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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.12.2025

CORAM:

THE HON'BLE MR.JUSTICE G.R.SWAMINATHAN

WP(MD)No.29610 of 2025

Arsha Vidya Parampara Trust
A Public Charitable Trust registered
under the Indian Trusts Act, 1882,
having its registered office at Vimal B/G-03,
through its Chief Functionary/Managing Trustee,
Swami Sarvananda Saraswati ... Petitioner

Vs.

1.The Union of India,
Rep.by Ministry of Home Affairs,
(FCRA Wing), I Floor,
Mayor Dyan Chand National Stadium,
Near Pragati Maidan,
New Delhi – 110 002.

2.The Director, FCRA Wing,
Ministry of Home Affairs,
(FCRA Wing), I Floor,
Mayor Dyan Chand National Stadium,
Near Pragati Maidan,
New Delhi – 110 002. ... Respondents

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PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order passed by the 2nd Respondent dated 08.09.2025 in File No.0100001062025 and quash the same and consequently direct the Respondents to allow the application dated 27.01.2025 filed by the Petitioner for registration under the Foreign Contribution (Regulation) Act and pass such further or other order or orders as deemed fit and proper by this Court in the circumstances of the case and thus render justice.

For Petitioner : Mr.Sricharan Rangarajan,
Senior Counsel for Mr.Mohamed Ashick

For Respondents : Mr.A.R.L.Sundaresan,
Additional Solicitor General of India
assisted by Mr.K.Govindarajan,
Deputy Solicitor General of India

ORDER

The petitioner is a trust established on 08.06.2017. The founders are the disciples of Swami Dayananda Saraswati of Arsha Vidya Gurukalam, Coimbatore. The petitioner is engaged in teaching and training students from around the world, for spreading knowledge of Vedanta along with Sanskrit language, teaching Hatha Yoga and yoga philosophy and also digitizing and preserving ancient manuscripts.

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2.The petitioner applied to the second respondent for registration under the Foreign Contribution (Regulation) Act, 2010. The application was not processed for three years. In October 2024, certain queries were raised. There was exchange of correspondence between the parties. The petitioner submitted a fresh application in Form FC-3A on 27.01.2025. Clarifications were sought. The petitioner responded to them. However, the application seeking grant of registration was rejected vide order dated 08.09.2025 by the second respondent. Assailing the same, this writ petition has been filed.

3.The learned Senior Counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition. He called upon this Court to set aside the impugned order and grant relief as prayed for.

4.Per contra, the learned Additional Solicitor General of India for the Madras High Court assisted by the Deputy Solicitor General of India submitted that the impugned order is well reasoned. He pointed out

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that the petitioner, having contravened the provisions of the FCRA, is not entitled to obtain registration. His core contention is that registration under FCRA is not a matter of right. The learned Additional Solicitor General pointed out that the issue has larger ramifications. He highlighted that several NGOs are receiving foreign funds and there is a national security angle also. He was of course fair enough to state that the petitioner is not sought to be tarred with the same brush. His emphasis was more on the importance of subjecting any application to strict scrutiny. When an application falls sought of the high threshold, it is liable to be rejected. He called upon this Court to sustain the impugned order and dismiss the writ petition.

5.I carefully considered the rival contentions and went through the materials on record.

6.It is not in dispute that the trust deed dated 08.06.2017 whereby the petitioner was established was registered as Document No. 73 of 2017. The petitioner-trust was also registered under Section 12A

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of the Income Tax Act, 1961 pursuant to the order dated 15.02.2021 passed by the Income Tax Appellate Tribunal, C Bench, Chennai in ITA No.2589/Chny/2018. The petitioner submitted an application for registration under the Foreign Contribution (Regulation) Act also in September, 2021. The application was kept pending for three years and in April 2025, the following clarifications were sought :

