

In the High Court of Punjab and Haryana at Chandigarh

CRWP No. 9806 of 2020
Date of Decision: 16.12.2020

Atma Ram

.....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Ranbir Singh Sekhon, Advocate
for the petitioner.

Mr. Randeep S. Khaira, AAG, Punjab.

HARNARESH SINGH GILL, J. (ORAL)

Case is taken up for hearing through video conferencing.

This petition has been filed by the petitioner under Article 226/227 of the Constitution of India for issuance of a writ in the nature of certiorari for quashing of the order dated 17.10.2019 (Annexure P-1), passed by respondent No. 4, vide which the parole has been declined to the petitioner and, further for grant of parole for six weeks.

Reply by way of affidavit of Superintendent of Central Jail, Ferozepur, filed in the Registry, is taken on record.

Learned counsel for the petitioner submits that the petitioner was convicted and sentenced for 10 years on 23.1.2019 in case FIR No. 39 dated 01.3.2015 under Section 18 of the Narcotic Drugs and Psychotropic Substances Act, 1985, registered at Police Station City-1, Abohar, District Fazilka. The petitioner had applied for six weeks' parole which was rejected on 17.10.2019 and he has been in custody for the last more than 02 years and 05 months. He further submits that parole of the petitioner has been

declined by the concerned Magistrate Sriganaganagar on the ground that after the grant of parole, the petitioner may again indulge in the sale of intoxicants. In support of his contentions, learned counsel has placed reliance on the judgments passed by the Co-ordinate Benches of this Court in **CRWP No. 4219 of 2020 titled 'Rohit @ Kalia versus State of Haryana and others** decided on **26.8.2020** and **CRWP No. 2156 of 2019 ' titled Jeet Singh versus State of Punjab and others'** decided on **07.1.2020**.

On the other hand, learned State counsel submits that the matter was referred to the Collector-cum-District Magistrate, Sriganaganagar and after recording of the statements of the father of the petitioner, namely, Gopi Ram, brother-Radhe Shayam and neighbours-Hetram, Shatinder Singh and Jaswant Singh, the impugned order was passed.

I have heard the learned counsel for the petitioner as well as the learned State counsel.

It is settled principle that administrative order has to be reasonable and the authorities are to take into consideration all the relevant facts and exclude irrelevant facts from consideration. The decision would neither be perverse nor irrational, improper or contradictory, to which no person properly advised on the facts would reach at.

It has time and again been held that the reasons would give clarity in the order and in the absence of the same, the order will not be sustainable. Reliance can be placed upon the judgment of the Apex Court passed in **'Union of India and others Vs. Jai Parkash Singh', 2007 AIR (SC) 1363**. Relevant part of the said judgment reads as under:-

“7. Reasons introduce clarity in an order. On plainest consideration of justice, the High Court ought to have set forth its reasons, howsoever brief, in its order indicative of an

application of its mind, all the more when its order is amenable to further avenue of challenge. The absence of reasons has rendered the High Court's judgment not sustainable. 8. Even in respect of administrative orders Lord Denning M.R. in Breen v. Amalgamated Engineering Union (1971 (1) All England Reporter 1148) observed "The giving of reasons is one of the fundamentals of good administration". In Alexander Machinery (Dudley) Ltd. v. Crabtree (1974 LCR 120) it was observed : "Failure to give reasons amounts to denial of justice". Reasons are live links between the mind of the decision taker to the controversy in question and the decision or conclusion arrived at". Reasons substitute subjectivity by objectivity. The emphasis on recording reasons is that if the decision reveals the "inscrutable face of the sphinx", it can, by its silence, render it virtually impossible for the Courts to perform their appellate function or exercise the power of judicial review in adjudging the validity of the decision. Right to reason is an indispensable part of a sound judicial system, reasons at least sufficient to indicate an application of mind to the matter before Court. Another rationale is that the affected party can known why the decision has gone against him. One of the salutary requirements of natural justice is spelling out reasons for the order made, in other words, a speaking out. The "inscrutable face of a sphinx" is ordinarily incongruous with a judicial or quashi-judicial performance."

A perusal of the petition reveals that the petitioner stands convicted on 23.1.2019 and his parole application was rejected on 17.10.2019 and that he has already undergone the actual sentence of 02 years and 05 months, as stated by the learned counsel for the petitioner.

Considering the above circumstances, the present petition is allowed and the impugned order dated 17.10.2019 (Annexure P-1) is set

aside. The petitioner is ordered to be released on four weeks' parole, to the

satisfaction of the District Magistrate concerned, who is further directed to impose such conditions as may be required in the Jail Manual towards the ends of securing the presence of the petitioner in jail after the period of parole is over and done with and the temporary release is not misused.

(HARNARESH SINGH GILL)
JUDGE

December 16, 2020
Gurpreet

Whether speaking/reasoned : Yes
Whether reportable : Yes