

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No. 10856 of 2021

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Rishimuni Paswan S/o late Suraj Paswan, R/o Gram-Pithto, Panchayat-Basudeopur, Block-Sadar Darbhanga, P.O. and P.S.-Bhuskaul, District-Darbhangha.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary Food and Civil Supply Government of Bihar, Patna.
2. The Principal Secretary, Food and Civil Supply, Government of Bihar, Patna.
3. The District Magistrate, Darbhanga.
4. The District Supply Officer, Darbhanga.
5. The Sub-Divisional Officer, Sadar, Darbhanga.
6. The Assistant District Supply Officer, Sadar, Darbhanga.
7. The Block Supply Officer, Sadar, Darbhanga.

... .. Respondent/s

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Appearance:

For the Petitioner/s : Mr. Alok Ranjan, Advocate
For the Respondent/s : Mr. Upendra Pratap Singh, AC to SC-4

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH

ORAL ORDER

2 23-09-2021 The instant case has been taken up for consideration through the mode of Video conferencing in view of the prevailing situation on account of COVID 19 Pandemic, requiring social distancing.

The present writ petition has been filed seeking quashing of the order dated 22.04.2021 passed by the Licensing Authority-cum-Sub-Divisional Officer, Sadar Darbhanga, whereby and whereunder the PDS License of the petitioner



bearing License No. 22 of 2016 has been cancelled.

The short point raised by the learned counsel for the petitioner is that in reply to the show cause notices dated 03.02.2021 and 25.02.2021, the petitioner had filed detailed replies which are at Annexure-2 & Annexure-4 to the writ petition, however, the learned Sub-Divisional Officer, Sadar, Darbhanga has not considered the same and has passed the impugned order dated 22.04.2021 in a perfunctory manner without recording any reasons in support of its conclusion. Reference in this regard has been made to a judgment rendered by the Hon'ble Apex Court in the case of *M/s. Kranti Associates Pvt. Ltd. & Anr. vs. Masood Ahmed Khan*, reported in *(2010) 9 SCC 496*, paragraphs No. 12 to 15 and 47 whereof are reproduced herein below:-

12. The necessity of giving reason by a body or authority in support of its decision came up for consideration before this Court in several cases. Initially this Court recognised a sort of demarcation between administrative orders and quasi-judicial orders but with the passage of time the distinction between the two got blurred and thinned out and virtually reached a vanishing point in the judgment of this Court in *A.K. Kraipak v. Union of India* [(1969) 2 SCC 262 : AIR 1970 SC 150] .

13. In *Keshav Mills Co. Ltd. v. Union of India* [(1973) 1



SCC 380 : AIR 1973 SC 389] this Court approvingly referred to the opinion of Lord Denning in *R. v. Gaming Board for Great Britain, ex p Benaim* [(1970) 2 QB 417 : (1970) 2 WLR 1009 : (1970) 2 All ER 528 (CA)] and quoted him as saying “that heresy was scotched in *Ridge v. Baldwin* [1964 AC 40 : (1963) 2 WLR 935 : (1963) 2 All ER 66 (HL)] ”.

14. The expression “speaking order” was first coined by Lord Chancellor Earl Cairns in a rather strange context. The Lord Chancellor, while explaining the ambit of the writ of certiorari, referred to orders with errors on the face of the record and pointed out that an order with errors on its face, is a speaking order. (See pp. 1878-97, Vol. 4, Appeal Cases 30 at 40 of the Report).

15. This Court always opined that the face of an order passed by a quasi-judicial authority or even an administrative authority affecting the rights of parties, must speak. It must not be like the “inscrutable face of a sphinx”.

47. Summarising 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 lifeblood 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 Harvard Law Review 731-37] .)

(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] EHRR, at 562 para 29 and *Anya v. University of Oxford* [2001 EWCA Civ 405 (CA)] , wherein the Court referred to Article 6 of the 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”.

Per contra, the learned counsel for the respondent-State Shri Upendra Pratap Singh, AC to Standing Counsel-4 has not disputed the position as is existing in law.

Having regard to the facts and circumstances of the case and having considered the submissions advanced by the learned counsel for the parties, this Court finds that the impugned order dated 22.04.2021 passed by the Sub-Divisional Officer, Sadar, Darbhanga is an unreasoned and a perfunctory order and moreover, no cogent, clear and succinct reasons have been furnished in support of the impugned order dated 22.04.2021, which is an indispensable component of a decision making process, hence, the same stands vitiated in the eyes of law, thus is quashed, however liberty is granted to the Sub-Divisional Officer, Sadar, Darbhanga to pass fresh orders, in accordance with law.

The writ petition stands allowed.

(Mohit Kumar Shah, J)

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