

**July 27, 2015**

**Rebuttal Recent Round of Allegations**

**Assault from Central Agencies, now CBI**

**CBI FIR (Economic Offences Wing, CBI):**

Sabrang Communications & Publishing Private Limited has broken no laws.

On July 8, 2015, Teesta Setalvad and Javed Anand got information from newspaper Report that Central Bureau of Investigation has registered an FIR against them under the provisions of Foreign Contribution (Regulation) Act, 2010.

That immediately, all possible efforts were made by the Teesta Setalvad and Javed Anand to obtain a copy of the said FIR were they were unable to obtain the same. The Advocate of the Teesta Setalvad and Javed Anand had made a call to various departments of Central Bureau of Investigation to supply them a copy of the FIR but they refused to furnish the same, even though it is the right of an accused to be given a copy of the FIR filed against him/her. The Teesta Setalvad and Javed Anand could get a copy of the FIR from Hon'ble Court of the AGMM, at Esplanade, Mumbai on 16.07.2015.

On 14.07.2015 around 7.40 am more than 15 officers of the CBI raided the house and the office of the Teesta Setalvad and Javed Anand and continued their raid until early morning on 15.07.2015. It was only when the officers of the CBI reached the premises of the Teesta Setalvad and Javed Anand that the Teesta Setalvad and Javed Anand realised that an FIR has been registered with the Bombay office of the CBI, vide CR Nos. E 0006/2015 on 8.7.2015 under sections 120b of the Indian Penal Code, Section 35 and 37 read with Sections 3, 11 and 19 of the FCRA Act of 2010 which correspond with Sections 23, 25 r/w Section 4, 6 and 13 of the FCRA Act 1976. The main allegation in the FIR is criminal conspiracy for illegal acceptance of foreign contribution without registration and prior permission Ministry of Home Affairs (MHA), Government of India. The CBI seized all the account documents regarding the FCRA accounts. Copies of at least 80 per cent of these had been given before to the Gujarat Police and MHA FCRA. They also seized two Hard Discs containing Accounts.

Despite this assault, Teesta Setalvad and Javed Anand fully cooperated with the CBI and allowed them to search the home and office and even to the extent of searching personal belongings of the children. The raid was conducted inspite of the fact that the Teesta Setalvad and Javed Anand had, on June 30, 2015 itself within four days of media reports of the MHA reference of the matter to CBI, pro-actively written to the CBI –including the Mumbai office of the EOW, conveying full co-operation and requesting notice of time when requisite documents could be supplied to the CBI. Not only that, on July 10, 2015 also Teesta Setalvad and Javed Anand made formal and telephonic attempts to get a copy of the FIR to no avail.

During the course of the raid the Teesta Setalvad and Javed Anand came to know that an FIR has been registered with the Mumbai office of the CBI under various sections of the FCRA Act, and also that the CBI had obtained a search warrant for the premises of the Teesta Setalvad and Javed Anand.

**On 17.07.2015** Teesta Setalvad and Javed Anand filed an Application before the Ld Magistrate AGMM 3<sup>rd</sup> Esplanade from where they believe that the Search and Seizure Warrant had

obtained in Violation of Due process. Notice was issued to CBI and the matter is posted for early August 2015.

Teesta Setalvad and Javed Anand are innocent and have been falsely implicated in the present case. The FIR lodged against the present Teesta Setalvad and Javed Anand is ex-facie malafide and has been lodged to falsely implicate them

The FIR filed against the Teesta Setalvad and Javed Anand is based on a false and mala-fide complaint, solely for the purpose of harassing and torturing them. Teesta Setalvad and Javed Anand have been actively involved in rehabilitation work in Gujarat after the communal riots in 2002 and also striving to ensure that a fair investigation is carried out regarding the carnage. As the carnage was motivated and supported by communal political outfits of the party in power, the State Government is not appreciative of these efforts and are constantly trying to dissuade and disrupt their activities. The present FIR is also lodged at the behest of the political outfits and has absolutely no merit in it.

Teesta Setalvad and Javed Anand are Journalists by profession and are responsible citizens of the society. There is no reason to believe that they would not co-operate with the investigation and administration of justice. Even till date, they have extended all possible cooperation and supplied all the documents and information as demanded by the inspection team. The present case does not warrant custodial interrogation and yet whether it is in the genesis of the case (Crime Branch Gujarat) or the CBI fresh FIR, the state and Central governments appear hell bent on Custody.

