

Court No. - 2

Case :- WRIT - C No. - 5615 of 2024

Petitioner :- Smt. Sufiya Khatoon And Another

Respondent :- State Of U.P. Thru. Prin. Secy. Rural Development Deptt. U.P. Lko. And Others

Counsel for Petitioner :- Mohd. Hayan Hasan, Ripu Daman Shahi

Counsel for Respondent :- C.S.C., Ram Kumar Singh

Hon'ble Alok Mathur, J.

Hon'ble Arun Kumar Singh Deshwal, J.

1. Heard Sri R.D. Shahi and Sri Mohd. Hayan Hasan, learned counsel for petitioner as well as learned Standing Counsel for respondent Nos. 1 to 3 and Sri Ram Kumar Singh, Advocate who has appeared on behalf of respondent No. 5 while Sri Rakesh Kumar Singh, Advocate has filed his Vakalatnama on behalf of respondent No. 4.

2. It has been submitted by learned counsel for petitioner that present dispute pertains to gata No. 807 (old No. 1023) which was purchased by father-in-law of the petitioner from the Estate of Late Smt. Rani Kanij Abid. In regard to the said land a show cause notice was received by the petitioners issued by Executive Officer, Nagar Panchayat, Belhara stating that the said land is owned by the Nagar Panchayat, Belhara and the petitioners are in illegal possession of the same and they were asked to show cause as to why the order for eviction should not be passed against them.

3. The petitioners on receipt of the said notice submitted a detail reply on 10.05.2024. It was stated that the said land had been purchased by their father in law and all the documents pertaining to their title were submitted in response to the said notice indicating that the petitioners are the owner of the said land. Apart from the above, several other grounds were raised while opposing the said notice.

4. By means of the impugned order dated 13.06.2024, the Executive Officer, Nagar Panchayat, Belhara has rejected the reply of the petitioners being unsatisfactory and ordering their eviction and demolition of unauthorized structures existing on the said land.

5. Learned counsel for the petitioners while assailing the validity of the said order has submitted that though they have raised several issues in response to the notice but not a single issue has been considered by the Executive Officer, Nagar Panchayat, Belhara while passing the impugned order. The

contention of petitioners has been rejected in most summary and casual manner by stating that their objections to the show cause notice were without any force and were unsatisfactory.

6. This Court has also perused the impugned order and found that neither any issue raised by the petitioners nor response to the notice has been considered nor any reason has been stated in the impugned order as to why the response has been found to be unsatisfactory. It is noticed that reasons are the bedrock of any administrative or judicial order which discloses the mind of the authority concerned who is considering and passing the impugned order. Without reasons, the order would be illegal and arbitrary and liable to be interfered by this Court under Article 226 of the Constitution of India.

7. Recording of reasons by an administrative authority serves a salutary purpose, namely, it excludes chances of arbitrariness and ensures a degree of fairness in the process of decision-making. The said purpose would apply equally to all decisions and its application cannot be confined to decisions which are subject to appeal, revision or judicial review. In our opinion, therefore, the requirement that reasons be recorded should govern the decisions of an administrative authority exercising quasi-judicial functions irrespective of the fact whether the decision is subject to appeal, revision or judicial review. It may, however, be added that it is not required that the reasons should be as elaborate as in the decision of a court of law. The extent and nature of the reasons would depend on particular facts and circumstances. What is necessary is that the reasons are clear and explicit so as to indicate that the authority has given due consideration to the points in controversy. The need for recording of reasons is greater in a case where the order is passed at the original stage.

