

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 8826 OF 2015

VISHNU PANDURANG NANGRE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Petitioners : Shri Ajinkya Kale h/f Shri Talekar S.B..
AGP for Respondents 1 to 4 : Shri S.W.Munde.
Advocate for Respondent 6 : Shri V.A.Dhakne h/f Shri B.S.Chondhekar.

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CORAM: RAVINDRA V. GHUGE, J.

DATE :- 12th August, 2016

Per Court:

1 This Court by its order dated 01.09.2015, while issuing notice, had observed as under:-

- “1. *The petitioners are aggrieved by the impugned order dated 6.8.2015, by which, respondent No.3 has directed the reversion of the petitioners from the position of Headmasters to the position of Assistant Teachers.*
2. *Shri Talekar, learned Advocate for the petitioners submits that the impugned order is as vague as it could be and is a cryptic order, which is without reasons and conclusions. It is a common order passed against 24 similarly situated employees, amongst whom are the three petitioners.*
3. *Shri Talekar submits that there were certain complaints made by certain individuals to the respondents / competent authorities. One amongst the complainants is respondent No.6 herein.*
4. *An internal enquiry was ordered by respondent No.2 – Commissioner, Tribal Development. Accordingly,*

respondent No.3- Additional Commissioner, Tribal Development initiated an internal enquiry. The report, which is placed on record at page Nos.132 to 135 of the petition paper book clearly indicates that the petitioner No.1 was held to be rightly promoted as the Headmaster in 1999. The report indicates that there was nothing objectionable with regard to the promotion of the petitioner No.1. Shri Talekar hastens to clarify that there are no observations adverse to petitioner Nos.2 and 3 in the said report.

5. He points out that respondent No.3, purportedly on the basis of the report has issued notices for hearing dated 4.9.2014 and 30.10.2014 at page Nos.146 and 147 of the petition paper book. He submits that neither a copy of the complaint nor a copy of the enquiry report was supplied to the petitioner. Specific charges were not formulated. Finally, by the order dated 8.6.2015, which cannot be said to be a speaking order, the petitioners are sought to be reverted / demoted to the position of Assistant Teachers. He submits that the said order has still not been implemented.
6. Considering the above, issue notice before admission to the respondents, returnable on 29.9.2015.
7. Notices be issued to respondents pursuant to the amendment, which has been allowed by order dated 1.9.2015 passed on Civil Application No.10798 of 2015.
8. Learned AGP waives service for respondent Nos.1 to 4.
9. Hamdast allowed for respondents 5 and 6.
10. In the event, the impugned order dated 6.8.2015 has not been implemented and in the event, the petitioners have not as yet handed over the charge of the position of Headmaster, the respondents are directed to maintain status quo existing today and shall therefore, not proceed to take steps pursuant to the impugned order dated 6.8.2015 till the next date of hearing in the matter.”

Society has failed to cause an appearance in this matter. Even today, none appears for Respondent No.5.

3 The impugned order dated 06.08.2015 apparently does not indicate specific reasons for supporting the conclusions arrived by Respondent No.3. Firstly, the said order cannot be sustained in the light of the judgments of the Honourable Supreme Court in the matter of *Sant Lal Gupta and others vs. Modern Cooperative Group Housing Society Limited and others*, **(2010) 13 SCC 336** (paragraph 27 reproduced below) and in the matter of *Namit Sharma vs. Union of India*, **2013 (1) SCC 745** (paragraph 99 reproduced below) :-

From Sant Lal Gupta (supra) :-

“27. *It is a settled legal proposition that not only administrative but also judicial order must be supported by reasons recorded in it. Thus, while deciding an issue, the Court is bound to give reasons for its conclusion. It is the duty and obligation on the part of the Court to record reasons while disposing of the case. The hallmark of order and exercise of judicial power by a judicial forum is for the forum to disclose its reasons by itself and giving of reasons has always been insisted upon as one of the fundamentals of sound administration of the justice delivery system, to make it known that there had been proper and due application of mind to the issue before the Court and also as an essential requisite of the principles of natural justice.*

"3. The giving of reasons for a decision is an essential attribute of judicial

and judicious disposal of a matter before Courts, and which is the only indication to know about the manner and quality of exercise undertaken, as also the fact that the Court concerned had really applied its mind."