> "Clarification- Reference your registration application. On examination of application, it is observed that (i) Yearwise details activity report not uploaded. Therefore, requested to upload Yearwise activity report of last three clearly reflecting aim and objective (as per uploaded audit report for which expdr. incurred). (ii) It has been reported that association has received donation as FC of Rs. 9 Lakh from Jitendranath V (Trustee) who is a US national and holds OCI Card no. A2372470 and it is found that association has received FC without valid permission of Govt. of India. Therefore, requested to provide details of FC received in which bank account and certified copy bank statement from the date of FC received to till date may be uploaded. (iii) As per FC-3A against column No.4, nature of association is mentioned for EDUCATION whereas as per object of trust deed as mentioned at point B that Bhagved Gita, Upanishads and

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Sanskrit language which shows religious matter. Therefore, you are requested to explain the reason for not giving nature of association in FC-3A and also submit an undertaking that in future no such type of religious activities carry out. (iv) Name of functionary as mentioned in the FC-3A is not matched with the uploaded MoA/trust deed. Therefore, request to upload amended MoA/trust deed/resolution duly mentioned the name functionary as mentioned in the FC-3A. please upload all the clarification/documents within 14 days failing which the case may be decided in accordance with the provisions of FCRA, 2010 and rules made there under. (Clarification)"

The petitioner clarified vide letter dated 28.04.2025 as follows :

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ĀRSHA VIDYĀ PARAMPARĀ TRUST
Vimal B/G-03, Agrini Apartments, Andalpuram,
Madurai 625 003 TN
www.arshavidyaparampara.org

April 28, 2025

From

Swami Sarvananda Saraswati
Chief Functionary
Arsha Vidya Parampara Trust
Madurai TN

To

The Concerned Officer
FCRA Division, MHA
New Delhi

Dear Sir/Madam,

Ref.: Clarification requested w.r.to our FCRA registration Application No. 6700142025

Please find below our submission for the clarifications requested, replied in the same order as asked.

1. After registering our trust in June 2017, we were mainly engaged in conducting online classes on Sanskrit, Bhagavad Gita and Upanishads. Hence the expenditure incurred up to 2020 was limited to having a virtual infrastructure like creating and maintaining a website, Internet connection and getting some office supplies. **A need was felt for creating a residential Gurukulam infrastructure for supplementing the online classes, because the effectiveness of online classes was limited, for such deep knowledge.** We started purchasing land, *with this objective*, in February 2021 (3.35 acres for ₹ 32,71,250 + 1.2 acres for ₹ 15 lakhs and a sale agreement for ₹ 20 lakhs for purchase of 3.48 acres). Given below are the year wise activity details **as per our audit report** –
   a. FY 2021-22 – Completed purchase of land to the extent of 3.48 acres on August 3,2021 for ₹ 59,88,000 and another piece of contiguous land to the extent of 1 acre on March 2, 2022 for ₹ 15 lakhs. After purchasing the land in February and August 2021 we engaged in preparing the land for constructing a Gurukulam, like levelling some portions, planting tree saplings and growing flowers.
   Regular weekly online classes (about 4 per week) on Bhagavad Gita, Upanishads and other introductory texts were conducted.
   A residential camp on Upadeśa sāram, a text by Ramana Maharshi was conducted at Aurobindo Ashram, Nainital District, Uttarakhand, in March 2022.
   b. FY 2022-23 – Purchase of contiguous land to the extent of 5 cents on July 19, 2022. This year we *fenced the purchased land* (₹ 7,48,298) to consolidate our land and avoid encroachment. We also spent some money for laying pipes, planting more tree saplings and enriching the soil for earlier planted saplings.
   In February 2023 construction of the Gurukulam was started.
   Regular weekly online classes (about 4 per week) on Bhagavad Gita, Upanishads and other introductory texts were conducted online.
   In addition, a residential camp on Chandogya Upanishad was conducted at the Swami Chidbhavananda Ashram at Theni, Tamil Nadu, in August 2022.

