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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 14th August, 2023

IN THE MATTER OF:

+ **W.P.(C) 16080/2022 & CM APPLs. 50191/2022, 6634/2023**

SH. CHITRESH VATS

..... Petitioner

Through: Mr. Shambhu, Advocate.

versus

GOVT. OF NCT OF DELHI, & ANR.

..... Respondents

Through: Mr. Avishkar Singhvi, Mr. Vivek Kr. Singh and Mr. Naved Ahmed, Advocates.

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

JUDGMENT (ORAL)

1. The Petitioner, by way of the instant writ petition, seeks to challenge the Orders dated 06.10.2021 and 16.08.2022 passed by the Respondents cancelling the licence of the Petitioner.
2. The aforesaid Orders dated 06.10.2021 and 16.08.2022 which are under challenge in the present petition do not give any reasons as to why the decision of cancelling the licence of the Petitioner has been taken by the Respondents. Even the counter affidavit filed by the Respondents does not show any reason explaining as to why the Orders dated 06.10.2021 and 16.08.2022 cancelling the licence of the Petitioner were passed.
3. In Madhyamam Broadcasting Ltd. v. Union of India, **2023 SCC OnLine SC 366**, the Apex Court has observed as under:

“62. The principles of natural justice ensure that



justice is not only done but it is seen to be done as well. A reasoned order is one of the fundamental requirements of fair administration. It holds utmost significance in ensuring fairness; scholars and courts now term it as the third principle of natural justice.

47. The rule of a reasoned order serves five important purposes. Firstly, it ensures transparency and accountability. It places a check on arbitrary exercise of power. Lord Denning observed that in giving reasons “lies a whole difference between a judicial decision and an arbitrary one”.

48. Justice Bhagwati observed in Maneka Gandhi (supra) that the rule is “designed to secure the rule of law and the court should not be too ready to eschew it in its application to a given case.” Secondly, non-reasoned orders have the practical effect of placing the decision out of the purview of judicial review. A non-reasoned order limits the power of the courts to exercise judicial review because the scope of judicial review is not limited to the final finding on law or facts but extends to the reasons to arrive at the finding. A limitation on the right to appeal necessarily means that the scope of judicial review is restricted. Thirdly, articulation of reasons aids in arriving at a just decision by minimalizing concerns of arbitrary state action.

49 It introduces clarity of thought.

50 and eschews irrelevant and extraneous considerations. Fourthly, it enhances the legitimacy of the institution because decisions will appear to be fair. There is a higher probability that the finding through a reasoned order is just. Fifthly, reasoned orders are in furtherance of the right to information and the constitutional goal of open government. Secrecy



broods partiality, corruption and other vices that are antithetical to a governance model that is premised on the rule of law.” (emphasis supplied)

4. In Siemens Engg. & Mfg. Co. of India Ltd. v. Union of India, (1976) 2 SCC 981, the Apex Court has observed as under:

“6. Before we part with this appeal, we must express our regret at the manner in which the Assistant Collector, the Collector and the Government of India disposed of the proceedings before them. It is incontrovertible that the proceedings before the Assistant Collector arising from the notices demanding differential duty were quasi-judicial proceedings and so also were the proceedings in revision before the Collector and the Government of India. Indeed, this was not disputed by the learned Counsel appearing on behalf of the respondents. It is now settled law that where an authority makes an order in exercise of a quasi-judicial function, it must record its reasons in support of the order it makes. Every quasi-judicial order must be supported by reasons. That has been laid down by a long line of decisions of this Court ending with N.M. Desai v. Testeels Ltd. [C. A. No. 245 of 1970, decided on December 17, 1975] . But, unfortunately, the Assistant Collector did not choose to give any reasons in support of the order made by him confirming the demand for differential duty. This was in plain disregard of the requirement of law. The Collector in revision did give some sort of reason but it was hardly satisfactory. He did not deal in his order with the arguments advanced by the appellants in their representation dated December 8, 1961 which were repeated in the subsequent representation dated June 4, 1965. It is not suggested that the Collector should have made an elaborate order discussing the arguments of the appellants in the manner of a Court of law. But the order of the Collector could have been



a little more explicit and articulate so as to lend assurance that the case of the appellants had been properly considered by him. If courts of law are to be replaced by administrative authorities and tribunals, as indeed, in some kinds of cases, with the proliferation of Administrative Law, they may have to be so replaced, it is essential that administrative authorities and tribunals should accord fair and proper hearing to the persons sought to be affected by their orders and give sufficiently clear and explicit reasons in support of the orders made by them. Then alone administrative authorities and tribunals exercising quasi-judicial function will be able to justify their existence and carry credibility with the people by inspiring confidence in the adjudicatory process. The rule requiring reasons to be given in support of an order is, like the principle of audi alteram partem, a basic principle of natural justice which must inform every quasi-judicial process and this rule must be observed in its proper spirit and mere pretence of compliance with it would not satisfy the requirement of law. The Government of India also failed to give any reasons in support of its order rejecting the revision application. But we may presume that in rejecting the revision application, it adopted the same reason which prevailed with the Collector. The reason given by the Collector was, as already pointed out, hardly satisfactory and it would, therefore, have been better if the Government of India had given proper and adequate reasons dealing with the arguments advanced on behalf of the appellants while rejecting the revision application. We hope and trust that in future the customs authorities will be more careful in adjudicating upon the proceedings which come before them and pass properly reasoned orders, so that those who are affected by such orders are assured that their case has received proper consideration at the hands of the Customs Authorities and the validity of the adjudication made by the



Customs Authorities can also be satisfactorily tested in a superior tribunal or court. In fact, it would be desirable that in cases arising under customs and excise laws an independent quasi-judicial tribunal, like the Income Tax Appellate Tribunal or the Foreign Exchange Regulation Appellate Board, is set up which would finally dispose of appeals and revision applications under these laws instead of leaving the determination of such appeals and revision applications to the Government of India. An independent quasi-judicial tribunal would definitely inspire greater confidence in the public mind.”

