

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

**CWP-27093-2017 (O&M)
Date of Decision:04.12.2023**

Shri Bhagwan

.....Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present:- Mr. Deepak Sonak, Advocate for the petitioner.

Mr. Saurabh Mohunta, DAG, Haryana.

HARSIMRAN SINGH SETHI J.(Oral)

In the present petition, the grievance of the petitioner is that in the Annual Confidential Reports for various years, adverse remarks have been recorded, against which the petitioner had filed an appeal, which appeal has been rejected by the respondent, by passing a totally cryptic and non-speaking order without giving any reason as to what weighed in mind of the appellate authority while rejecting the appeal of the petitioner.

2. Learned counsel for the respondent submits that the adverse remarks in the ACRs were within the knowledge of the petitioner and said remarks have been recorded keeping in view the record of the petitioner and the order in appeal has been passed on the basis of same though it could have been better worded.

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

4. It is a settled principle of law that any executive order has to be a reasoned order so as to give a reason for arriving at a particular conclusion. It is

settled principle of law even when an appeal is preferred, the same needs to be decided by giving due reasons and that too by dealing with all the grounds taken in the appeal. This is for the reason that in case the employee is aggrieved against the decision, he/she can avail appropriate remedy by knowing as to what weighed in the mind of the authorities concerned while accepting or rejecting his/her claim.

5. The judgment of the Hon'ble Supreme Court in ***Civil Appeal No.457 of 1970*** titled as ***Mahabir Prasad Santosh Kumar Vs. State of U.P. and others.*** can be placed reliance upon for the said question of law. Relevant paragraphs of which are 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, (1966) 1 SCR 466 (per Subba Rao, J.); Bhagat Raja v. Union of India, (1967) 3 SCR 302; State of Madhya Pradesh v. Narsinghdas Jankidas Mehta C.A No.681 of 1966 decided on 29.04.1969 (SC); State of Gujarat v. Patel Raghav Nath, C.A. No.723 of 1966 decided on 21-4-1969 and Prag Das Umar Vaishya v. The Union of India, C.A. No.657 of 1965, decided on 17-8-1967 (SC).** 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*

6. A bare perusal of the impugned order passed in appeal dated 30.01.2017 (Annexure P-8) passed by the respondent No.1 attached at page No.33 with the writ petition would show that the Government had rejected the appeal filed by the petitioner and that too by single line without giving any reason for arriving at the said conclusion. In the appeal filed, copy of which has been appended as Annexure P-7, the petitioner has taken certain grounds to challenge the decision of the authorities concerned in recording the adverse remarks in annual confidential reports. It was incumbent upon the Government to deal with the said pleas while passing an appropriate order in appeal so as to give reason for not accepting the pleas raised by the petitioner in his appeal. That being so, the order dated 30.07.2017 at Annexure P-8 is set aside.

7. The case is remanded back to the authorities concerned to pass a fresh speaking order as required under the law. Let the fresh order be passed within a period of two months from the receipt of certified copy of this order.

04.12.2023

shweta

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No