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c. FY 2023-24 – Continued construction of the Gurukulam and made progress regarding the construction of 1 staff quarter (500 sq. ft.), one guest quarter (900 sq. ft.) and one residential cottage (1200 sq. ft.). *Photos of construction can be found in the Activity Report submitted earlier.*
Regular weekly online classes (about 4 per week) on Bhagavad Gita, Upanishads and other Advaita texts were conducted.

All the above activity details are mainly in connection to expenditure incurred. Regular online teaching (average of 4 classes a week) continued uninterruptedly throughout all these years. Details of the texts taught in the Online medium are listed in our Activity Report submitted along with the application.

2. All donations received from Jithendranath V, Trustee, PIO and foreign national (US) from the inception of the trust, amounting to a total of ₹ 11,66,500 (as declared in form FC 3A) can be found in the attached **certified** bank statements (**from the date of opening**) from Karur Vysya Bank and RBL. Both these accounts were closed subsequently because we opened a new account in ICICI Bank for later transactions. Closure date can also be seen in the statements. Up to date statements of currently held bank accounts were submitted to the Intelligence Officer who interviewed us, at the time of interview. **No other donation was received from Jithendranath V.** The donations can be found credited on the following dates in the attached respective bank statements –
KVB - Donations received on 18/06/2018 (₹ 10,000), 20/06/2018 (₹ 5000) and 13/01/2019 (₹ 1500)
RBL (current account) – Donations received on 08/02/2021 (₹ 1,00,000), 16/02/2021 (₹ 3,00,000), 16/02/2021 (₹ 2,00,000), 04/03/2021 (₹ 1,00,000), 01/04/2021 (₹ 1,00,000), 30/07/2021 (₹ 2,50,000) and 03/08/2021 (₹ 1,00,000).
3. Please find attached an undertaking clarifying our status as a non-religious Charitable Trust and assuring that no "religious" activity will be carried out by us, using the money received.
4. The resignation letter of the earlier trustee as present in the Trust Deed, acceptance letter from the newly appointed trustee agreeing to be part of the board and the resolution passed in the accepting the resignation and appointment of a new trustee, have been attached as official record of replacement of trustee.

Thanking you,

Yours sincerely

For ARSHA VIDYA PARAMPARA TRUST

Sarvanand

TRUSTEE

Thereafter, the impugned order of rejection came to be passed. The impugned order or rejection rests on two grounds.

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(a) The petitioner had received foreign contribution funds without prior permission and there has been transfer of FC fund as donation to another organization.

(b) The nature of the petitioner-organisation appears to be religious.

7.The first ground is not sustainable. This is for more than one reason. In the queries raised in April 2025, the authority had only raised the issue of receipt of foreign funds without proper permission. In their reply dated 28.04.2025, the petitioner admitted their fault. On 24.07.2025, the authority once again drew the petitioner's attention to the very same receipt of funds and gave them an option of compounding the same. Availing the said option, the petitioner compounded the offence by paying Rs.3,70,500/-. On 01.08.2025, the Ministry of Home Affairs passed an order formally compounding the offence committed by the petitioner. It is relevant to note that the the source of the said donation was not of any suspect origin. It was from the author of the Trust who is based in USA.

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8.While so, the impugned order not only refers to the improper receipt of foreign fund but also to a transfer by the petitioner to another organisation. The authorities had never come up with such a case of transfer. For the first time, in the impugned order, such an allegation is found. The petitioner was never put on notice in this regard. This is a clear violation of the principles of natural justice. That apart, the order does not mention the name of the organisation to which the transfer has been made. The details are blissfully absent. It does not state when the transfer was made. The impugned order suffers from the vice of vagueness in this regard. The petitioner in their affidavit had clearly stated that the fund received from the author of the trust was utilised for the trust activities and that it was not transferred to any other organisation.

9.There is another way of looking at the issue. According to section 41 of FCRA ACT deals with compounding offence as follows ;

> "41. Composition of certain offences.—(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), any offence

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punishable under this Act (whether committed by an individual or association or any officer or employee thereof), not being an offence punishable with imprisonment only, may, before the institution of any prosecution, be compounded by such officers or authorities and for such sums as the Central Government may, by notification in the Official Gazette, specify in this behalf.