5. Similarly, in S.N. Mukherjee v. Union of India, (1990) 4 SCC 594, the Apex Court has observed as under:

“35. The decisions of this Court referred to above indicate that with regard to the requirement to record reasons the approach of this Court is more in line with that of the American courts. An important consideration which has weighed with the court for holding that an administrative authority exercising quasi-judicial functions must record the reasons for its decision, is that such a decision is subject to the appellate jurisdiction of this Court under Article 136 of the Constitution as well as the supervisory jurisdiction of the High Courts under Article 227 of the Constitution and that the reasons, if recorded, would enable this Court or the High Courts to effectively exercise the appellate or supervisory power. But this is not the sole consideration. The other considerations which have also weighed with the Court in taking this view are that the requirement of recording reasons would (i) guarantee consideration by the authority; (ii) introduce clarity in the decisions; and (iii) minimise chances of arbitrariness in decision-making. In this regard a distinction has been drawn between ordinary courts of law and tribunals and



authorities exercising judicial functions on the ground that a Judge is trained to look at things objectively uninfluenced by considerations of policy or expediency whereas an executive officer generally looks at things from the standpoint of policy and expediency.

36. Reasons, when recorded by an administrative authority in an order passed by it while exercising quasi-judicial functions, would no doubt facilitate the exercise of its jurisdiction by the appellate or supervisory authority. But the other considerations, referred to above, which have also weighed with this Court in holding that an administrative authority must record reasons for its decision, are of no less significance. These considerations show that the recording of reasons by an administrative authority serves a salutary purpose, namely, it excludes chances of arbitrariness and ensures a degree of fairness in the process of decision-making. The said purpose would apply equally to all decisions and its application cannot be confined to decisions which are subject to appeal, revision or judicial review. In our opinion, therefore, the requirement that reasons be recorded should govern the decisions of an administrative authority exercising quasi-judicial functions irrespective of the fact whether the decision is subject to appeal, revision or judicial review. It may, however, be added that it is not required that the reasons should be as elaborate as in the decision of a court of law. The extent and nature of the reasons would depend on particular facts and circumstances. What is necessary is that the reasons are clear and explicit so as to indicate that the authority has given due consideration to the points in controversy. The need for recording of reasons is greater in a case where the order is passed at the original stage. The appellate or revisional authority, if it affirms such an order, need not give separate reasons if the appellate or revisional



authority agrees with the reasons contained in the order under challenge.

37. Having considered the rationale for the requirement to record the reasons for the decision of an administrative authority exercising quasi-judicial functions we may now examine the legal basis for imposing this obligation. While considering this aspect the Donoughmore Committee observed that it may well be argued that there is a third principle of natural justice, namely, that a party is entitled to know the reason for the decision, be it judicial or quasi-judicial. The Committee expressed the opinion that “there are some cases where the refusal to give grounds for a decision may be plainly unfair; and this may be so, even when the decision is final and no further proceedings are open to the disappointed party by way of appeal or otherwise” and that “where further proceedings are open to a disappointed party, it is contrary to natural justice that the silence of the Minister or the Ministerial Tribunal should deprive them of the opportunity”. (p. 80) Prof. H.W.R. Wade has also expressed the view that “natural justice may provide the best rubric for it, since the giving of reasons is required by the ordinary man's sense of justice”. (See Wade, Administrative Law, 6th edn. p. 548.) In Siemens Engineering Co. case [(1976) 2 SCC 981 : 1976 Supp SCR 489] this Court has taken the same view when it observed that “the rule requiring reasons to be given in support of an order is, like the principles of audi alteram partem, a basic principle of natural justice which must inform every quasi-judicial process”. This decision proceeds on the basis that the two well known principles of natural justice, namely (i) that no man should be a judge in his own cause, and (ii) that no person should be judged without a hearing, are not exhaustive and that in addition to these two principles there may be rules which seek to ensure



fairness in the process of decision-making and can be regarded as part of the principles of natural justice. This view is in consonance with the law laid down by this Court in A.K. Kraipak v. Union of India [(1969) 2 SCC 262 : (1970) 1 SCR 457] wherein it has been held : (SCR pp. 468-69 : SCC p. 272, para 20)

“The concept of natural justice has undergone a great deal of change in recent years. In the past it was thought that it included just two rules namely : (i) no one shall be a judge in his own cause (nemo debet esse judex propria causa), and (ii) no decision shall be given against a party without affording him a reasonable hearing (audi alteram partem). Very soon thereafter a third rule was envisaged and that is that quasi-judicial enquiries must be held in good faith, without bias and not arbitrarily or unreasonably. But in the course of years many more subsidiary rules came to be added to the rules of natural justice.”

(emphasis supplied)

6. In view of the above, the aforesaid Orders dated 06.10.2021 and 16.08.2022 are set aside. The matter is remanded back to the Transport Department, GNCTD for passing a fresh Order in accordance with law. Let the exercise be done within a period of four weeks from the date of receipt of this Order.

7. The writ petition is disposed of, along with pending application(s), if any.

SUBRAMONIUM PRASAD, J

AUGUST 14, 2023

S. Zakir