

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14780 of 2022

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Jeetendra Kumar Ray son of Prabhu Nath Ray resident of Khaki Baba Ke Tola, Mohammad Pur, P.S.- Garkha, District- Saran (Chapra).

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Agriculture, Government of Bihar, Patna.
2. The Principal Secretary, Department of Agriculture, Government of Bihar, Patna.
3. The Director, Department of Agriculture, Government of Bihar, Patna.
4. The Joint Director, Department of Agriculture, Government of Bihar, Patna.
5. The District Magistrate, Saran (Chapra).
6. The District Agriculture Officer, Saran (Chapra).
7. The Block Agriculture Officer, Garkha, Saran (Chapra).

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ram Kishore Singh, Adv.
For the Respondent/s : Mr. Anant Pd. Singh, SC15

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE PARTHA SARTHY)

Date : 03-11-2022

Heard learned counsel for the parties.

The petition has filed the instant application praying for quashing of the order issued vide memo no.1941 dated 19.9.2022 by the office of the District Agriculture Officer, Saran (Chapra) whereby and whereunder the petitioner's licence bearing no.D-SL21918062252123 for running a retail fertilizer shop vide ID No.405721 has been canceled on the ground that



the petitioner has sold surplus fertilizers in garb of sale to the farmers.

The facts in brief is that under the Direct Benefit Transfers (DBT) in fertilizers, the petitioner was granted licence to run a retail fertilizer shop of fertilizers which on expiry was renewed up to 31.3.2022 and once again till 17.6.2027.

The petitioner received a show cause notice contained in letter bearing memo no.1668 dated 24.8.2022 (Annexure-3) issued under the signature of District Agriculture Officer, Saran (Chapra) alleging therein that on the basis of an inquiry got conducted by the District Magistrate, Saran, it transpired that the petitioner had allegedly sold surplus fertilizers through Point Of Sale (POS) device. The petitioner was asked to submit his reply. On the petitioner submitting his reply dated 19.9.2022 (Annexure-7), as stated above, the District Agriculture Officer by the order impugned dated 19.9.2022 was pleased to cancel the licence of the petitioner for running the retail fertilizer shop vide ID No.405721.

It is submitted by learned counsel for the petitioner that the petitioner, along with the show cause notice was not supplied with a copy of the enquiry report which was the basis



for passing the order impugned against him.

Having heard learned counsel for the parties and taking into consideration the contents of the order impugned dated 19.9.2022, the points raised by the petitioner are not being considered in view of the nature of order that the Court intends to pass.

The Hon'ble Supreme Court has in a number of decisions held that even in case of quasi judicial authorities, recording of reasons in support of its conclusion is a must and that in an adjudicatory process, the principles of natural justice would include hearing the parties, application of mind and recording reasons for coming to the conclusion.

In the case of **Manohar versus State of Maharastra & Anr. [(2012)13 SCC14]** the Hon'ble Supreme Court has held as follows:

“17. The State Information Commission is performing adjudicatory functions where two parties raise their respective issues to which the State Information Commission is expected to apply its mind and pass an order directing disclosure of the information asked for or declining the same. Either way, it affects the rights of the parties who have raised rival contentions before the Commission. The



adjudicatory process essentially has to be in consonance with the principles of natural justice, including the doctrine of audi alteram partem. Hearing the parties, application of mind and recording of reasoned decision are the basic elements of natural justice. It is not expected of the Commission to breach any of these principles, particularly when its orders are open to judicial review. Much less to Tribunals or such Commissions, the Courts have even made compliance with the principle of rule of natural justice obligatory in the class of administrative matters as well.

18. In the case of *A.K. Kraipak v. Union of India* the Court held as under: (SCC pp.271-73, paras 17 and 20)

“17. ... It is not necessary to examine those decisions as there is a great deal of fresh thinking on the subject. The horizon of natural justice is constantly expanding...

19. In *Kranti Associates (P) Ltd. Masood Ahmed Khan* the Court dealt with the question of demarcation between the administrative orders and quasi-judicial orders and the requirement of adherence to natural justice. The Court held as under : (SCC pp.510-12, para 47)

“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”.)

(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* EHRR at p.562, para 29 and *Anyia v. University of Oxford*, 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’.”

21. Referring to the requirement of adherence to principles of natural justice in adjudicatory process, this Court in *Namit Sharma v. Union of India* held as under: (SCC p.799, para 99)

“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 *Siemens Engg. & Mfg Co. of India Ltd. v. Union of India & Anr.* and *CCT v. Shukla & Bros.*”

In the case of **B.A. Linga Reddy Etc. Etc. v. Karnataka State Transport Authority & Ors. (AIR 2015 SC 767)** the Hon’ble Supreme Court has held as follows:

“19. Modification of the scheme is a quasi-judicial function while modifying or cancelling a scheme. The State Government is duty-bound to consider the objections and to give



reasons either to accept or reject them. The rule of reason is anti-thesis to arbitrariness in action and is a necessary concomitant of the principles of natural justice.

