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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.1282 OF 2022

Priti Dhananjay Shah .. Petitioner

Versus

The State of Maharashtra through
the Government Pleader & Ors. .. Respondents

WITH

WRIT PETITION NO.1283 OF 2022

Priti Dhananjay Shah .. Petitioner

Versus

The State of Maharashtra through
the Government Pleader & Ors. .. Respondents

...

Mr.Abhinav Chandrachud with Mr.Piyush M. Shah for the
Petitioner in both the Writ Petitions.

Mr.Sunil Chaturvedi i/b Chiyarahawala & Co. for the
Respondent Nos.4 and 5.

Mr.P.P.Pujari, AGP for the State/Respondent Nos.1 to 3.

...

CORAM: RAVINDRA V. GHUGE, J.
DATED : 10th FEBRUARY, 2022

P.C:-

1. The learned AGP has caused an appearance on behalf of
respondent Nos.1, 2 and 3 and the learned Advocate Shri
Chaturvedi has caused an appearance on behalf of respondent

Nos.4 and 5. These matters are in relation to the impugned orders dated 18/01/2022, which are interlocutory orders passed by the Additional Commissioner, Kokan Division, who is the Appellate Authority.

2. The learned counsel for the petitioner is justified in contending that the impugned order is without reasons. The learned AGP is called upon to state as to whether he could find any reasons assigned by the authority in support of the impugned order concluding that the interim relief application, during the pendency of the appeals filed by the petitioner, deserves to be rejected. The learned AGP is all at sea in attempting to find out a reason, which could emerge from the impugned order.

3. It calls for no debate that, an unreasoned order cannot be justified, since reasons amount to the soul of the order and reflect application of mind by the authority while passing the order. If an unreasoned order is a subject matter of judicial review, parties supporting the order cannot supplant reasons through their submissions when the impugned order reflects none.

4. The learned Advocate for respondent Nos.4 and 5 vehemently submits that the petitioner is in arrears of the leave and licence fees. The petitioner is legally bound to vacate the premises. If the petitioner is allowed to continue to occupy the premises, the leave and licence fees will have to be paid.

5. Though the learned Advocate for respondent Nos.4 and 5 may have a point, which is to be pressed while opposing the appeals filed by the petitioner, the issue before me today, is that the impugned orders are practically in one paragraph and without a single sentence of reason, supporting the conclusion. Merely stating that the authority has considered the submissions, has perused the impugned order and has perused the documents placed before him, is not enough to support a single sentence conclusion that the interim relief is refused. As noted above, reasons would indicate the assessment made by the authority and such reasons would then justify the conclusion.

6. I am informed that respondent No.3-authority would now be taking up the appeals for final hearing on 14/02/2022.

7. In view of the above, these petitions are allowed. The impugned orders dated 18/01/2022 are quashed and set aside, subject to the following conditions :-

(a) The interim applications in both the Appeal Nos.639 of 2021 and 640 of 2021, are restored to the file of respondent No.3.

(b) All the litigating parties would appear before respondent No.3 on 14/02/2022 at 12 noon.

(c) In between 14/02/2022 and 16/02/2022, the litigating parties would advance their oral submissions on the interim applications filed by the petitioner. Written notes of submissions as well as compilation of case-law can be filed.

(d) The oral submissions would be concluded by the litigating parties on 16/02/2022 by 5 p.m. and respondent No.3 would close the matter for passing orders.

(e) Respondent No.3 would thereafter deliver reasoned orders in both the matters at 4.30 p.m. on 04/03/2022 and copies of the order would be kept ready, to be supplied to the parties on payment of fees/charges, if any.

(f) Respondent No.3 shall note that a reasoned order would mean and include reasons to support his conclusions and if he desires to protect the petitioner until the decision in the appeals, he would balance the equities taking into account the amount to be recovered, which is Rs.66,00,000/- approximately and the law laid down in the matter of *M/s.Shewalkar Developers Ltd. Vs. Rupee Co-operative Bank Ltd. & Ors. 2016(1) ABR 636 (Nagpur Bench)*

(RAVINDRA V. GHUGE, J.)