

**206 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP No.7866 of 2017

Date of decision : 10.04.2019

Narender Kumar

..... Petitioner

versus

State of Haryana and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA

Present: Mr. Abhimanyu Singh, Advocate for the petitioner.

Mr.N.K.Parmar, AAG, Haryana.

TEJINDER SINGH DHINDSA, J. (ORAL)

Vide order dated 17.08.2016 passed by the District Food and Supplies Controller, Bhiwani the depot licence held by the petitioner in respect of village Ninan, Tehsil and District Bhiwani (Licence No. H.P.D.S.-B.H.-402) was cancelled and the security amount was forfeited. Petitioner having preferred an appeal against the order of cancellation, the Deputy Commissioner, Bhiwani vide order dated 07.02.2017(Annexure P-5) has dismissed the same.

The instant writ petition has been filed assailing the afore-noticed two orders dated 17.08.2016(Annexure P-3) and 07.02.2017 (Annexure P-5) passed by the Appellate Authority.

Having heard counsel for the parties at length this Court is of the considered view that the legality of the order dated 17.08.2016

(Annexure P-3) passed by the District Food and Supplies Controller, Bhiwani cancelling the depot licence held by the petitioner need not be gone into at this stage. Such view is being taken for the reason that the facts of the present case make out a case for remand to the Appellate Authority for reconsideration.

Placed on record at Annexure P-4 is the appeal dated 12.09.2016 that had been preferred by the petitioner against the order dated 17.08.2016 passed by the District Food and Supplies Controller, Bhiwani. Perusal of the same would reveal that apart from raising a number of grounds, the following grounds had been raised:-

- (i) Petitioner herein/appellant had stated that the complainant in the case namely Roshan Lal had referred to 39 other card holders but the names of such 39 persons were not even mentioned in the list of ration card holders and as such they were not even entitled to receive the ration from the depot held by the petitioner. In a nutshell ground raised was that there was no occasion for such 39 persons to have raised any allegation against the petitioner as also the functioning of the depot.
- (ii) It was asserted that there were about 25-30 persons who had made applications before the DFC, Deputy Commissioner, Bhiwani in favour of the petitioner as also functioning of the depot in question. The list of such persons was appended as Annexure -B along with the appeal.
- (iii) A number of respectable persons of village Ninan had also moved applications in the months of May, June and July, 2016 before the Deputy Commissioner, Bhiwani virtually certifying that the ration distribution resorted to by the petitioner/appellant was without blemish and objection. The list of such persons was also annexed as

Annexure-C along with the appeal.

(iv) In the appeal it was categorically stated that the stock of kerosene oil from the department had not been received for the months of September and October, 2015 and January/February, 2016 and it is for such reason that the same could not be delivered to the cardholder.

Various other submissions and grounds were also raised and it would not be necessary for this Court to dilate upon the same.

The appeal preferred by the petitioner has been dealt with and rejected by the Appellate Authority in terms of the following reasoning:-

“ I have heard both the parties and after perusing the case file and record and after perusal of the same, I came in the conclusion that order dated 17.08.2016 passed by the Lower Officer is detailed order and is found justifiable and there is no illegalities in the same. Appellant failed to produce any solid evidence and facts in his appeal. Therefore, the keeping in view the circumstances, the appeal of the appellant is devoid on merit for allowing. So, appeal is hereby dismissed.

Order pronounced on 07.02.2017.

*Sd/-
Deputy Commissioner, Bhiwani.”*

Suffice it to observe that the order passed by the Appellate Authority dated 07.02.2017 at Annexure P-5 is a cryptic, non-speaking order.

The question as regards reasons to be assigned by the Appellate Authority even while affirming an order passed by an authority subordinate came up for consideration before the Apex Court in ***Chairman, Disciplinary Authority, Rani Lakshmi Bai Kshetriya Gramin Bank Vs. Jagdish Sharan***

Varshney & others, 2009 (5) SLR 512 and it was observed as under:-

“8. In the present case, since the appellate authority's order does not contain any reasons, it does not show any application of mind.

9. The purpose of disclosure of reasons, as held by a Constitution Bench of this Court in the case of ***S.N.Mukherjee vs. Union of India reported in (1990) 4 SCC 594***, is that people must have confidence in the judicial or quasi-judicial authorities.

10. Unless reasons are disclosed, how can a person know whether the authority has applied its mind or not? Also, giving of reasons minimizes chances of arbitrariness. Hence, it is an essential requirement of the rule of law that some reasons, at least in brief, must be disclosed in a judicial or quasi-judicial order, even if it is an order of affirmation.

No doubt, in ***S.N. Mukherjee's case (supra)***, it has been observed (vide para 36) that:

"..The appellate or revisional authority, if it affirms such an order, need not give separate reasons if the appellate or revisional authority agrees with the reasons contained in the order under challenge."

11. The above observation, in our opinion, really means that the order of affirmance need not contain an elaborate reasoning as contained in the order of the original authority, but it cannot be understood to mean that even brief reasons need not be given in an order of affirmance. To take a contrary view would mean that appellate authorities can simply dismiss appeals by one line orders stating that they agree with the view of the lower authority.”

Perusal of the impugned order dated 07.02.2017(Anexure P-5) passed by the Deputy Commissioner, Bhiwani would clearly reveal that the submissions/grounds raised by the petitioner in the appeal at Annexure P-4 have not even been adverted to much less dealt with. The impugned order passed by the Appellate Authority as such cannot sustain.

For the reasons recorded above, the instant writ petition is partly allowed and the order dated 07.02.2017(Annexure P-5) is set aside,.

The mater is remanded back for consideration afresh at the hands of the Appellate Authority and after taking into account all the submissions and contentions raised by the petitioner in the appeal dated

12.09.2016 (Annexure P-4).

Let the final order upon reconsideration be passed within a period of two months from today and after affording to the petitioner an opportunity of personal hearing.

Instant writ petition is disposed of in the aforesaid terms.

(TEJINDER SINGH DHINDSA)
JUDGE

10.04.2019
sunita

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No