20. In Siemens Engineering & Manufacturing Co. of India Ltd. v. Union of India [1976 (2) SCC 981: (AIR 1976 SC 1786)] it was held:

"6. x x x 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. Testeels Ltd.... 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 had 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, [pic]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. x x x."

21. This Court in Rani Lakshmi Bai Kshetriya Gramin Bank's case (AIR 1998 SC 3104) (supra) while relying upon [S.N. Mukherjee v. Union of India](#) [(1990 (4) SCC 594: (AIR 1990 SC 1984)] has laid down thus :

"8. The purpose of disclosure of reasons, as held by a Constitution Bench of this Court in [S.N. Mukherjee v. Union of India](#) (1990 (4) SCC 594: (AIR 1990 SC 1984), is that people must have confidence in the judicial or quasi-judicial authorities. Unless reasons are disclosed, how can a person know whether the authority has applied its mind or not? Also, giving of reasons minimises the 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."



22. A Constitution Bench of this Court has laid down in [Krishna Swami v. Union of India & Ors.](#) [1992 (4) SCC 605 : (AIR 1993 SC 1407 in para 46)] that if a statutory or public authority/functionary does not record the reasons, its decision would be rendered arbitrary, unfair, unjust and violating Articles 14 and 21 of the Constitution. This Court has laid down thus :

"Undoubtedly, in a parliamentary democracy governed by rule of law, any action, decision or order of any statutory/public authority/functionary must be founded upon reasons stated in the order or staring from the record. Reasons are the links between the material, the foundation for their erection and the actual conclusions. They would also demonstrate how the mind of the maker was activated and actuated and their rational nexus and synthesis with the facts considered and the conclusions reached. Lest it would be arbitrary, unfair and unjust, violating [Article 14](#) or unfair procedure offending [Article 21](#). But exceptions are envisaged keeping institutional pragmatism into play, conscious as we are of each other's limitations.

23. In [Workmen of Meenakshi Mills Ltd. & Ors. v. Meenakshi Mills Ltd. & Anr.](#) [1992 (3) SCC 336: (AIR 1994 SC 2696 in paras 42 and 49] while considering the principles of natural justice, it has been observed that it is the duty to give reasons and to pass a speaking order; that excludes arbitrariness in action as the same is



necessary to exclude arbitrariness. This Court has observed thus :

"We have already dealt with the nature of the power that is exercised by the appropriate Government or the authority while refusing or granting permission under sub-section (2) and have found that the said power is not purely administrative in character but partakes of exercise of a function which is judicial in nature. The exercise of the said power envisages passing of a speaking order on an objective consideration of relevant facts after affording an opportunity to the concerned parties. Principles or guidelines are insisted on with a view to control the exercise of discretion conferred by the statute. There is need for such principles or guidelines when the discretionary power is purely administrative in character to be exercised on the subjective opinion of the authority. The same is, however, not true when the power is required to be exercised on objective considerations by a speaking order after affording the parties an opportunity to put forward their respective points of view.

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We are also unable to agree with the submission that the requirement of passing a speaking order containing reasons as laid down in sub-section (2) of [Section 25-N](#) does not provide sufficient safeguard against arbitrary action. In [S.N. Mukherjee v. Union of India](#) [1990 (4) SCC 594: (AIR 1990 SC 1984)], it has been held that



irrespective of the fact whether the decision is subject to appeal, revision or judicial review, the recording of reasons by an administrative authority by itself serves a salutary purpose, viz., "it excludes chances of arbitrariness and ensures a degree of fairness in the process of decision-making."

So far as the facts of the instant case is concerned, the order impugned dated 19.9.2022 states that the explanation furnished by the petitioner pursuant to the show cause notice issued to him by the office contained in letter no.1668 dated 24.8.2022 was found to be unsatisfactory and as such in view of the violation of the Fertilizer Control Order, 1985 his licence for running a Retail Fertilizer Shop vide ID no.405721 was being canceled.

On bare perusal of the contents of the order dated 19.9.2022 canceling the licence of the petitioner, there remains no doubt that the same is an absolutely nonspeaking order bereft of any reasons for passing the same. On account of not having considered the explanation furnished by the petitioner in his reply to the show cause nor having dealt with the same, the order impugned dated 19.9.2022 is non sustainable and this writ application is fit to succeed on this ground alone.

Thus in view of the facts and circumstances stated



hereinabove, the order contained in memo no.1941 dated 19.9.2022 (Annexure-1) issued under the signature of the District Agriculture Officer, Saran (Chapra) canceling the licence of the petitioner for running a retail fertilizer shop vide ID no. 405721 being arbitrary and non sustainable is quashed.

However, liberty is granted to the respondent authorities to take appropriate action afresh, in accordance with law.

The application stands allowed.

(Sanjay Karol, CJ)

(Partha Sarthy, J)

Bibhash

AFR/NAFR	
CAV DATE	
Uploading Date	16.11.2022
Transmission Date	