(2) Nothing in sub-section (1) shall apply to an offence committed by an individual or association or its officer or other employee within a period of three years from the date on which a similar offence committed by it or him was compounded under this section.

Explanation.—For the purposes of this section, any second or subsequent offence committed after the expiry of a period of three years from the date on which the offence was previously compounded, shall be deemed to be a first offence.

(3) Every officer or authority referred to in sub-section (1) shall exercise the powers to compound an offence, subject to the direction, control and supervision of the Central Government.

(4) Every application for the compounding of an

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offence shall be made to the officer or authority referred to in sub-section (1) in such form and manner along with such fee as may be prescribed.

(5) Where any offence is compounded before the institution of any prosecution, no prosecution shall be instituted in relation to such offence, against the offender in relation to whom the offence is so compounded.

(6) Every officer or authority referred to in sub-section (1), while dealing with a proposal for the compounding of an offence for a default in compliance with any provision of this Act which requires by an individual or association or its officer or other employee to obtain permission or file or register with, or deliver or send to, the Central Government or any prescribed authority any return, account or other document, may, direct, by order, if he or it thinks fit to do so, any individual or association or its officer or other employee to file or register with, such return, account or other document within such time as may be specified in the order."

10.Be that as it may, when once the offence has been compounded, the contravention can never be an adverse ground which

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can be cited against the applicant. Section 12(4)(a)(vii) of the Act sets out the conditions that an applicant must fulfil so as to make him or it eligible for grant of certificate. One such condition is that the applicant has not contravened any of the provisions of the Act. The writ petitioner in this case by accepting foreign fund from its own trustee who was based abroad had technically contravened the Act. To disqualify the applicant on this ground would definitely attract the vice of disproportionality. A technical violation such as the one on hand ought not to disqualify an applicant forever. Section 12(3) of the Act envisages making of enquiry by the central government. If it is of the opinion that the conditions specified in sub-section 4 are satisfied, it may register such person and grant him a certificate. There is no positive provision that non-fulfillment of the conditions in sub-section should lead to automatic rejection of the application. The matter lies in the discretionary realm of the central government. If the violation is too stark and has not been compounded, the application is liable to be rejected. But where the violation is purely technical and there is no larger implication and the offence has also been compounded, then, the

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lapse committed by the applicant ought not to be put against them.

11.Section 41 of the Act provides for composition of certain offences. Sub-section 2 of Section 41 has an Explanation. It states that for the purpose of the section, any second or subsequent offence committed after the expiry of a period of three years from the date on which the offence was previously compounded, shall be deemed to be a first offence. From this, one can safely come to the conclusion that once an offence has been compounded, the slate is wiped clean. That the offence committed by the writ petitioner stood compounded is a relevant material. It is well settled that before an administrative authority passes an order, he must take into account all relevant materials. Failure to do so would vitiate the decision itself.

12.The concept of legitimate expectation though evolved in a different context, can also be invoked in this case. The writ petitioner had applied to the respondents for registration way back in the year 2021 itself. The application remained unconsidered. The process of

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consideration picked up steam only from October 2024. A fresh application was submitted in January 2025. Queries were raised in April and in the very same month, reply was submitted. In this background, even while the application for registration is under consideration, the authority gave an option of compounding the offence to the applicant on 24.07.2025. On the very next day, the compounding fee indicated by the authority was remitted by the petitioner. The authorities are expected to behave in a fair manner. It is an elementary principle of good governance. Even in criminal law, as soon as an accused is arrested, the police administer what is known as "Miranda warning". If confession is taken without giving such a warning, the confession is inadmissible. If the authority had intended to reject the petitioner's application on the ground of contravention of the provisions of the Act, then, the authority even while giving an option of compounding should have made it clear that compounding will only shield them from prosecution and that it would amount to acceptance of guilt leading to disqualification under Section 12(4)(a)(vii) of the Act. The authority had not done so in this case. The writ petitioner had acted with all

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bonafides.

