

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 4567 of 2021

1. Tejprakash Chandrakar, S/o Shri Bhushan Lal Chandrakar, Aged About 45 Years R/o Ganjpara, Mahasamund, District-Mahasamund Chhattisgarh.

---- Petitioner

Versus

1. State of Chhattisgarh Through Secretary, Agriculture and Farmers Welfare Department, Mahanadi Bhawan, Mantralaya, Capital Complex, Atal Nagar, Nawa Raipur, District-Raipur, Chhattisgarh.
2. Collector, Mahasamund, District-Mahasamund, Chhattisgarh.
3. Joint Director, Chhattisgarh State Agriculture Vipdan Board, Divisional Office, Raipur, District Raipur Chhattisgarh
4. Chhattisgarh State Agriculture Marketing Board (Mandi) Raipur Through Its Managing Director, Chhattisgarh State Agriculture Marketing Board (Mandi) Raipur, Beej Bhawan, G.E. Road Telibandha, Raipur, District Raipur Chhattisgarh
5. Managing Director, Chhattisgarh State Agriculture Marketing Board (Mandi) Raipur, Beej Bhawan, G.E. Road, Telibandha, Raipur, Chhattisgarh
6. Krishi Upaj Mandi Samiti Mahasamund Through Its Secretary, Krishi Upaj Mandi Samiti Mahasamund, District Mahasamund Chhattisgarh.
7. Secretary, Krishi Upaj Mandi Samiti Mahasamund, District Mahasamund Chhattisgarh.
8. Tehsildar, Mahasamund, District Mahasamund Chhattisgarh.

---- Respondents

For petitioner	:	Mr. Manoj Paranjpe with Ms. Vaishali Mahilong, Advocate.
For State	:	Mr. Ashish Tiwari, Govt. Advocate.
For respondents No.4 to 6 :	:	Mr. Amrito Das, Advocate

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

12/11/2021

Heard.

1. It is submitted by learned counsel for the petitioner that one Jogeshwar @ Jugnu Chandrakar made a complaint on 25.10.2019 to respondent No.2 alleging that price of paddy purchased by the petitioner has not been paid to number of farmers. After making an inquiry on the complaint respondent No.7 submitted report Annexure-P/3 that no amount is outstanding for payment to the farmers. Subsequent to that number of other complaints have been filed then respondent No.7 forwarded the complaint against petitioner vide Annexure-P/4 dated 7.11.2019. Petitioner had earlier filed a Writ Petition No.4370/2019 challenging the orders of respondent for recovery of the amount above mentioned. This Court vide order dated 3.12.2019 directed respondent No.2 to make an inquiry and the petitioner was granted liberty to submit all relevant materials in his defence. It was also directed that the inquiry was to be made in presence of the complainants and the petitioner and on that basis appropriate order was to be passed.

It is further submitted that subsequent to this order, FIR has been lodged against the petitioner only to discredit him. Final order was passed on 29.5.2020 holding the petitioner again responsible to make payment of outstanding amount to the farmers. Petitioner preferred an appeal before respondent No.5 that reply submitted was not given any consideration and the provisions of Krishi Upaj Mandi Adhiniyam, 1972 (for short 'the Act, 1972') were not followed in passing the order. The appellate Court by order dated 19.8.2020 (Annexure P/33) remanded back the case to respondent No.6 with a direction to comply with the order of the High Court dated 3.12.2019 in WPC No.4370/2019.

Respondent No.6 passed order dated 5.11.2020 (Annexure-P/44) in which the petitioner was again held responsible for making payment of dues to the farmers and recovery was directed through Revenue Recovery Certificate. Appeal was preferred before respondent No.5 mentioning grounds of appeal in appeal memo, written argument was also

filed in support of the same. The impugned order has been passed in a cursory manner without considering the grounds raised in appeal as also without application of mind.

Reliance has been placed on the judgments of Supreme Court in the case of Siemens Engineering & Manufacturing Co. of India Ltd. Vs. Union of India and another reported in (1976) 2 SCC 981, East Coast Railway and another Vs. Mahadev Appa Rao and others reported in (2010) 7 SCC 678 and on the judgment of Supreme Court in the case of Secretary and Curator, Victoria Memorial Hall Vs. Howrah Ganatantrik Nagrik Samity and others, reported in (2010) 3 SCC 732.

It is submitted that respondent No.6 is a quasi judicial body exercising quasi judicial function, therefore, there is requirement of passing of a speaking order while exercising such jurisdiction. It is submitted that respondent No.5 failed to exercise appellate jurisdiction vested in him, hence, it is prayed that petition be admitted for hearing and interim relief, as prayed, be granted.

2. Learned State counsel opposes the submissions and submits that no error has been committed by respondent No.5 in passing the impugned order warranting interference in exercise of writ jurisdiction of this Court.
3. Mr. Amrito Das, learned counsel representing other respondents opposes the submissions and submits that no penal proceeding was drawn against the petitioner and it is only recovery proceeding which has been initiated. The petitioner has not arrayed complainants, who are necessary parties, as respondents in present petition. The order of respondent No.7 was passed in compliance of the direction of this Court in order dated 3.12.2019 passed in WPC No.4370/2019, which shows application of mind and the reasons for drawing conclusion, therefore, interim relief is not fit to be allowed.
4. Considered on the submissions.
5. Perused the impugned order, the memo of appeal and also

written arguments that was submitted by the petitioner.

