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IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of decision: 07.09.2015

W.P.(CRL) 1845/2015

CHANDER BHAN SINGH CHAUHAN Petitioner
Through: Mr. Hari Shankar, Advocate

versus

LIEUTENANT GOVERNOR OF DELHI & ORS Respondents
Through: Mr. Rajesh Mahajan, ASC (Criminal)
with SI Mukesh Kumar, PS- Badarpur

CORAM:
HON'BLE MR JUSTICE SIDDHARTH MRIDUL

SIDDHARTH MRIDUL, J (ORAL)

CRL.M.A.12391/2015 (Exemption)

Exemption granted subject to all just exceptions.

The application is disposed of accordingly.

W.P.(CRL) 1845/2015

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

12.03.2014 passed by the Lieutenant Governor, Delhi in Case No.270/2013 rejecting the appeal filed by the petitioner under section 18 of the Arms Act, 1959 against the order dated 13.11.2013 passed by the Joint Commissioner of Police, Licensing Unit, Delhi Police cancelling the petitioner's arms licence bearing No.WDUN/9/2000/20.

2. The facts leading up to the filing of the present petition are encapsulated as under:-

- (a) That the petitioner was a holder of an Arms Licence bearing No.WDUN/9/2000/20.
- (b) The petitioner was invited to a social function organized in the neighbourhood and during the said event a gunshot was fired wherein the nephew of the petitioner's neighbour got injured.
- (c) The petitioner was arrested and a case FIR bearing No.121/2013, under section 307 IPC read with section 27/54/59 of Arms Act, was registered on 13.03.2013 at Police Station-Bindapur, Delhi and his revolver as well as his arms licence were seized from his house by the local police.

- (d) A show cause notice was served upon the petitioner from the office of Additional Commissioner of Police, Licensing Delhi for cancellation of the arms licence and the petitioner gave a reply to the said show cause notice.
- (e) The arms licence of the petitioner was cancelled by the Joint Commissioner of Police, Licensing, Delhi vide order dated 13.11.2014.
- (f) The petitioner was acquitted vide order dated 05.11.2014 by the Additional Sessions Judge, Dwarka Courts, Delhi in case FIR No.121/2013, under sections 307/ IPC and 25/27 of Arms Act, registered at Police Station- Bindapur, Delhi.
- (g) The petitioner appealed against the said order dated 13.11.2014 passed by the Joint Commissioner of Police, Licensing, Delhi before the Lieutenant Governor, Delhi. The appeal was dismissed by the Lieutenant Governor, Delhi, by way of the order impugned herein.

3. Notice.

4. Mr. Mahajan, learned Additional Standing Counsel (Criminal) accepts notice.

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

6. Mr. Hari Shankar, learned counsel appearing on behalf of the petitioner invites my attention to the impugned order dated 12.03.2014 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.

7. 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. The operative part of the impugned order dated 12.03.2014 reads as follows:-

“After hearing both the parties and careful perusal of documents on record, I am of the opinion that the Licensing Authority, after considering all aspects of the matter, has passed a fair order and I find no reason to interfere with it. The appeal, therefore, rejected.”

8. Mr. Hari Shankar, learned counsel appearing on behalf of the petitioner has invited my attention to the provisions of Section 17(7) of the Arms Act, 1959 which reads as follows:-

“17 (7). A Court convicting the holder of a licence of any offence under this Act or the Rules made thereunder may also suspend or revoke the licence:

Provided that if the conviction is set aside on appeal or otherwise, the suspension or revocation shall become void.”

9. In the light of the aforesaid provision, it would have been within reason that the Lieutenant Governor set aside the said revocation of license since the petitioner was acquitted vide order dated 05.11.2014 by the Additional Sessions Judge, Dwarka Courts, Delhi.

10. 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".

The Hon'ble Supreme Court in *Kranti Associates* (*supra*), has given an indispensable status to reasons in administrative decisions. The Supreme Court observed that recording of reasons serves the principles of justice and

puts a valid restraint on arbitrary exercise of quasi-judicial powers exercised by administrative authorities. Reasons also expedite the process of judicial review by superior courts.

11. Further, this Court in **Adesh Kumar Gupta vs. CBI, W.P.(CRL) 725/2015** decided on 02.09.2015 has emphasized the importance of recording reasons while setting aside an unreasoned order by the concerned Magistrate. The relevant extracts of the aforementioned judgment are as follows:-

“30. The impugned order dated 21.11.2014, extracted hereinabove, clearly demonstrates that the concerned Magistrate has acted in a casual, cavalier and routine manner. The said order only refers to the grant of permission to investigate into the matter mechanically without assigning any reasons and cannot be countenanced by this Court. The same deserves to be set aside.”

12. While dealing with the aforesaid issue, this Court also relied upon the Apex Court’s decision in **Assistant Commissioner, Commercial Tax Department Works Contract and Leasing, Kota Vs Shukla and Brothers,** wherein it was held as under:

“A litigant who approaches the court with any grievance in accordance with law is entitled to know the reasons for grant or rejection of his prayer.

Reasons are the soul of orders. Non-recording of reasons could lead to dual infirmities; firstly, it may cause prejudice to the affected party and secondly, more particularly, hamper the proper administration of justice. These principles are not only applicable to administrative or executive actions, but they apply with equal force and, in fact, with a greater degree of precision to judicial pronouncements. A judgment without reasons causes prejudice to the person against whom it is pronounced, as that litigant is unable to know the ground which weighed with the court in rejecting his claim and also causes impediments in his taking adequate and appropriate grounds before the higher court in the event of challenge to that judgment.”

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

14. In view of the foregoing, the present petition is allowed. The order dated 12.03.2014 is set aside. The matter is remitted back to the Court of the Lieutenant Governor, Delhi to decide the petitioner’s appeal under section 18 of the Arms Act, 1959 *de novo* after affording the parties a reasonable opportunity of being heard in accordance with law.

15. The petition is disposed of accordingly.

16. The parties or their counsel shall appear before the Lieutenant Governor, Delhi at the first instance on 16.09.2015 at 4.00 p.m. for further proceedings in accordance with law.

17. *Dasti.*

SIDDHARTH MRIDUL, J

SEPTEMBER 07, 2015

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