13.The next ground for rejection is that according to the second respondent, the petitioner appears to be a religious organization. Section 11(1) of the Act reads as follows :

> "11. Registration of certain persons with Central Government.—(1) Save as otherwise provided in this Act, no person having a **definite** cultural, economic, educational, religious or social programme shall accept foreign contribution unless such person obtains a certificate of registration from the Central Government:
>
> Provided that any association registered with the Central Government under section 6 or granted prior permission under that section of the Foreign Contribution (Regulation) Act, 1976 (49 of 1976), as it stood immediately before the commencement of this Act, shall be deemed to have been registered or granted prior permission, as the case may be, under this Act and such registration shall be valid for a period of five years from the date on which this section comes into force."

A careful reading of the aforesaid provision would indicate that a religious organization can also receive foreign contribution. But before

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doing so, they must obtain certificate of registration from the Central Government to that effect. The provision reads that no person having "a definite cultural, economic, educational, religious or social programme" shall accept foreign contribution unless such person obtains a certificate of registration from the Central Government. The expression "definite" occurring in this provision is significant. In the impugned order, the second respondent had concluded that the petitioner-association "***appears to be religious***". What the Section envisages is that the authority must be categorical and clear about the character of the activities of the applicant. That is what is implied by the expression "definite". The authority could have rejected the application by forming a definite conclusion which should of course be based on materials. It cannot be a tentative one. By holding that the applicant appears to be a religious organisation, the authority had not met the standard set out in the provision.

14.During the course of arguments, it emanated that because the petitioner is also engaged in imparting the message set out in Bhagavad

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Gita, the authority came to the conclusion that the petitioner is a religious body. Bhagavad Gita is not a religious book. It is rather a moral science. The Hon'ble Allahabad High Court in the decision reported in ***2007 SCC OnLine All 1301 (Shyamal Renjan Mukherjee v. Nirmal Ranjan Mukherjee)*** held that Bhagavad Gita may be recognised as national (Rashtriya) Dharma Shastra. It speaks about internal and eternal truth. The learned Judge noted that many a leader of our freedom struggle such as Mahatma Gandhi, Maharishi Aurobindo, Lokamanya Tilak etc., invoked Bhagavad Gita to inspire the nation to fight against the colonial rule. Article 51-A(b) of the Constitution of India states that it shall be the duty of every citizen of India to cherish and follow the noble ideals which inspired our national struggle for freedom. Article 51-A(f) talks about valuing and preserving the rich heritage of our composite culture. Bhagavad Gita cannot therefore be confined within a given religion. It is a part of Bharatiya civilisation.

15.What applies to Bhagavad Gita would apply to Vedanta also.

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It represents the pure philosophy evolved by our ancestors. As regards Yoga, it would be atrocious to view it through the prism of religion. It is something universal. An American Court (Court of Appeal, Fourth Appellate District, Division One, State of California, Super Ct.No. 37-2013-00035910-CU-MC-CTL (Stephen Sedlock et al v. Timothy Baird) observed that the practice of yoga is an entirely secular experience undertaken for reasons such as increasing physical flexibility, decreasing pain and reducing stress. It can also be spiritual for others. Spirituality and religion are not interchangeable terms. The Allahabad High Court in the decision reported in ***2014 SCC OnLine All 15395 (Indian Academy of Naturopathy and Yoga v. State of UP***) had virtually authored a thesis on Yoga. It observed that Yoga regulates different facets of life apart from helping to maintain a healthy life and mind.

