



Suspension of FCRA Certificate

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Why in News

The **Commonwealth Human Rights Initiative (CHRI)** has challenged the suspension of its **Foreign Contribution Regulation Act (FCRA) certificate** for 180 days.

The **Ministry of Home Affairs (MHA)** suspended **CHRI's certificate** in violation of various provisions of the FCRA Act.

Key Points

- **Foreign Contribution (Regulation) Act (FCRA), 2010:**
 - Foreign funding of persons in India is regulated under **FCRA act** and is implemented by the **Ministry of Home Affairs**.
 - **Individuals** are permitted to accept foreign contributions **without permission of MHA**.

However, the **monetary limit for acceptance** of such foreign contributions **shall be less than Rs. 25,000**.
 - The Act ensures that the recipients of foreign contributions adhere to the stated purpose for which such contribution has been obtained.
 - Under the Act, organisations are required to register themselves every five years.

- **Foreign Contribution (Regulation) Amendment Act, 2020:**
 - **Prohibition to accept foreign contribution:** The Act bars public servants from receiving foreign contributions. Public servant includes any person who is in service or paid by the government, or remunerated by the government for the performance of any public duty.
 - **Transfer of foreign contribution:** The Act prohibits the transfer of foreign contribution to any other person not registered to accept foreign contributions.
 - **Aadhaar for registration:** The Act makes Aadhaar number mandatory for all office bearers, directors or key functionaries of a person receiving foreign contribution, as an identification document.
 - **FCRA account:** The Act states that foreign contributions must be received only in an account designated by the bank as FCRA account in such branches of the State Bank of India, New Delhi.
 - **Reduction in use of foreign contribution for administrative purposes:** The Act proposes that not more than 20% of the total foreign funds received could be defrayed for administrative expenses. In FCRA 2010, the limit was 50%.
 - **Surrender of certificate:** The Act allows the central government to permit a person to surrender their registration certificate.
 - **Other Regulations:**
 - **Widening the Scope of Foreign Contribution:** Under the issued regulations, donations given in Indian rupees (INR) by any foreigner/foreign source including foreigners of Indian origin like **Overseas Citizen of India (OCI)** or Person of India Origin (PIO) cardholders should also be treated as foreign contribution.
 - **Meeting the Standards of FATF:** The guidelines mandate that good practices should be followed by NGOs in accordance with standards of the global financial watchdog- **Financial Action Task Force (FATF)**.
 - It asked NGOs to inform the Ministry about “suspicious activities” of any donor or recipient and “take due diligence of its employees at the time of recruitment.”
- **Argument of CHRI:**
 - The suspension order is contrary to the framework of the scheme set out under the FCRA Act and even the **suspension was passed without initiating any inquiry.**
 - The suspension order was based on wholly incorrect facts and violates basic **principles of natural justice.**

- **Issues Related to FCRA:**

- **Scope not defined:** It prohibits the receipt of foreign contributions “for any activities detrimental to the national interest” or the “economic interest of the state”.

However, there is no clear guidance on what constitutes “public interest”.

- **Limits Fundamental Rights:** The FCRA restrictions have serious consequences on both the rights to free speech and freedom of association under **Articles 19(1)(a)** and **19(1)(c)** of the Constitution.

Commonwealth Human Rights Initiative (CHRI)

- CHRI is an **independent, non-partisan, international non-governmental organisation**, working for the practical realisation of human rights across the Commonwealth.
- **Headquarters:** New Delhi

The Commonwealth

- **Origin:** It is one of the world’s oldest political associations of states. Its roots go back to the British Empire when some countries were ruled directly or indirectly by Britain.
 - Some of these countries became self-governing while retaining Britain’s monarch as Head of State. They formed the British **Commonwealth of Nations**.
 - In 1949, the Commonwealth came into being. Since then, independent countries from Africa, the Americas, Asia, Europe and the Pacific have joined the Commonwealth.
- **Membership:** The Commonwealth is a voluntary association of 54 independent and equal sovereign states.

Membership is based on free and equal voluntary cooperation. Rwanda and Mozambique - have no historical ties to the British Empire.

Way Forward

- Excessive regulation on foreign contribution may affect working of the NGOs which are helpful in implementing government schemes at the grassroots. They fill the gaps, where the government fails to do their jobs.
- The regulation should not hamper sharing of resources across national boundaries essential to the functioning of a global community, and should not be discouraged unless there is reason to believe the funds are being used to aid illegal activities.

Source: TH