The reason is the heartbeat of every conclusion. It introduces clarity in an order and without the same, the order becomes lifeless. Reasons substitute subjectivity with objectivity. The absence of reasons renders an order indefensible/ unsustainable particularly when the order is subject to further challenge before a higher forum. Recording of reasons is principle of natural justice and every judicial order must be supported by reasons recorded in writing. It ensures transparency and fairness in decision making. The person who is adversely affected must know why his application has been rejected. [Vide: State of Orissa v. Dhaniram Luhar AIR 2004 SC 1794; State of Rajasthan v. Sohan Lal & Ors. (2004) 5 SCC 573; Vishnu Dev Sharma v. State of Uttar Pradesh & Ors. (2008) 3 SCC 172; Steel Authority of India Ltd. v. Sales Tax Officer, Rourkela I Circle & Ors. (2008) 9 SCC 407; State of Uttaranchal & Anr. v. Sunil Kumar Singh Negi AIR 2008 SC 2026; U.P.S.R.T.C. v. Jagdish Prasad Gupta AIR 2009 SC 2328; Ram Phal v. State of Haryana & Ors. (2009) 3 SCC 258; State of Himachal Pradesh v. Sada Ram & Anr. (2009) 4 SCC 422; and The Secretary & Curator, Victoria Memorial Hall v. Howrah Ganatantrik Nagrik Samity & Ors., AIR 2010 SC 1285]."

From Namit Sharma (supra):-

- "99. *It is not only appropriate but is a solemn duty of every adjudicatory body, including the tribunals, to state the reasons in support of its decisions. Reasoning is the soul of a judgment and embodies one of the three pillars on which the very*

foundation of natural justice jurisprudence rests. It is informative to the claimant of the basis for rejection of his claim, as well as provides the grounds for challenging the order before the higher authority/constitutional court. The reasons, therefore, enable the authorities, before whom an order is challenged, to test the veracity and correctness of the impugned order. In the present times, since the fine line of distinction between the functioning of the administrative and quasi-judicial bodies is gradually becoming faint, even the administrative bodies are required to pass reasoned orders. In this regard, reference can be made to the judgments of this Court in the cases of Siemens Engineering & Manufacturing Co. of India Ltd. v. Union of India & Anr. [(1976) 2 SCC 981]; and Assistant Commissioner, Commercial Tax Department Works Contract and Leasing, Kota v. Shukla & Brothers [(2010) 4 SCC 785].”

4 Notwithstanding the fact that the impugned order on account of lack of reasons is being set aside, it needs to be noted that Respondent No.3 has directed Respondent No.5 to submit proper proposals of all the candidates, who have earlier been promoted, so as to be reconsidered. In my view, while remanding the proceedings to Respondent No.3, Respondent No.5 deserves to be directed to produce the entire documents with regard to the Petitioners so as to assist Respondent No.3 to arrive at a proper conclusion.

5 In the light of the above, this Writ Petition is partly allowed. The impugned order dated 06.08.2015 is quashed and set aside with the

following directions:-

- (a) The proceedings with regard to the Petitioners, namely, Vishnu Pandurang Nangre, Suresh Namdeorao Ghuge and Rekha Narayanrao Shinde, which have been decided by the impugned order dated 06.08.2015, are now remitted back to Respondent No.3.
- (b) Until Respondent No.3 considers the proceedings so remitted and the material placed by Respondent No.5, there would not be any departmental enquiry against the Petitioners.
- (c) Respondent No.5 is directed to submit the proposals of the Petitioners to Respondent No.3 within THREE WEEKS from today, failing which it shall be considered to mean disobedience of the directions of this Court. The learned AGP shall ensure that a copy of this order is served on Respondent No.5 through Respondent No.4.
- (d) Respondent No.3 shall, after receipt of the proposals, rehear Respondent No.6 along with the Petitioners and all litigating sides and thereafter, pass a reasoned order.
- (e) Since time of three weeks is being granted to Respondent No.5 to submit the entire documents/ proposals with regard to the Petitioners before Respondent No.3, all the litigating sides shall appear before Respondent No.3 on 08.09.2016 at

03:00 pm and shall thereafter, abide by the dates of hearing as may be allotted by Respondent No.3.

- (f) Considering the issue involved, Respondent No.3 shall endeavour to decide the entire proceedings on or before 15.12.2016.

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(RAVINDRA V. GHUGE, J.)