

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7540 of 2019

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M/S Rajan Construction through its Proprietor Mamta Singh, aged about 39 years, wife of Sri Rajan Kumar Singh, R/o Mohalla-Block More, Old G.T. Road, Aurangabad, District-Aurangabad

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Road Construction Department, Patna
2. The Engineer-in-Chief-cum Additional Commissioner-cum Special Secretary Road Construction Department, Bihar, Patna
3. The Chief Engineer (North) Road Construction Department, Bihar, Patna
4. The Superintending Engineer Road Construction Department, Muzaffarpur
5. The Executive Engineer Road Division No. 1, Road Construction Department, Muzaffarpur
6. The Executive Engineer Flying Square Division No. 2, Road Construction Department, Patna

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Rajendra Narayan, Sr. Advocate Mr. Anil Kumar, Advocate
For the Respondent/s	:	Mr. A.K. Dubey, AC to AAG-11

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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 : 24-02-2023

Heard learned counsels for the parties.

2. In the instant petition, petitioner has prayed for following reliefs:-

"A. For issuance of an appropriate writ directing and commanding the respondents to quash the office order no. 225 dated 19.12.2017 issued containing Memo no. 7205(E) issued by the Respondent No.- 2 whereby and where under suspended



the contract license of the Petitioner for next two year as well as directed for recovery of amount of bitumen less used by petitioner in construction of road Devariya – Baruraj under Muzaffarpur Road Division no.-1 in year 2011-12.

B. For issuance an appropriate writ directing and commanding the respondents to quash the order dated 19.3.2018 containing memo no. 2045(E) passed by the Respondent no.-1 The Principle Secretary, Road Construction Department, Bihar, Patna whereby and where under reject the application under appeal of the petitioner.

C. For issuance of any other writ/ writs/ order/ orders to which the petitioner may be found entitled to."

3. Petitioner was allotted road construction work worth Rs. 9 crores in the year 2011 to 2012. He had completely executed the work which was allotted to him within 16 months from the date of contract. Thereafter, everything was settled among the respective parties. However, in the year 2014, the concerned official is stated to have undertaken inspection of the work executed by the petitioner and alleged to have found certain substandard work, in the result show cause notice was issued in the year 2017 and thereafter proceeded to suspend the license for a period of two years on 19.12.2017 and with reference to alleged substandard work certain amount was ordered to be recovered from the petitioner. Feeling aggrieved by the order of suspension of license for a period of two years



and proposal for recovery was subject-matter of appeal before the appellate authority. The appellate authority passed order on 19.03.2018, vide Annexure-7. Perusal of appellate authority's order, there is no consideration of petitioner's appeal, like each of contentions have not been dealt with as is evident from para 8 and 9 of the appellate authority's order. Appellate authority's order is subject to judicial review and therefore appellate authority's order should have been speaking and reasoned order in order to appreciate whether his/her order is amenable to judicial review or not? Therefore, there is a dearth of reasoning in not considering each of the contentions raised by the petitioner in his memorandum of appeal by the appellate authority.

4. At this stage, it is necessary to take note of 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”.

In the light of principle laid down in the Apex Court's decision, we find *prima facie* the appellate authority's order dated 19.03.2018 is not speaking order. Hence, it is set aside and the matter is remanded to the appellate authority to



consider petitioner's appeal afresh within a period of three months from the date of receipt of this order. Appellate authority is hereby directed to take note of each and every contentions stated in the memorandum of appeal and proceed to pass order strictly in accordance with relevant materials and rules.

5. Accordingly, the present petition stands allowed.

6. Order of suspending license and recovery shall not be given effect till final order afresh is passed by the appellate authority.

(P. B. Bajanthri, J)

(Arun Kumar Jha, J)

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AFR/NAFR	NAFR
CAV DATE	N.A.
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