



## **Press Release**

**October 7, 2015**

In a detailed 24-page response dated October 5, 2015, Sabrang Trust, Mumbai, has challenged the MHA-FCRA department's September 9 order suspending its FCRA registration and urged the ministry to revoke its malafide cancellation notice.

Sabrang Trust has expressed shock and surprise at the Order of the MHA which has completely ignored the detailed point by point response that Sabrang Trust dated June 25, 2015 had submitted to the June 5, 2015 'observations' of the MHA/FCRA team subsequent to its on-the-spot inspection of the Trust's accounts from April 9-11, 2015.

Sabrang Trust maintains that the manner in which the Order mechanically repeats the alleged violations of FCRA 2010 and FCRR 2011 as set out in its earlier 'observations' clearly shows that the Order has been passed without any application of mind and suffers from arbitrariness.

Attached to this Press Release is the communication sent by Sabrang Trust to the MHA-FCRA department.

**This was received by the MHA at 5.21 p.m. today.**

In summary Sabrang trust contends that:

*Allegation: Since Javed Anand and Teesta Setalvad are co-editors of Communalism Combat published by Sabrang Communications and Publishing Pvt. Ltd. (SCPPL) and also write for other periodicals and newspapers, Sabrang Trust has violated provisions of the FCRA Act.*

*Response: One, Sabrang Trust is an independent legal entity in its own right. It is evident that the legal entity of a 'person' under FCRA 2010 (earlier FCRA, 1976) is considered distinct from an individual person. The definition of a 'person' under FCRA, 2010 includes "an individual", "a Hindu undivided family, "an Association" etc. In view of the same, we fail to understand how the receipt of foreign contribution by a 'person' named Sabrang Trust can be treated as if it's the same as, or identical to, its individual office bearers/board members.*

*Two, there is no stipulation in the FC(R) Act, 1976 or the amended FC(R) Act, 2010, or the rules framed under them (FCRR, 2011), forbidding an Association registered under the Act from any individual associated with registered newspaper or electronic news media from being on its board of trustees or an office bearer.*

*Three*, the Registration Certificate granted to Sabrang Trust dated November 21, 2007, stipulates certain terms and conditions. Para 3 states: “*The association cannot bring out any publication (registered under PRB Act, 1867) or act as correspondent, columnist, editor, printer or publisher of a registered newspaper at a later stage thereby attracting provisions of the Section 4(b) of the FC(R) Act, 1976*”. The wordings of Para 3 leave no room for any doubt or ambiguity. It is Sabrang Trust, the association granted registration under FCRA, which is prohibited from publishing or acting as correspondent, columnist, editor, etc. Nowhere does the letter place any restriction or prohibition on any of its board members or office bearers being publishers, editors, printers, etc. of a registered newspaper run by some other independent legal entity.

*Four*: It is submitted that Section 3(1)(b) of FCRA, 2010 must be read with Section 4 of FCRA, 2010. Section 4 of the FC(R) Act, 2010 states: “*Nothing contained in section 3 shall apply to the acceptance, by any person specified in that section, of any foreign contribution where such contribution is accepted by him, subject to the provisions of Section 10 – (a) by way of salary, wages, or other remuneration due to him or to any group of persons working under him, from any source or by way of payment in the ordinary course of business transacted in India by such foreign source*”.

*Allegation: 64.23% and 55.14% of donations for the years 2010-2011 and 2011-2012 have been spent on administrative expenses*

*Response*: The inspection team has concluded that administrative expenses were in excess of the permitted 50% limit only the basis of an entirely erroneous reading of Rule 5 of FCRR, 2011. Sabrang Trust has submitted detailed worksheets in response to the MHA/FCRA’s ‘observations’ wherein the items of project related and administrative expenses and their respective totals are clearly segregated. Also submitted were copies of the audit certificates and audited statements of Receipts and Payments of Sabrang Trust for both years so that they may be cross-checked with the total payments shown in the worksheets for 2010-11 and 2011-12. It may be noted from the same that administrative expenses incurred by Sabrang Trust, in keeping with the grant letters and approved budget by donors, are well below the permissible 50% limit for both years. On account of a deliberate misreading, MHA/FCRA had collapsed project-related expenses incurred in furtherance of the objectives of the Trust with administrative expenses. Such misreading violates a provision in the FCRA Act, 2010, clearly stating that expenses directly related to project execution are not to be included in administrative expenses.

