

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5999 of 2022

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Bageshwari Prasad Son of Late Kali Yadav Resident of Village- Jagarnathpur,
Police Station- Chandhuri, District- Gaya.

... .. Petitioner/s

Versus

1. The State of Bihar through its Principal Secretary, Rural Works Department, Bihar, Patna.
2. The Principal Secretary, Rural Works Department, Bihar, Patna.
3. The Engineer in Chief, Rural Works Department, Bihar, Patna.
4. Chief Engineer (I), Rural Works Department, Bihar, Patna.
5. Executive Engineer, Rural Works Department, Work Division, Tikari, Gaya.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Sanjeev Kumar, Advocate Mr. Priya Ranjan, Advocate Mr. Mukesh Kumar, Advocate Mr. Nitish Kumar, Advocate
For the Respondent/s	:	Mr. Kumar Alok (Sc 7)

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE ARUN KUMAR JHA
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 14-02-2023

Heard learned counsels for the parties.

2. In the instant petition, petitioner has prayed for
following relief(s):-

"That this is an application on behalf of the above named petitioner for issuance of an appropriate writ/writs, order/orders, direction/directions orders for quashing the order dated 01.12.2021, which was served upon the petitioner on 03.01.2022 by memo no. 7664 dated 15.12.2021, passed by Principal Secretary, Rural Works Department, Bihar, Patna by



which the appeal of the petitioner against the order contained in memo no. 2003 dated 12.07.2021 by which the petitioner was put into black list for 10 years by the order of the Engineer in Chief, Rural Works Department, Bihar, Patna, has been rejected and further for quashing the order contained in memo no. 2003 dated 12.07.2021 by which the petitioner has been lack listed for 10 years and further for any other relief(s) for which the petitioner may be found entitled to."

3. We have perused the appellate authority's order read with memorandum of appeal. Petitioner has raised certain contentions before the appellate authority in his memorandum of appeal. However, the appellate authority has not considered each of the contention. On the other hand, perusal of the appellate authority's order reveals that there is non-application of mind in not considering the grounds for appeal.

4. In the light of these facts and circumstances, it is necessary to take note of and re-produce Apex Court's decision in the case of *Kranti Associates (P) Ltd. and Another V. Masood Ahmed Khan & Ors.* reported in (2010) 9 SSC 496 and in para 47 it is held as under:-

"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 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 562 para 29 and Anya 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”.

The principle laid down in the aforementioned judgment is aptly applicable to the case in hand.

5. The appellate authority's decision is amenable to judicial review, therefore, each of the contentions raised by the petitioner in his memorandum of appeal is required to be considered by the appellate authority.

6. Accordingly, petitioner has made out a *prima*



facie case so as to interfere with the appellate authority's order dated 01.12.2021 and it is set aside. Memorandum of appeal filed by the petitioner stands restored on the file of the appellate authority. The appellate authority is hereby directed to decide memorandum of appeal of the appellant afresh after due consideration of each of the contention stated in the memorandum of appeal and proceed to pass order. The above exercise shall be undertaken by the appellate authority within a period of three months from the date of receipt of this order.

6. Accordingly, present writ stands allowed in part.

(P. B. Bajanthri, J)

(Arun Kumar Jha, J)

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AFR/NAFR	
CAV DATE	N.A.
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