16.As already mentioned, the petitioner-trust has been registered under Section 12A of the Income Tax Act, 1961. The Income Tax Appellate Tribunal after considering the terms of the trust deed, gave a finding that the petitioner is a charitable organization. This order of the

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Tribunal and the certificate issued in favour of the petitioner is holding good. FCRA, 2010 does not contain any overriding provision. On the other hand, Section 52 of the Act reads that the provisions of the Act shall be in addition to, and not in derogation of, the provisions of any other law for the time being in force. Provisions analogous to Section 52 of the Act can be found in other statutes also. They have been considered in quite a few decisions ie., ***AIR 1961 SC 387 (P.C.Joshi v. State of U.P and 1995 SCC OnLine Ker 51 (Joseph v. State of Kerala) and 1996 SCC OnLine Mad 186 (Srimathi v. UOI***). The effect of the provision such as Section 52 is that the Act does not have the effect of overriding other enactments with reference to matter dealt with in the Act. The Section only provides that it will be open to any person to claim the benefits of this Act and also avail himself of the provisions of other enactments if there is no inconsistency or conflict and if he is not barred otherwise by any other principle of law like estoppel or election. When according to the Income Tax Department, the petitioner is a charitable organization, it cannot cease to be one under FCRA regime. That is the true import of Section 52 of the Act.

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The certificate issued in favour of the petitioner under Section 12A of the I.T Act is definitely a relevant material and failure to consider the same indicates non-application of mind.

17.The learned Additional Solicitor General of India vehemently contended that the writ petition itself is not maintainable because the Act provides for remedy of a civil appeal under Section 31(2) of the Act. There is no doubt that as per Section 31 of the Act, an appeal will lie to the High Court against an order of rejection under Section 12 of the Act and such an appeal shall be deemed to be an appeal from an original decree and the provisions of Order 41 of the First Schedule to CPC shall, as far as may be apply. The question is whether this writ petition will cease to be maintainable merely because the statute provides for an appeal remedy.

18.It is well settled that writ petition will be maintainable even though there is an alternative statutory remedy if there is violation of principles of natural justice (vide State of UP v. Md.Nooh (AIR 1958 SC 86). The Hon'ble Supreme Court in the recent decision reported in

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2025 LiveLaw (SC) 1129 (Rikhab Chand Jain v. UOI) considered the issue as to whether despite availability of a further appeal to the High Court under Section 130 of the Customs Act, the order of dismissal of the appeal by the CEGAT can be challenged by invoking the writ jurisdiction of the High Court. The Hon'ble Supreme Court cautioned that while entertaining a petition under Article 226, a writ court ought to additionally notice the forum designated by the statute for the litigant to approach. If the statutorily designated alternative forum appears to be the High Court itself whose jurisdiction under Article 226 is invoked and not any ordinary statutory functionary/tribunal, refusal to entertain the petition should be the rule and entertaining it an exception. This ruling answers the objection raised by the learned ASG. The writ petition cannot be said to be not maintainable. However, the High Court is expected to lay down a higher threshold. In this case, there has been a fundamental breach of the principles of natural justice. The impugned order suffers from the vice of disproportionality. Other defects characterizing the impugned order have also been catalogued. In these circumstances, the petitioner is entitled to discretionary relief

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at the hands of this Court.

19.For the foregoing reasons, the impugned order is set aside. The matter is remitted to the file of the second respondent. The second respondent will take into account all the relevant materials mentioned above. A fresh notice shall be issued to the petitioner seeking their response as to whether the transfer of FC fund was made. But such a notice has to be based on relevant materials. It cannot be vague. After obtaining the response of the petitioner, an order afresh shall be passed after taking note of the observations made in this order. This exercise should be completed within a period of three months from the date of receipt of copy of this order.

20.This writ petition is allowed. No costs.

19.12.2025

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To:

1.The Union of India,
Rep.by Ministry of Home Affairs,
(FCRA Wing), I Floor,
Mayor Dyan Chand National Stadium,
Near Pragati Maidan,
New Delhi – 110 002.

2.The Director, FCRA Wing,
Ministry of Home Affairs,
(FCRA Wing), I Floor,
Mayor Dyan Chand National Stadium,
Near Pragati Maidan,
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G.R.SWAMINATHAN, J.

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WP(MD)No.29610 of 2025

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