The inspection memo issued by the FCRA Division of Ministry of Home Affairs was responded to by Teesta Setalvad and Javed Anand, giving a detailed explanation about the functioning of Sabrang Communications and giving information about the Consultation Agreement entered into by Sabrang Communication with Ford Foundation.

No case of violation of Section 3 of Foreign Contribution (Regulation) Act, 2010 has been made out against Teesta Setalvad and Javed Anand herein because no foreign contribution has been received by them in the capacity of Directors of Sabrang Communications and Publishing Pvt. Ltd. The said allegation is baseless and made solely for the purpose of harassing and torturing Teesta Setalvad and Javed Anand

Registration under Section 11 of Foreign Contribution (Regulation) Act, 2010 is not required by Sabrang Communication as no contribution is being received by the Company.

In pursuance of the inspection memo, accounts and records of Sabrang Communications from April 2006 onwards had been furnished to the Inspection Team. That as per Rule 17(7) of Foreign Contribution (Regulation) Rules, 2011, the accounts are required to be preserved for six years. There is thus no violation of Section 19 of Foreign Contribution (Regulation) Act, 2010.

The conduct of the Teesta Setalvad and Javed Anand has been impeccable and in the past on various occasions, when an award has been received consisting of foreign currency, permission has been sought and granted to them by the Ministry of Home Affairs.

There is absolutely no violation of any provision of the Foreign Contribution (Regulation) Act, 2010 by the Teesta Setalvad and Javed Anand or the Sabrang Communications and Publishing Pvt. Ltd.

Section 3 of FCRA, 2010 bars certain 'persons' (political parties and its office bearers, government servants and those associated with registered newspapers and those involved in the production and broadcast of news) from receiving foreign donations. However, the very next section, Section 4 which is Titled '*Persons to whom section 3 shall not apply*' states:

*"Nothing contained in section 3 shall apply to the acceptance, by any person specified 3 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 foreign source or by way of payment in the ordinary course of business transacted in India by such foreign source;"*

Sabrang Communications and Publishing Pvt. Ltd Co. which published the monthly 'Communalism Combat' signed a Consultancy Agreement with Ford Foundation in 2004 and 2006 "to address the issues of caste and communalism" through a clearly defined set of activities which had nothing whatsoever to do with Communalism Combat or remuneration to the Teesta Setalvad and Javed Anand towards discharging editorial/managerial functions.

### **In a nutshell**

One: Section 3 of FCRA, 2010 bars certain 'persons' (political parties and its office bearers, government servants, those associated with registered newspapers and those involved in the production and broadcast of news) from receiving foreign donations. However, the very next section, Section 4 which is subtitled '*Persons to whom section 3 shall not apply*' states: "Nothing contained in section 3 shall apply to the acceptance, by any person specified 3 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 foreign source or by way of payment in the ordinary course of business transacted in India by such foreign source."

Sabrang Communications and Publishing Pvt. Ltd., a for-profit company, which published the monthly magazine, 'Communalism Combat' signed Consultancy Agreements with Ford Foundation in 2004 and 2006 "to address the issues of caste and communalism" through a clearly defined set of activities which had nothing whatsoever to do with Communalism Combat or remuneration to Javed Anand or Teesta Setalvad towards discharging editorial/managerial functions . The Consultancy was signed by Sabrang Communications only after advice from eminent legal counsel that such an agreement was covered under the exclusion stipulated under Section 4 of the Act and therefore the consultancy fees (not grant or donation) received would not be in violation of FCRA 2010. Ford Foundation in fact deducted TDS with every installment of consultancy fees it paid to Sabrang Communications. The activities undertaken and the expenses incurred were in accordance with the agreement. Activities and Financial Reports were submitted annual to the satisfaction of Ford Foundation.

Two, Sabrang Communications & Pub Pvt Ltd has kept records and provided copies of the same to the FCRA during the inspection visit of FCRA team in Mumbai on June 9 and 10, 2015, Additional documents as required were also posted to FCRA department. Copies of the supposedly "incriminating documents" seized by the CBI were nothing but the originals of the Consultancy Agreements, Activities and Financial Reports etc., photocopies of which had earlier been provided by SCPPL to the FCRA's inspection team in June 2015.

