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W.P.No.39119 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 20.12.2024

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THE HONOURABLE Ms. JUSTICE P.T. ASHA

W.P.No.39119 of 2024

S.Gunachandran

...Petitioner

Vs.

1.The District Collector
District Collector Office,
Collectorate GST Road,
Chengalpattu - 603 001

2.The District Surveyor
District Survey Office,
Chengalpattu - 603 001

3.The Tahsildar
Tambaram Taluk,
Tahsildar Office,
Chennai-Trichy Highway,
Chitlapakkam, West Tambaram-600 045

...Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the entire



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records ending with the order dated 19.09.2024 of the second respondent sent through SMS rejecting the petitioner's application No.2024/0105/35/500187 dated 21.08.2024 for issue of patta in his name after subdivision in respect of petitioner's land in plot no.23, survey no.54 of Sembakkam Village, Tambaram Taluk, Chengalpattu District, measuring about 2400 square feet and direct the respondents to reconsider the petitioner's said application for issue of patta in his name.

For Petitioner : Mr. Duraikkan

For Respondents : Mr. M.R.Gokul Krishnan
Additional Government Pleader.

ORDER

The Writ Petition is filed for the following relief:

“Call for the entire records ending with the order dated 19.09.2024 of the second respondent sent through SMS rejecting the petitioner's application No.2024/0105/35/500187 dated 21.08.2024 for issue of



patta in his name after subdivision in respect of petitioner's land in plot in his name after subdivision in respect of petitioner's land in plot no.23, survey no.54 of Sembakkam Village, Tambaram Taluk, Chengalpattu District, measuring about 2400 square feet and direct the respondents to reconsider the petitioner's said application for issue of patta in his name”.

2. The petitioner purchased the subject property measuring an extent of 2400 Sq.ft., under a sale deed dated 29.06.1987, from one Earnest Challadorai and has been in possession and enjoyment of the property since then. The petitioner has been paying the taxes regularly.

3. The petitioner applied for issuance of patta in his name in Application No.2024/0105/35/500187, vide online on 21.08.2024. The petitioner has produced all the documents, including sale deed dated 29.06.1987, Encumbrance certificate for the period from 01.01.1940 to 22.07.2024, property tax receipt dated 13.07.2024, issued by the



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Tambaram Municipality, etc., The petitioner has also paid necessary charges for issuance of patta.

4. The petitioner would submit that his application has been rejected vide SMS dated 19.09.2024, by the 3rd respondent. The petitioner is aggrieved by the fact that the order passed is a non – speaking order. Therefore, the petitioner is before this Court.

5. Heard the learned counsels on the either side and perused the records.

6. The Writ Petition emanates from the order of the third respondent rejecting the request of the petitioner for grant of patta. From a mere perusal of the impugned order it is clear that the order is a non-speaking one.

7. E-Governance has been introduced with the ultimate objective to bring public services close to the homes of the citizens and in a



convenient, efficient and transparent manner. The National e-Governance Plan (NeGP) has been rolled out across the country with this vision statement.

8. “Make all Government services accessible to the common man in his locality through common service delivery outlets and ensure efficiency, transparency and reliability of such services at affordable costs to realise the basic needs of the common man.”

9. The E-District Projects adopted by the State is a part of this NeGP. The scheme not only envisages an easy accessibility to the services, but it also contemplates a transparency in these services which is clear from the Vision Statement. Therefore, when the authority whose statutory services has been availed by a common citizen and his request is turned down, he has a right to know the reason for the refusal as the scheme contemplates transparency.



10. The Hon'ble Supreme Court in ***Kranti Associates Private Limited and another Vs. Masood Ahmed Khan and others reported in (2010) 9 SCC 496***, was considering a cryptic order of dismissal passed by the National Consumer Disputes Redressal Commission. The learned Judges observed that *“an order passed by a quasi-judicial authority or even an administrative authority affecting the rights of the parties, must speak. It must not be like the “inscrutable face of a sphinx”*. The learned Judges after discussing the various judgments summarised their discussions as follows in para 47:

“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 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 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.



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(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 Harvard Law Review 731-37].)

*(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 [(1994) 19 EHRR 553] EHRR, at 562 para 29 and Anya v. University of Oxford [2001 EWCA Civ 405 (CA)]**, 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”.”

11. Therefore, taking into consideration the dicta laid down in the above case and taking into account the vision of NeGP viz., “Transparency”, the authorities while rejecting a request, shall give a speaking order giving reasons for the decision.

12. In the result, the Writ Petition is allowed. The impugned order i.e., SMS dated 19.09.2024 is quashed. The respondents shall consider the representation of the petitioner a fresh and pass speaking orders, within a period of 3 months, from the date of receipt of a copy of this order. No costs.

20.12.2024

Index : Yes/No
Internet : Yes/No
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P.T. ASHA, J,

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