

SC UPHOLDS NEW CURBS ON RECEIVING FOREIGN FUNDS

Relevant for: Developmental Issues | Topic: Role of NGOs, SHGs, Donors & Charities, and Institutional & other Stakeholders in Development Process

The top court suggested that NGOs could look within the country for donors. Sushil Kumar Verma

The Supreme Court on Friday upheld amendments introducing restrictions in the Foreign Contribution (Regulation) Act (FCRA) while holding that no one has a fundamental or absolute right to receive foreign contributions.

In a judgment that may hit non-governmental organisations (NGOs) working at the grass-root level with no direct link to foreign donors, the court reasoned that unbridled inflow of foreign funds may destabilise the sovereignty of the nation.

The restrictions involve a bar on using operational FCRA accounts to get foreign contributions and mandatory production of the Aadhaar card for registration under the FCRA. They require NGOs and recipients to open a new FCRA account at a specified branch of the State Bank of India in New Delhi as a “one-point entry” for foreign donations.

The petitioners, including individuals and NGOs engaged in cultural, educational, religious activities, argued that the amendments suffered from the “vice of ambiguity, over-breadth or over-governance” and violated their fundamental rights. They said the new regime amounts to a blanket ban on the capacity of intermediary organisations in India to distribute foreign donations to smaller and less visible NGOs. But the court countered that the amendments only provide a strict regulatory framework to moderate the inflow of foreign funds.

“No one can be heard to claim a vested right to accept foreign donations, much less an absolute right,” a three-judge Bench led by Justice A.M. Khanwilkar, who authored the verdict, said.

Free and uncontrolled inflow of foreign funds has the potential to impact the socio-economic structure and polity of the country. “Philosophically, foreign contribution (donation) is akin to gratifying intoxicant replete with medicinal properties and may work like a nectar. However, it serves as a medicine so long as it is consumed (utilised) moderately and discreetly, for serving the larger cause of humanity. Otherwise, this artifice has the capability of inflicting pain, suffering and turmoil as being caused by the toxic substance (potent tool) — across the nation,” Justice Khanwilkar wrote in a 132-page judgment.

The court said charity could be found at home. NGOs could look within the country for donors.

“The presence/inflow of foreign contribution in the country ought to be at the minimum level, if not completely eschewed. The influence may manifest in different ways, including in destabilising the social order within the country,” it noted.

Fundamental rights have to give way in larger public interest to the need to insulate the democratic polity from the “adverse influence of foreign contributions”.

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