6. One of grounds in the memo of appeal was that the petitioner was not given proper opportunity of hearing apart from other grounds raised. Detailed written arguments was submitted by the petitioner in support of the grounds raised in the appeal. The appellate order mentions of only one ground regarding opportunity of hearing and it was stated that the appellant was given sufficient opportunity for hearing. The other grounds were neither discussed nor rejected.
7. In the case of Siemens Engineering (supra), the Supreme Court made following observations in paragraph-6:-

“Before we part with this appeal, we must express our regret at the manner in which the Assistant Collector, the Collector and the Government of India disposed of the proceedings before them. It is incontrovertible that the proceedings before the Assistant Collector arising from the notices demanding differential duty were quasi judicial proceedings and so also were the proceedings in revision before the Collector and the Government of India. Indeed, this was not disputed by the learned counsel appearing on behalf of the respondents. It is now settled law that where an authority makes an order in exercise of a quasi-judicial function it must record its reasons in support of the order it makes. Every quasi-judicial order must be supported by reasons. That has been laid down by a long line of decisions of this Court ending with [N. M. Desai v. The Testeels Ltd. & Anr. \('\) But](#), unfortunately, the Assistant Collector did not choose to give any reasons in support of the order made by him confirming the demand for differential duty. This was in plain disregard of the requirement of law. The Collector in revision did give some sort of reason but it was hardly satisfactory. He did not deal in his order with the arguments advanced by the appellants in their representation dated 8th December, 1961 which were repeated in the subsequent representation dated 4th June, 1965. It is not suggested that the Collector should have made an elaborate order discussing the arguments of the appellants in the manner of a court of law. But the order of the Collector could have been a little more explicit and articulate so as to lend assurance that the case of the appellants has been properly considered by him. If courts of law are to be replaced by administrative authorities and tribunals, as indeed, in some kinds of cases, with the proliferation of Administrative law, they may have to be so replaced, it is essential that administrative authorities and tribunals should accord fair and proper hearing to the persons

sought to be affected by their orders and give sufficiently clear and explicit reasons in support of the orders made by them. Then alone administrative authorities and tribunals exercising quasi-judicial function will be able to justify their existence and carry credibility with the people by inspiring confidence in the adjudicatory process. The rule requiring reasons to be given in support of an order is, like the principle of audi alteram partem, a basic principle of natural justice which must inform every quasi-judicial process and this rule must be observed in its proper spirit and mere pretence of compliance with it would not satisfy the requirement of law. The Government of India also failed to give any reasons in support of its order rejecting the revision application. But we may presume that in rejecting the revision application, it adopted the same reason which prevailed with the Collector. The reason given by the Collector was, as already pointed out, hardly satisfactory and it would, therefore, have been better if the Government of India had given proper and adequate reasons dealing with the arguments advanced on behalf of the appellants while rejecting the revision application. We hope and trust that in future the Customs authorities will be more careful in adjudicating upon the proceedings which come before them and pass properly reasoned orders, so that those who are affected by such orders are assured that their case has received proper consideration at the hands of the Customs authorities and the validity of the adjudication made by the Customs authorities can also be satisfactorily tested in a superior tribunal or court. In fact, it would be desirable that in cases arising under Customs and Excise laws an independent quasi-judicial tribunal, like the Income-tax Appellate Tribunal or the Foreign Exchange Regulation Appellate Board, is set up which would finally dispose of appeals and revision applications under these laws instead of leaving the determination of such appeals and revision applications to the Government of India. An independent quasi-judicial tribunal would definitely inspire greater confidence in the public mind.

8. Further, in case of Secretary and Curator, Victoria Memorial Hall(supra) in paragraph-40 the Supreme Court has observed as under:-

“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 an order and exercise of judicial power by a judicial forum is to disclose its reasons by itself and giving of reasons has always been insisted upon as one of the fundamentals of

sound administration justice - delivery system, to make known that there had been proper and due application of mind to the issue before the Court and also as an essential requisite of principles of natural justice. "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." [Vide State of Orissa Vs. Dhaniram Luhar AIR 2004 SC 1794; and State of Rajasthan Vs. Sohan Lal & Ors. (2004) 5 SCC 573]."

9. In view of the principle as settled by the Supreme Court, respondent No.5 while exercising appellate jurisdiction was duty bound to pass a speaking order showing sufficient application of mind. Section 61 (3) of the Act, 1972 provides that the order of the appellate authority shall be final and which shall not be questioned in any Court of law. Therefore, it casts a duty upon the appellate authority in the capacity of last Court to exercise the jurisdiction lawfully and reasonably. Hence, I am of this view that the impugned order passed by respondent No.5 dated 22.2.2021 is not sustainable and is liable to be set aside.
10. Consequently, the writ petition is allowed at motion stage itself. The impugned order is set aside. The case is remanded back to respondent No.5 with a direction to decide the appeal of petitioner afresh in accordance with law after affording opportunity of hearing to the petitioner and other concerned and also by passing appropriate speaking order.
11. Certified copy as per rules.

Sd/-

(Rajendra Chandra Singh Samant)
Judge

Nisha