

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

256

CWP-15866-2021

Date of Decision :-11.12.2023

Kuldeep Singh

..Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Ankur Goyat, Advocate for
Mr. Ramesh Goyat, Advocate for the petitioner.

Mr. Harish Nain, AAG, Haryana.

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Harsimran Singh Sethi, J. (Oral)

1. Learned counsel for the petitioner submits that the petitioner was imposed a punishment vide order dated 02.01.2018 (Annexure P/6) against which order, the petitioner preferred an appeal in which appeal, order of punishment was modified to some extent.

2. Feeling aggrieved against the decision of the appellate Court, the petitioner preferred a revision before the Principal Secretary, Government of Haryana, Transport Department, which was dismissed by the authority concerned vide order dated 25.11.2020(Annexure P/8) without giving any reasons and only by mentioning that the appeal has been dismissed.

3. Learned counsel for the petitioner argues that the revision could not have been dismissed without giving detailed reasons and in the present

case, the revision preferred by the petitioner against the order of the appellate authority has been dismissed without there being any discussions on the grounds raised before the revisional authority.

4. Learned counsel for the respondents submits that once the appellate Court has passed the detailed order, the revisional authority deemed it fit to pass an appropriate order dismissing the same without giving reasons.

5. I have heard learned counsel for the parties and have gone through the record with their able assistance.

6. It is a settled principle of law settled by the Hon'ble Supreme Court of India in **Civil Appeal No.457-1970 titled as Mahabir Prasad Santosh Kumar vs. State of U.P. and others decided on 02.04.1970** wherein, it has been held that authorities being quasi judicial authority while passing an order of punishment, considering an appeal or revision has to decide the revision/appeal by passing a speaking order so that from the order, it could be transpired that what weighted in the mind of the authority concerned to arrive at a particular conclusion so that the employee concerned should also decide to take appropriate remedy against the said order. Relevant paragraphs of the said judgment is as under:-

“5.The case discloses a disturbing state of affairs. The authorities have disclosed by their conduct a reckless disregard of the rights of the appellants. The order passed by the District Magistrate cancelling the licences was a quasi-judicial : it could be made only on a consideration of the charges and the explanation given by the appellants. That necessarily implied that the District Magistrate had to give some reasons why he held the charges proved, and the explanation unacceptable. When the matter was carried in appeal, the State Government could at least have acted with some awareness that citizens have rights which must-be protected against possible arbitrary action by subordinate officials. The District Magistrate is not made the final authority in cancelling the licence. The appellants had a right to carry on their business, and they held a licence to carry

on their business they could be deprived of their right by an executive order supported by good and adequate reasons. The relevant rules granted a right of appeal to the State Government against that order, and that implied that the aggrieved party must have an Opportunity to convince the State Government that the order passed by the District Magistrate was erroneous. That right could be effectively exercised if reasons be recorded by the District Magistrate and supplied to the aggrieved party. If the aggrieved party is not supplied the reasons, the right to appeal is an empty formality.

6. From the materials on the record it cannot be determined as to who considered the appeal addressed to the State Government, and what was considered by the authority exercising power on behalf of the State Government. The practice of the executive authority dismissing statutory appeals against orders which prima facie seriously prejudice the rights of the aggrieved party without giving reasons is a negation of the rule of law. This Court had occasion to protest against this practice in several decisions : see [Madhya Pradesh Industries Ltd. v. Union of India & Others](#)(1) (per Subba Rao, J.); [Bhagat Raja v. Union of India and Ors](#)(2); [State of Madhya Pradesh and Anr. v. Seth Narsinghdas Jankidas Mehta](#)(2). [The State of Gujarat v. Patel Raghav Natha](#) and Ors.(4); and [Prag Das Umar Vaishya v. The Union of India and Ors](#).(5). The power of the District Magistrate was quasi-judicial : exercise of the power of the State Government was subject to the supervisory power of the High Court under [Art. 227](#) of the Constitution and of the appellate power of this Court under [Art. 136](#) of the Constitution. The High Court and this Court would be placed under a great disadvantage if no reasons are given, and the appeal is dismissed without recording and communicating any reasons.”

7. Keeping in view the facts and circumstances of the present case coupled with the settled principle of law, order dated 25.11.2020 (Annexure P/8) is set aside, respondent No.1 is directed to pass a fresh order by giving due reasons within a period of two months from the date of receipt of copy of this order.

December 11, 2023
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No