

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

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CWP-16364-2017 (O&M)

Date of Decision :14.02.2024

Satish Kumar (since deceased) through LRs

...Petitioner

Versus

State of Haryana and others

....Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Jitender Nara, Advocate for the petitioner.

Mr. Saurabh Mohunta, DAG, Haryana.

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Harsimran Singh Sethi, J. (Oral)

1. In the present petition, challenge is to order dated 12.09.2013 (Annexure P-3) by which, the petitioner was dismissed from service as well as order passed in appeal dated 24.05.2016 (Annexure P/4) and also order dated 20.12.2016 (Annexure P/6) by which, revision petition filed by the petitioner before the Government was dismissed.

2. Learned counsel for the petitioner argues that order dated 20.12.2016 (Annexure P/6) passed by the Government deciding the revision petition filed by the petitioner is totally a cryptic and non-speaking order as no reason has been mentioned as to why the revision petition filed by the petitioner has been rejected and hence, the said order needs to be set aside with direction to the respondent-State to pass a fresh order in accordance with law.

3. Learned counsel for the respondent-State submits that once an

order of dismissal from service as well as order in appeal has been passed by the authority concerned, no reason was required to be given by the revisional authority in the order deciding the revision petition filed by the petitioner hence, the order dated 20.12.2016 (Annexure P/6) passed by the revisional authority is totally perfect and legal.

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

5. 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 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. 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.”

6. Learned counsel for the respondents has not been able to rebut that the order dated 20.12.2016 (Annexure P-6) passed by the authority concerned while deciding the revision petition filed by the petitioner is a

cryptic and non-speaking order.

7. Keeping in view the facts and circumstances recorded hereinbefore, order dated 20.12.2016 (Annexure P-6) passed by the authority concerned is set aside. Respondent-State is directed to pass a fresh order on the revision petition filed by the petitioner in accordance with law within a period of 08 weeks from the date of receipt of copy of this order.
8. Needless to say, whatever speaking order will be passed by the authority concerned, the same be conveyed to the petitioner.
9. Present petition stands disposed of in above terms.

February 14, 2024

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(HARSIMRAN SINGH SETHI)

JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No