

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.25372 of 2022

Debasis Bhuyan

....

Petitioner

-versus-

State of Odisha & Ors.

....

Opposite Parties

CORAM:

JUSTICE BIRAJA PRASANNA SATAPATHY

ORDER

29.09.2022

Order No

01. 1. This matter is taken up through Hybrid Arrangement (Virtual/Physical) Mode.

2. Heard Mr. L.P. Dwivedy, learned counsel for the petitioner and Mr. M.K. Balabanataray, learned Standing Counsel appearing for the Opp. Parties.

3. The present writ Petition has been filed with the following prayer:-

“Under the aforesaid facts and circumstances, it is therefore, prayed that this Hon'ble Court may graciously be pleased to:

(i) quash the Order of Punishment, dated 24.11.2021, passed by the Opp.Party No.2 and rejection Order of the Appeal, dated 05.07.2022, passed by the Opp. Party No.1 as at Annexures-15 and 17 respectively by concurrently holding the same as bad, illegal and cannot be sustainable and/or maintainable in the eye of law;
(ii) pass such other order(s) or issue direction(s) as may be deemed fit and proper in the bona fide interest of justice;

And for this act of kindness, the Petitioner as in duty bound shall ever pray.”

4. Mr. Dwivedy, learned counsel for the Petitioner submitted that against the order of punishment passed in Disciplinary Proceeding,

when he preferred an appeal before the Appellate Authority-O.P. No. 1, but the said Opp. Party without assigning any reason whatsoever rejected the same vide order dtd.05.07.2022 under Annexure-17.

5. Mr. Dwivedy, learned counsel for the Petitioner submitted that since no reason has been assigned by the Appellate Authority while rejecting the appeal so filed by the Petitioner, the said order is nonest in the eye of law on the ground of having no reason assigned in it. In support of his aforesaid submission, Mr. Dwivedy relied on a decision of the Hon'ble Apex Court reported in the case of ***Maharashtra State of Board Secondary Education and Higher Secondary Education v. K.S. Gandhi & Ors. 1991(2) SCC 716.*** This Court finds that Hon'ble Supreme Court in Para 21 of the said order held as follows:-

“Unless the rule expressly or by, necessary implications excludes recording of reasons, it is implicit that the principles of natural justice or fair play does require recording of reasons. as a part of fair procedure. In an administrative decision, its order/decision itself may not contain reasons. It may not be the requirement of the rules, but the least, the record should disclose reasons. It may not be like a judgment. But the reasons may be precise. in S. N. Mukherjee v. Union of India, (1990) 3 JT 630: (AIR 1990 SC 1984), the Constitution Bench of this Court surveyed the entire case law in this regard, and we need not burden the Judgment to reiterate them once over and at page 643: (at page 1997 of AIR) in paragraph 40 it held that except in cases where the requirement has been dispensed with expressly or by necessary implication, an administrative authority exercising judicial or quasi-judicial functions is required to record the reasons for its decision.

In para 36 it was further held that recording of reasons excludes chances of arbitrariness and ensure a degree of fairness in the process of decision making. The said principle would apply equally to all decisions and its applications cannot be confined to decisions which are subject to appeal, revision or judicial review. "It is not required that the reasons should be as elaborate as in the decision of a Court of law". The extent and nature of the reasons would depend on particular facts and circumstances. What is necessary is that the reasons are clear and explicit so as to indicate that the authority has given due consideration, to the points in controversy. The need for recording reasons is greater in a case where the order is passed at the original stage. The appellate or revisional authority, if it affirms such an order, need not give separate reasons. If the appellate or revisional authority disagrees, the reasons must be contained in the order under challenge."

6. Since admittedly, this Court finds that no reason has been assigned by the Appellate Authority while rejecting the appeal vide order under Annexure-17, this Court while setting aside the same remands the matter to the Appellate Authority with a direction to reconsider the appeal in accordance with law and take a fresh decision within a period of three (3) months from the date of receipt of this order.

7. The writ Petition is disposed of.

(Biraja Prasanna Satapathy)
Judge

Sneha