



CWP-21693-2024

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

(104)

CWP-21693-2024

Date of decision:- 02.09.2024

Mohammad Swaleh

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Saleem Ahmed, Advocate
for the petitioner.

...

SUVIR SEHGAL, J. (Oral)

1. Instant writ petition has been filed under Article 226/227 of the Constitution of India *inter alia* for issuance of a writ in the nature of certiorari for quashing order dated 19.01.2023, Annexure P-4, passed by respondent No.3, by which, license of the ration depot of the petitioner was cancelled, as well as order dated 07.11.2023, Annexure P-6, passed by respondent No.2, whereby, appeal against order, Annexure P-4, was rejected.

2. In brief, the facts leading to the filing of the petition are that the petitioner was allotted a license under the Haryana Targeted Public Distribution System (Licensing and Control) Order, 2022 (for short "the Control Order") for a ration depot. During elections in October, 2022, petitioner was elected as a Panch, however, vide letter dated 23.12.2022, Annexure P-3, he tendered his resignation, which was accepted vide order dated 01.06.2023, Annexure P-7.

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Petitioner was served with a show cause notice dated 11.01.2023, Annexure P-1, under the Control Order for cancellation of the license, but even before the notice was served upon him, by order dated 19.01.2023, Annexure P-4, license was cancelled by respondent No.3. Petitioner remained unsuccessful in appeal as noticed above, which was dismissed, vide impugned order, Annexure P-6. Challenging both the orders, Annexures P-4 and P-6, petitioner has moved before this Court.

3. Counsel for the petitioner has urged that the petitioner was not given sufficient time to file a reply to the show cause notice, Annexure P-1, nor was an opportunity of a personal hearing afforded to him, which was mandatory. He asserts that there is no allegation of any mal-practice or irregularity against the petitioner and the license has been cancelled due to political rivalry in the village. It is his argument that the impugned orders are non-speaking and cannot be sustained.

4. Issue notice to the respondents.

5. On asking of the Court, Mr. Sharad Aggarwal, DAG, Haryana, accepts notice on their behalf. He has supported the impugned action.

6. I have heard counsel for the parties and considered their respective submissions.

7. Given the nature of order being passed, this Court does not deem it necessary to call upon the respondents to file their response.

8. Without advertng to the arguments addressed by the counsel for the petitioner on merits, it is imperative to notice and reproduce the relevant portion of the impugned appellate order, Annexure P-6, which is as under:-



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“After hearing both the parties and perusing the original investigation file and after agreeing with the arguments given by the respondent representative during the debate and perusing the Haryana Public Distribution System Order, 2022, it was found that the order under appeal passed by the District Food and Supplies Controller, Palwal has been passed properly and as per rules, which does not require any modification. Thus, the appeal of the Appellant is baseless and has no merit. Therefore, the appeal of the Appellant is baseless and has no merit. Therefore, the appeal of the appellant is dismissed. File may be sent to record room.”

9. It is evident from the above that the Appellate Authority has not dealt to the contentions of the counsel for the petitioner, rather it has simply endorsed the order passed by the Collector without assigning any reason in support thereof. In ***M/s Kranti Associates Pvt. Ltd. and another Versus Sh. Masood Ahmed Khan and ors. (2010) 9 SCC 496***, Supreme Court has held that reasons have virtually become an indispensable component of decision making process and facilitate the process of judicial review by superior Courts. It has observed that a judicial authority must record reasons in support of its conclusion as it operates as a valid restraint on any possible arbitrary exercise of power. The Apex Court is of the view that insistence on reasoning is a requirement for both judicial accountancy as well as transparency.

10. In ***M/s Mangalore Ganesh Beedi Works Vs. Commissioner of Income Tax, Mysore and anr. (2005) 2 SCC 329***, it has been observed that although in an order of affirmation, repetition of reasons may not be necessary,



but even then, the arguments advanced, points urged have to be dealt with and reasons for affirmation have to be indicated, though in appropriate cases they may be briefly stated. As the impugned Appellate order, Annexure P6 is bereft of reasons and there is non-application of mind, it cannot be sustained.

11. In view of above discussion, impugned order, Annexure P6 passed by Appellate Authority is set aside and the matter is remitted to respondent No.2, to decide it again by passing a reasoned order after hearing the parties.

12. Petition is disposed of.

13. Parties are directed to appear before the Commissioner, Palwal, District Palwal, Haryana – respondent No.2, on 01.10.2024, at 10:00 a.m., for further proceedings.

(SUVIR SEHGAL)
JUDGE

02.09.2024
Pardeep

Whether Speaking/Reasoned	Yes
Whether Reportable	Yes