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

(112) **CM-678-CWP-2024 in/and
CWP-29382-2023
Decided on : 15.01.2024**

6 Bay Food Company through its Proprietor Rajbir Singh Rai …Petitioner(s)

Versus

Union Territory of Chandigarh ……Respondent(s)

**CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA
HON'BLE MS.JUSTICE LAPITA BANERJI**

Present:- Mr.Anand Chhibbar, Sr.Advocate
with Mr.Shikar Sarin, Advocate
Mr.Shreya B. Sarin, Advocate
Mr.Khyati Aunish, Advocate for the petitioner.

Mr.Anil Mehta, Sr.Standing Counsel
Mr.Sumeet Jain, Addl.Standing Counsel, for respondent-U.T.

G.S. Sandhawalia, J. (Oral)

CM-678-CWP-2024

1. Application for placing on record documents as Annexures P-9 to P-12 is allowed in view of the earlier order dated 09.01.2024. Same are taken on record. Office to append the same at appropriate place.

2. CM stands disposed of.

CWP-29382-2023

3. Challenge in the present writ petition, filed under Article 226/227 of the Constitution of India is to the order dated 08.12.2023 (Annexure P-5) whereby in pursuance of the earlier directions, the Collector (Excise), Excise & Taxation Department, U.T. Chandigarh has decided the issue raised in the legal notice dated 17.11.2023 (Annexure P-11) in pursuance of the order passed by this Court on 01.12.2023.

4. The rejection of the claim of the petitioner has been summarized by the said authority in the following terms:

> "5) Arguments of both the parties heard in detail. After hearing both parties and going through the submission made by them, the undersigned is of the view that –
>
> a) The petitioners were fully aware of the provisions of Excise Policy, 2023-24 and also about the amendments made thereof in the rules, as the same are also available for general public in the public domain, i.e. https://egazette.chd.gov.in.
>
> b) The Department has followed the due procedure and rightly distributed the un-allotted quota amongst all the auctioned vends as per provisions of the Excise Policy, 2023-24 and rules framed thereunder."

5. The manner in which the said matter has been adjudicated upon brings it within the ambit of the observations that have been made by the Apex Court in **M/s Kranti Associates Pvt. Ltd. and another Vs. Shri Masood Ahmed Khan & others, 2010(4) RCR (Civil) 600** wherein it has been held that even if an administrative decision is taken which has financial implications, it has to contain reasons. The relevant part reads as under:

> "51.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 life blood 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.

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 Harward Law Review 731-737).

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 (1994) 19 EHRR 553, at 562 para 29 and Anya vs. University of Oxford, 2001 EWCA Civ 405, wherein the Court referred to Article 6 of 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".

6. Mr.Mehta, having advance copy, has put in appearance and submits that fresh orders will be passed after considering the effect of the aspect of the amendment made in the Rules wherein the Administration itself has taken a decision to half the basic quota wherein vide amendment dated 23.10.2023 (Annexure P-3) while substituting the mode of allotment by amending the Punjab Liquor Licences Rules, 1956 and the following had been incorporated:

> "Further, after first attempt, if deemed fit, the Department may go for any number of rounds of e-tenders for allotment of un-allotted licencing units. Moreover, after the completion of all rounds of tenders, the remaining un-allotted quota (i.e. quota of un-allotted vends and leftover 50% reduced quota as mentioned against Leftover Quota columns of Annexure B1), shall be equitably amongst all the auctioned licensing units (L-2/L-14A licensees)."

7. The categorical case of the petitioners time and again has been the same and even when they had earlier approached this Court that after the amendment made, public notice dated 24.10.2023 and 28.10.2023 (Annexures P-9 & P-10) had also been issued. It is in such circumstances that Clause 14 of the Excise Policy upon the strength of which the orders have been passed may not be applicable. The order does not deal with all these issues which is the manner it should have been done. The whole purpose for remanding the issue to the competent authority was that the factual matrix and the background would be clear and the decision was to be taken by them as financial implications of both the sides would be affected. The opportunity of personal hearing had been granted. The order records that both the parties have been heard in detail but the manner in which it has been dealt with does not inspire any confidence with this Court.

8. In such circumstances, we dispose of the present writ petition by quashing the order dated 08.12.2023 (Annexure P-5) and direct the respondents to pass a fresh order in the terms laid down in Kranti Associates (supra) within a period of 10 days from today by giving proper opportunity of hearing.

(G.S. SANDHAWALIA)
JUDGE

(LAPITA BANERJI)
JUDGE

January 15th, 2024
Sailesh

Whether speaking/reasoned :	Yes	
Whether Reportable :		No