

**IN THE HIGH COURT OF PUNJAB & HARYANA  
AT CHANDIGARH**

**CWP No. 16166 of 2022**

**Date of decision: 25<sup>th</sup> January, 2023**

Anil Kumar

Petitioner

Versus

State of Haryana and others

Respondent

**CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN**

Present: Mr. Ajay Kumar, Advocate for the petitioner.  
Mr. Sharad Aggarwal, AAG, Haryana.

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**AVNEESH JHINGAN, J (Oral):**

1. The writ petition in the nature of *Certiorari* is filed for quashing of order dated 18.5.2022 allowing the appeal and setting aside the order cancelling the ration depot licence of respondent No. 4 (for short respondent).
2. The facts in brief culled out are that the petitioner along with Akash on 31.8.2021 filed a complaint in the office of District Food and Supplies Controller, Charkhi Dadri (for short, 'DFSC'). On the complaint a committee was constituted, on the basis of enquiry report DFSC vide order dated 6.12.2021 cancelled licence of respondent. The appeal filed against cancellation was allowed and order of cancellation set aside.
3. Learned counsel for the petitioner submits that there were serious allegations against respondent and the appellate authority by non-speaking order allowed the appeal.

4. Heard learned counsel for the petitioner and counsel for the State at length and perused the pleadings.

5. The cancellation of licence has serious consequences. In case in hand, the cancellation and the appellate orders are non speaking. Law is well settled that quasi judicial orders should contain reasons. The basis for arriving at decision should be communicated to the parties. Moreover, in appeal or while under judicial scrutiny the reasoned order should stand on its legs.

6. The Supreme Court in M/ s Kranti Associates Pvt. Ltd. & another v. Sh. Masood Ahmed Khan and others, 2010(9) SCC 496, after considering the law on the issue summed up as under:

*51. 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 a 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 life blood 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 (1987) 100 Harward Law Review 731-737).*

*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 (1994) 19 EHRR 553, at 562 para 29 and **Anyia v. University of Oxford, 2001 EWCA Civ 405**, wherein the Court referred to Article 6 of 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".*

7. The matter should normally be remanded on the basis that the orders of cancellation and appellate authority are non-speaking. However, after perusing the enquiry report, cancellation and appellate orders, it is evident that the cancellation of licence was on the basis of enquiry report. The enquiry report reveals that the columns of preprinted performa were filled, there is no mention of the contents of the statements recorded of the card holders. No basis is given for concluding that the depot holder had misappropriated 525 kilograms wheat of Pradhan Mantri Garib Kalyan Yojna. The DFSC without discussing the material if any, available against the depot holder and defence taken by him, cancelled the licence.

8. In appeal, a specific stand was taken by respondent that there were total 176 card holders in village Gopalwas, the Committee recorded the statements of thirty three consumers and out of which twenty two card holders had no complaint against him. Further out of remaining ten card holders, eight were the consumers who had never taken ration from the depot. On the basis of statements of three card holders, the licence was

cancelled. The contention was that three card holders had personal enmity with respondent. The appellate authority concluding that the complaint was a result of personal enmity allowed the appeal.

9. During the course of hearing and in the pleadings in the writ petition, the factual stand taken by respondent in appeal has not been controverted. The enquiry report bereft of details and of basis for concluding embezzlement cannot be solely relied for cancellation of licence. No case is made out for interference in writ jurisdiction.

11. The writ petition is dismissed.

12. Since the main petition has been disposed of, pending application, if any, is rendered infructuous.

[AVNEESH JHINGAN]  
JUDGE

25<sup>th</sup> January, 2023  
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|-------------------------------|---|----------|
| 1. Whether speaking/ reasoned | : | Yes / No |
| 2. Whether reportable         | : | Yes / No |