8. Having considered the rationale for the requirement to record the reasons for the decision of an administrative authority exercising quasi-judicial functions we may now examine the legal basis for imposing this obligation. While considering this aspect the Donoughmore Committee observed that it may well be argued that there is a third principle of natural justice, namely, that a party is entitled to know the reason for the decision, be it judicial or quasi-judicial. The Committee expressed the opinion that "there are some cases where the refusal to give grounds for a decision may be plainly unfair; and this may be so, even when the decision is final and no further proceedings are open to the disappointed party by way of appeal or otherwise" and that "where further proceedings are open to a disappointed party, it is contrary to natural justice that the silence of the Minister or the Ministerial Tribunal should

deprive them of the opportunity". (p. 80) Prof. H.W.R. Wade has also expressed the view that "natural justice may provide the best rubric for it, since the giving of reasons is required by the ordinary man's sense of justice". (See Wade, Administrative Law, 6th edn. p. 548.) In **Siemens Engineering Co. case [(1976) 2 SCC 981 : 1976 Supp SCR 489]** Hon'ble Supreme Court has taken the same view when it observed that "the rule requiring reasons to be given in support of an order is, like the principles of audi alteram partem, a basic principle of natural justice which must inform every quasi-judicial process". This decision proceeds on the basis that the two well known principles of natural justice, namely (i) that no man should be a judge in his own cause, and (ii) that no person should be judged without a hearing, are not exhaustive and that in addition to these two principles there may be rules which seek to ensure fairness in the process of decision-making and can be regarded as part of the principles of natural justice. This view is in consonance with the law laid down by Hon'ble Supreme Court in **A.K. Kraipak v. Union of India [(1969) 2 SCC 262 : (1970) 1 SCR 457]** wherein it has been held : (SCR pp. 468-69 : SCC p. 272, para 20)

"The concept of natural justice has undergone a great deal of change in recent years. In the past it was thought that it included just two rules namely :

(i) no one shall be a judge in his own cause (nemo debet esse judex propria causa), and (ii) no decision shall be given against a party without affording him a reasonable hearing (audi alteram partem). Very soon thereafter a third rule was envisaged and that is that quasi-judicial enquiries must be held in good faith, without bias and not arbitrarily or unreasonably. But in the course of years many more subsidiary rules came to be added to the rules of natural justice."

9. The object underlying the rules of natural justice "is to prevent miscarriage of justice" and secure "fair play in action". As pointed out earlier the requirement about recording of reasons for its decision by an administrative authority exercising quasi-judicial functions achieves this object by excluding chances of arbitrariness and ensuring a degree of fairness in the process of decision-making. Keeping in view the expanding horizon of the principles of natural justice, we are of the opinion, that the requirement to record reason can be regarded as one of the principles of natural justice which govern exercise of power by administrative authorities.

10. It is noticed that in absence of giving any reasons the respondents have acted in most illegal and arbitrary manner and

in violation of Article 14 of the Constitution of India.

11. Learned counsel for respondents also do not dispute the contention that the order is without any reasons and no due satisfaction has been recorded by the Executive Officer, Nagar Panchayat, Belhara while rejecting the reply of the petitioners.

12. In light of the above, the impugned order is illegal, arbitrary and violative of Article 14 of the Constitution of India and accordingly, it is set aside. The matter is remitted to the Executive Officer, Nagar Panchayat, Belhara to pass a fresh order in accordance with law.

13. It shall be open for the Executive Officer, Nagar Panchayat, Belhara to give opportunity of hearing to the petitioners and in case the petitioners want to avail the said opportunity, they shall give a written request within next ten days to the Executive Officer, Nagar Panchayat, Belhara who shall duly consider the reply submitted by the petitioners and pass a reasoned order within a period of six weeks from the date a certified copy of this order is received by him.

14. It is provided that no further action shall be taken against the petitioners in light of the impugned order dated 13.06.2024. It is made clear that it will be open for the respondents to proceed after a fresh order is passed by the to the Executive Officer, Nagar Panchayat, Belhara as directed by this court.

18. With the aforesaid observations / directions, the writ petition stands **allowed**.

(Arun Kumar Singh Deshwal, J.) (Alok Mathur, J.)
Order Date :- 26.6.2024/Ravi/