Section 37 of the FEMA r/w Section 132 of the Income Tax Act, 1961 froze the accounts of the petitioner. The main ground for freezing the accounts is that any attempt to withdraw the amount lying in the said accounts amounting to Rs.3.00 crores might hamper the ongoing investigation. Therefore, to stop the operation of the accounts, the accounts have been frozen.



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9. Prima facie, according to the learned counsel for the petitioner, 100 employees are working in the petitioner - Society and the petitioner requires money for payment of salaries to the said employees, recurring expenses and statutory dues, totally amounting to Rs.50,66,320/-. If the accounts are seized and the salaries are not paid to the employees, there cannot be a fair investigation. After paying the staff salary, recurring expenses and statutory dues, the respondents can investigate and proceed in accordance with law.

10. After considering the rival contentions urged by the learned counsel for the parties and the entire material placed on record including objections, prima facie there is no satisfactory reply by the respondents as to how the investigation would be hampered by releasing the said amount of Rs.50,66,320/- from the accounts of the petitioner. This Court is of the considered opinion that the investigation as contemplated by the respondents shall go

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on and by merely releasing the amount for payment of the staff salary, recurring expenses and statutory dues, it will not hamper the investigation. The release of the amount shall be subject to the petitioner providing bank guarantee for the said sum of Rs.50,66,320/- to the Respondent No.2 - Directorate of Enforcement, Bengaluru Zonal office within a period of two weeks. The respondents shall not enforce the bank guarantee without prior permission.

11. The respondents are directed to communicate to the concerned banks to release a sum of Rs.50,66,320/- (Rupees fifty lakhs sixty-six thousand three hundred and twenty only) towards payment of salary and other statutory payments, staff insurance, credit card payments etc., subject to the condition that the petitioner shall provide a bank guarantee for the said amount to the Respondent No.2 - Directorate of Enforcement within two weeks. However, further investigation as contemplated under the provisions of FEMA and I.T. Act shall go on.



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12. This Court hopes and trusts that the respondents expedite the investigation in all fairness.

Call after two weeks.

SD/-
JUDGE

COPY
14/11/18
Assistant Registrar
High Court of Karnataka
Bangalore - 560 001
14/11



- a) The date on which the application was made.....13.11.18
b) The date on which charges and addl. charges. If any, are called for.....
c) The date on which the charges and addl. charges. If any, are deposits.....
d) The date on which the copy is ready 14.11.18
e) The date of notifying that the copy is ready for delivery14.11.18
f) The date on which copy is delivered to the application 14/11/18

'TRUE COPY'
14.11.18
Section Officer
High Court of Karnataka
Bangalore - 560 001