Three: Deliberately or otherwise, the FCRA team is confusing the well- known lobbying that is part of the political process in the USA with advocacy initiatives in India whereby NGOs, civil

society activists engage with the government of the day to draw their attention towards the legitimate issues of women, children, dalits, religious or linguistic or sexual minorities, differently-abled persons etc. It is ridiculous to equate such advocacy initiatives with lobbying. Sabrang Communications therefore denies all the allegations.

**Four:** While believing in the rule of law and due process, we believe that the State has innumerable devices at its disposal to simply throttle dissent, intimidate and through these crass techniques try to ensure coercive compliance.

**Five:- Communalism Combat** the monthly publication published by Sabrang Communications since August 1993 received the Prince Claus International Award for Exceptional Initiative in the field of Journalism and Development in December, 2000. In order to receive the said award amount, SCPPL applied to MHA seeking permission to receive the award money and the same was granted by MHA on April 10, 2001 under Section 31 of the Foreign Contribution (Regulation) Act, 1976.

In 2003, Teesta Setalvad was awarded the 'Nuremberg International Human Rights Award'. The then Secretary-General of the United Nations, Kofi Annan sent a special message for the occasion in appreciation of Teesta Setalvad's efforts. She also received the Prakash Kaphley Award in 2003. Once again the award money in both these cases was accepted after MHA's written permission.

It should be clear from the above, that Teesta Setalvad and Javed Anand are aware of the provisions of the laws of the land and have, in fact, whenever legally necessary applied for permission from the MHA for receipt of foreign awards etc.

**Other facts concerning SCPPL:**

Teesta Setalvad, Javed Anand and Ghulam Pesh Imam are the 3 Directors of Sabrang Communication and Publishing Pvt. Ltd. (registered under the Companies Act, 1956 in 1993) since it was founded in 1993 till date. SCPPL's main objectives include: creating awareness by maintaining data bank and a library, publishing books, reports, pamphlets, journals covering various aspects of Indian and the world's socio-economic and political issues; and to enter into contracts, agreements and arrangements with any other company or entity to carry out these objectives; as also to conduct research, organise meetings, conferences; to render services and assistance to all sections of the public including governmental and non-governmental bodies, federations of commerce, universities, institutes whether in India or abroad; and towards this end purchase materials and properties and invest.

1. That the brief facts in the present case are as follows:
  - a) A two year Consultancy Contract in 2004 and another one in 2006 was entered into by Sabrang Communication and Publishing Pvt. Ltd. with Ford Foundation, as per which Sabrang Communications received consultancy fees from Ford Foundation. This agreement was entered into after seeking legal advice regarding legality of the same and that as per the provisions of Foreign Contribution (Regulation) Act, 1976, consultancy fees was not treated as foreign contribution. In fact, while transferring the fees, as per the Agreement, Ford Foundation deducted TDS as well.
  - b) That on March, 10, 2015, a letter was issued by Gujarat Government's Home Department to the Ministry of Home Affairs urging action against both Trusts- Citizens for Justice and Peace and Sabrang Trust. The same was published on the website: [www.deshgujarat.com](http://www.deshgujarat.com).

