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IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of decision: 25.08.2015

W.P.(CRL) 1828/2015

JUGAL KISHORE

..... Petitioner

Through: Mr. Vivek Kumar Tandon, Advocate

versus

LIEUTENANT GOVERNOR, DELHI & ANR Respondents

Through: Mr. Sanjay Lao, ASC (Criminal) with
SI S.P. Hudda, PS- Krishna Nagar

CORAM:

HON'BLE MR JUSTICE SIDDHARTH MRIDUL

SIDDHARTH MRIDUL, J (ORAL)

CRL.M.A.12278/2015 (Exemption)

Exemption granted subject to all just exceptions.

The application is disposed of accordingly.

W.P.(CRL) 1828/2015 & CRL.M.A.12277/2015 (Stay)

1. The present is a petition under Articles 226/227 of the Constitution of India read with section 482 Cr.P.C., 1973 assailing the order dated

01.07.2015 passed by the Lieutenant Governor, Delhi in Case No.91/2015 whereby the appeal filed by the petitioner under section 51 of the Delhi Police Act, 1978 against the order dated 26.05.2015 passed by the Additional Deputy Commissioner of Police, District East, Delhi Police under sections 47/50 of Delhi Police Act, 1978 was dismissed and the petitioner was externed beyond the National Capital Territory of Delhi for a period of two years.

2. Notice.

3. Mr. Lao, learned Additional Standing Counsel (Criminal) accepts notice.

4. With the consent of counsel for the parties, the matter is taken up for hearing and disposed of by this order.

5. Mr. Tandon, learned counsel appearing on behalf of the petitioner invites my attention to the impugned order dated 01.07.2015 to urge that it is a non-speaking order and no reasons for accepting the contentions made on behalf of the police and rejecting the submissions made on behalf of the petitioner are recorded in the impugned order.

6. A perusal of the order impugned herein reveals that after hearing the parties and perusing the documents on record, without assigning any reasons whatsoever for arriving at the decision impugned herein, the Lieutenant Governor rejected the petitioner's appeal.

7. In **Kranti Associates Private Limited vs. Masood Ahmed Khan and Others** reported as (2010) 9 SCC 496 the Hon'ble Supreme Court observed as under:-

“47. Summarizing the above discussion, this Court holds:

- (a) In India the judicial trend has always been to record reasons, even in administrative decisions, if such decisions affect anyone prejudicially.
- (b) A quasi-judicial authority must record reasons in support of its conclusions.
- (c) Insistence on recording of reasons is meant to serve the wider principle of justice that justice must not only be done it must also appear to be done as well.
- (d) Recording of reasons also operates as a valid restraint on any possible arbitrary exercise of judicial and quasi-judicial or even administrative power.
- (e) Reasons reassure that discretion has been exercised by the decision maker on relevant grounds and by disregarding extraneous considerations.
- (f) Reasons have virtually become as indispensable a component of a decision making process as observing principles of natural justice by

judicial, quasi-judicial and even by administrative bodies.

- (g) Reasons facilitate the process of judicial review by superior Courts.
- (h) The ongoing judicial trend in all countries committed to rule of law and constitutional governance is in favour of reasoned decisions based on relevant facts. This is virtually the life blood of judicial decision making justifying the principle that reason is the soul of justice.
- (i) Judicial or even quasi-judicial opinions these days can be as different as the judges and authorities who deliver them. All these decisions serve one common purpose which is to demonstrate by reason that the relevant factors have been objectively considered. This is important for sustaining the litigants' faith in the justice delivery system.
- (j) Insistence on reason is a requirement for both judicial accountability and transparency.
- (k) If a Judge or a quasi-judicial authority is not candid enough about his/her decision making process then it is impossible to know whether the person deciding is faithful to the doctrine of precedent or to principles of incrementalism.
- (l) Reasons in support of decisions must be cogent, clear and succinct. A pretence of reasons or 'rubber-stamp reasons' is not to be equated with a valid decision making process.
- (m) It cannot be doubted that transparency is the sine qua non of restraint on abuse of judicial powers. Transparency in decision making not only makes the judges and decision makers less prone to errors but also makes them subject to broader scrutiny. (See: *David Shapiro in Defence of Judicial Candor* (1987) 100 Harward Law Review 731-737).
- (n) Since the requirement to record reasons emanates from the broad doctrine of fairness in decision making, the said requirement is now virtually a component of human rights and was

considered part of Strasbourg Jurisprudence. See: *Ruiz Torija v. Spain*, (1994) 19 EHRR 553, at 562 para 29 and *Anya v. University of Oxford*, 2001 EWCA Civ 405 (CA), wherein the Court referred to Article 6 of European Convention of Human Rights which requires, "adequate and intelligent reasons must be given for judicial decisions".

- (o) In all common law jurisdictions judgments play a vital role in setting up precedents for the future. Therefore, for development of law, requirement of giving reasons for the decision is of the essence and is virtually a part of "Due Process".

8. It is trite to say that the law of the land requires any quasi judicial authority to assign reasons for arriving at a conclusion in every case adjudicated by it. The impugned order, I regretfully states does not comply with that basic requirement.

9. In view of the foregoing and the decision of the Supreme Court in *Kranti Associates (supra)* the present petition is allowed. The order dated 01.07.2015 is set aside. The matter is remitted back to the Court of the Lieutenant Governor, Delhi to decide the petitioner's appeal under section 51 of the Delhi Police Act, 1978 *de novo* after affording the parties a reasonable opportunity of being heard in accordance with law.

10. The petition is disposed of accordingly.

11. The parties or their counsel shall appear before the Lieutenant Governor, Delhi at the first instance on 02.09.2015 at 3.00 p.m. for further proceedings in accordance with law.

12. A copy of this order be given *dasti* under the signature of Court Master to counsel for the parties.

SIDDHARTH MRIDUL, J

AUGUST 25, 2015
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