*Allegation: Rs 50 lakhs reimbursed to Sabrang Communications & Publishing Private Limited (SCPPL) were transferred for personal gain).*

*Response*: To begin with, the so-called “transfer” of Rs. 50 lakh (between 2006-07 and 2013-14, i.e. 7 years) by Sabrang Trust to SCPPL appears to be an exaggerated figure as it does not appear to tally with the audited accounts of Sabrang trust. Further, the so-called “transfer” was in fact payment by Sabrang Trust to SCPPL towards its agreed monthly share of shared actual expenses incurred on office/furniture and fixtures/office equipments/staff. None of this amount was paid to Teesta Setalvad or Javed Anand, and no rent has ever been charged to any trust or entity for use of office space from Teesta Setalvad’s parents.

As regards the total payments to SCPPL by Sabrang Trust, even assuming the inspection team's figure to be correct, it means payment of an average of around Rs. 7 lakh per year or less than Rs. 60,000 p.m. by Sabrang Trust towards shared actual expenses incurred on: staff salaries (9 employees); repair and maintenance of office space; repair, maintenance, upgradation of office equipments (including 12 computers, printers, photocopier, fax machine etc.); electricity bills etc. Nowhere does FCRA, 10 or FCRR, 11 bar an Association with FCRA registration from a cost-saving, expenses-sharing arrangement with other association(s), whether registered under FCRA or not.

*Details of the shared expenses are as follows:*

Shared staff expenses (9-employees): Rs. 69,600 p.m., i.e., an average of around Rs. 7,700 per employee. As against this, of the 9 employees of SCPPL in 2012, the least paid employee was paid Rs. 8,720/- p.m. while the highest paid employee received Rs. 22,500 p.m. In addition, SCPPL paid towards Provident Fund, annual Diwali bonus).

Shared establishment expenses (including electricity bills, office repair and maintenance, repair/maintenance/upgradation of computers, salaries of maintenance staff, etc): Rs. 35,750 p.m.

Shared telephone/mobile bills, around Rs. 5,000 p.m.

When co-related to the intensity and scale of activities of Sabrang Trust and the skill levels and work experience of employees necessary for the purpose, it would be incorrect to maintain that such monthly payments by Sabrang Trust to SCPPL are on any count unreasonable.

A list of the staff shared between Sabrang trust and SCPPL and all other details concerning monthly payments by the former to the latter, including Trustees' resolutions were provided to the inspection team. The so-called monthly "transfer of funds" by Sabrang Trust to SCPPL was nothing but payments /re-imburements towards agreed shared expenses between the two Associations. Thus, payments by Sabrang Trust towards sharing of office space, furniture and fixtures, office equipment and staff for the execution of the trust's activities for which it has received FC to SCPPL (or any other non-FCRA registered organisation for that matter, cannot be treated as "transfer" of amounts within the meaning of FCRA, 2010.

Section 8(1)(a) of FCRA stipulates that foreign contribution received shall be utilised for the purpose for which contribution has been received. Sabrang Trust has provided to the inspection team, Grant Letters as also Utilisation Certificates, annual Financial and Narrative reports submitted by Sabrang Trust to donors. **There has been no violation of the law. The Sabrang Trust has vehemently denied the false and baseless allegation that reimbursement to the SCPPL was for personal gain.**

**Further point by point responses to the Notice of the MHA-FCRA may be referred to in the attachment.**

**We request that this Response to the Notice of the MHA FCRA is given as adequate coverage in your reputed publication as was the news related to the suspension notice itself.**

A handwritten signature in black ink, consisting of a vertical line on the left, a horizontal line extending to the right, and a small loop at the end of the horizontal line.

Javed Anand

Teesta Setalvad

Nakul Mehta

Ravi Kulkarni

Amili Setalvad

**Trustees**