- c) That between April 6 and April 11, 2015, i.e. soon after this letter issued by Gujarat Government, the accounts of Citizens for Justice and Peace (CJP) and Sabrang Trust – organizations run by Teesta Setalvad and Javed Anand were inspected by the FCRA Team.
- d) During the abovementioned inspection, on April 10, 2015, a further query/notice regarding Sabrang Communications was given by hand to Teesta Setalvad and Javed Anand, alleging contravention of Section 11 of Foreign Contribution (Regulation) Act, 2010. A questionnaire was enclosed therewith and Teesta Setalvad and Javed Anand were directed to furnish the said information within 15 days,
- e) Teesta Setalvad and Javed Anand at that point of time were not in Mumbai and were attending to their Anticipatory Bail Application with regard to the abovementioned FIR No. 1 of 2014, which was listed before the Hon'ble Supreme Court of India, they wrote a letter on April 21, 2015, to the FCRA wing of the Ministry of Home Affairs, requesting to be granted 2 weeks time more to respond to the letter dated April 10, 2015.
- f) A detailed written response to letter dated 10.4.2015, was sent by Javed Anand to the FCRA Wing of the Ministry of Home Affairs by letter dated April 27, 2015. It was explained therein that Sabrang Communications has not received any 'Foreign Contributions' and therefore did not require any permission or registration for the same. Alongwith this letter, the consultancy agreement with Ford Foundation as well as correspondence indicating TDS deductions by Ford Foundations were attached.
- g) That on June 3, 2015, the Teesta Setalvad and Javed Anand via fax, received an Inspection Notice for Sabrang Communications for inspecting accounts or records of the organization for the period 2006-07 to 2014-15 in view of the alleged violation of provisions of Foreign Contribution (Regulation) Act, 2010.
- h) The inspection team that arrived at the premises of the Sabrang Communication on June 8, 2015, was handed over a letter explaining the consultation agreement with Ford Foundation and offering all possible co-operation with the inspection procedure.
- i) An Inspection Memo dated 9.6.2015 was issued by the FCRA Wing of the Ministry of Home Affairs directing the Teesta Setalvad and Javed Anand to provide certain information regarding accounts and assets of Sabrang Communications & Publishing Pvt. Ltd. The Inspection Memo was received by the Teesta Setalvad and Javed Anand on June 16, 2015, alongwith a cover letter dated June 11, 2015.
- j) That on June 18, 2015, a letter was sent by Javed Anand to the FCRA Wing of the Ministry of Home Affairs in response to the abovementioned Inspection memo and it was informed that they would be furnishing the response to the queries in the Inspection memo within a week's time of receipt of the letter i.e. before or by June 23, 2015. Another letter was dispatched on Sabrang Communications letterhead to the FCRA Wing of the Ministry of Home Affairs informing that information required by them shall be supplied by June 23, 2015.
- k) A letter dated 22.6.2015 was sent by Sabrang Communication to the FCRA Wing of the Ministry of Home Affairs, providing a detailed response to the Inspection Memo dated June 9, 2015. It was mentioned therein that all possible cooperation was extended and all documents demanded by the inspection team had been furnished by Sabrang Communications.
- l) On June 26, 2015, through newspaper reports, Teesta Setalvad and Javed Anand got information that Ministry of Home Affairs has handed over the investigations related to Sabrang Communications to the Central Bureau of Investigation.
- m) That on June 30, 2015 Teesta Setalvad and Javed Anand wrote a letter to several departments of Central Bureau of Investigation providing a detailed background of the matter including the detailed List of documents provided to the FCRA Wing of the Ministry of Home Affairs Inspection Team. It was mentioned in the letter that the Teesta

Setalvad and Javed Anand are willing to fully cooperate in any bonafide inquiry/investigation and requested that sufficient notice be provided, so that a representative is available with all the required documents.

- n) The Consultancy was signed by Sabrang Communications only after advice from eminent legal counsel that such an agreement was covered under the exclusion stipulated under Section 4 of the Act and therefore the consultancy fees (not grant or donation) received would not be in violation of Foreign Contribution (Regulation) Act, 1976 which was the Act in force at the time of signing the Agreement.
- o) The Ford Foundation in fact deducted TDS with every installment of consultancy fees it paid to Sabrang Communications. The activities undertaken and the expenses incurred were in accordance with the agreement. Activities and Financial Reports were submitted annual to the satisfaction of Ford Foundation.
- p) The allegation that no segregated vouchers or separate accounts as proof of the amounts received were maintained by Sabrang Communications and Publishing Private Limited is ill-founded and this is clear from the fact that this was so because the Consultancy amounts received from the Ford Foundation as per the agreements of 2004 and 2006 were not treated as foreign contribution under provisions of Foreign Contributions Regulation Act, 1976 and the amended Foreign Contributions Regulation Act, 2010, but as part of income in the ordinary course of business of SCPPL. Accordingly receipts and payments out of the amounts received from Ford Foundation were not maintained separately but were part of the Income and Expenditure statement of SCPPL.
- q) It is a case of documentary evidence and the Respondent has already seized all the documents, and the Teesta Setalvad and Javed Anand have fully cooperated with the investigation and there is no need for custodial interrogation.

### **Multiple Investigations**

Multiple inquiries against Teesta Setalvad. Six politically motivated FIRs (which means criminal complaints against whom I have had to run for anticipatory bail since 2004), three sleeping inquiries with the same, vicious Crime Branch that could be vindictively revived any time. Freezing of our organizational and personal accounts since early 2014. The last of the six FIRs is not just against me but also my husband and colleague Javed Anand. It is a shameful bid to intimidate and cripple them organizationally.

Now, the Service tax department (under the union finance ministry) has initiated an inquiry (!!!), media reports say so has CBI and also MHRD!!

**Teesta Setalvad**

**Javed Anand**