

Socio Research & Reform Foundation

(A Non Government Organisation)

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To
The Honourable Minister of Home Affairs
Ministry of Home Affairs
Foreigners Division (FCRA Wing)
1st Floor, NDCC Building
Jai Singh Road
New Delhi 110001

Sir,

We refer to a circular of 17th June 2011 issued Shri AK Dhyani, Under Secretary, FCRA Dept, Ministry of Home Affairs, inviting comments on Draft Foreign Contribution (Regulation) Amendment Rules 2015.

¹Socio Research Reform Foundation (NGO), also known as SRRF for short, initiated a discussion on the draft amendment rules through our blog known as SRRF Dialogue. Our following comments are based on these inputs from the development sector professionals.

While welcoming the move towards developing an integrated form, we believe there are several areas which need to be reconsidered / refined further.

ELECTRONIC SUBMISSION OF SIGNED DOCUMENTS (DSC)

Now all applications need to be digitally signed. While this move generally would not pose major operational issues for urban based NGOs, it would become quite impractical for rural based NGOs. They often do not have sufficient exposure to handling online transactions. This coupled with poor connectivity issues could become a major hurdle for such organisations.

Sir, in this regard our suggestion is that the DSC based submission should be optional, at least for next 2 years. During which time, FCRA Dept as well as organisations like ours could take necessary steps in building such NGOs capacities in handling DSC based form submission.

¹ SRRF capacitates the Voluntary Sector through dissemination and awareness of social development and legal compliance, particularly relating to FCRA through workshops and discussions. Towards this end, it facilitates an e-platform of which there are more than 7000 members. The platform is very popular among development professionals as it helps them solve a number of compliance and other technical issues.

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POSTING DATA ON WEBSITES

NGOs are also required to post their annual FCRA accounts on their own website or a website prescribed by the Government (Rule 13a). This is a good move which would enhance transparency.

However NGOs would also need to post all foreign contributions received within 7 days of receipt on their websites or on the websites specified by the Government. While the move certainly enhances transparency, however it also puts a lot of obligations on the management of NGOs including several circumstances over which the NGOs do not have control.

Illustration: While in normal course, where funds have come through cheque, it should not cause any major problem in posting the details, however these days often funds are received through electronic transfers, without intimations of the remitting party. Often even bankers (particularly at the Branch level) are not able to help in identifying this and here we are talking of urban branches. In rural areas this could pose real difficulties, where most branches are of little help in identifying such remittances. NGOs often have to call several of their donors to ascertain the identity of the remitter.

Some NGOs particularly in the areas affected by law & order issues, including where there is widespread naxalism, have expressed real fears that such information being posted on their websites could be open invitation to such elements for raising extortionist demands. These are real issues and cannot be taken lightly.

Our suggestion in this regard is that since bankers are already required to submit details of all remittances received by an NGO, this requirement of posting the details by NGOs on their websites should be dispensed with.

REQUIREMENT TO DISCLOSE OF FACEBOOK PAGE / TWITTER HANDLE

Requiring Board members, office bearers, patrons, chief functionary to disclose the details of their FACEBOOK page as well as their TWITTER handle. This information has been sought under the column of contact details. It is not clear if the authorities plan to contact these persons through their Facebook / Twitter accounts. Considering already address, landline number, mobile number and e-mail addresses have been asked for, what will be the value of these contact details.

It seems quite clear that the motive behind asking these details is to monitor the political views of such persons / organisations, since these addresses are not to be used for contacting the individual concerned. Sir we believe that such practice will be violative of the freedom of expression granted to every individual under fundamental rights of our Constitution.

In view of the above arguments, it is earnestly requested that clauses requiring such personal information (Facebook Page / Twitter Handle) about individuals must be removed from the draft rules.

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NO DEFINITION OF NATIONAL / PUBLIC / SECURITY / SCIENTIFIC / STRATEGIC / ECONOMIC INTEREST

The new forms (FC3 & FC4) require chief functionary to undertake that none of their activities would be prejudicial to National / Public / Security / Scientific / Strategic / Economic interests. No definition of these terms has been given in the Rules. Therefore one would need to interpret the rules. Often when interpretation is left to junior civil servants, the interpretation can vary from situation to situation and according to the perceptions of the concerned civil servant/s.

By very nature civil society undertakes works which questions the status quo. Till a few decades back, child labour was not considered such a bad practice, and laws allowed even a child from the age of 10 onwards to be involved in labour practices (laws prohibited children above 14 only from hazardous industries). General perception in the society even argued that if the poor children would not work, they will get into criminal activities. When one looks at the annals of history, most reformists had to face wrath of the society for their stands. Ishwar Chand Vidyasagar was opposed by the society at large for promoting widow remarriage. Today some in the establishment regard, the word 'activist' as someone who is against national / public / economic interest. Till a few years ago anyone wanting to stop industries to protect environment could be considered an anti-national, till the Supreme Court gave ruling in favour of moving out industries on a large scale from Delhi or requiring the entire public transport system to adopt CNG. Thus interpretation of these terms can change from person to person according to their perceptions.

In this regard attention is drawn that Rule 3 of FCRR 2011, which clearly provides definition of an organisation of a political nature. Without this definition, it could have caused huge uncertainty to the Sector.

Therefore it is suggested that terms like National / Public / Security / Scientific / Strategic / Economic Interest be defined so as the management of NGOs is clear what they can do and what they cannot.

Yours sincerely

Subhash Mittal
(Secretary)

