

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.85 of 2021

In
Civil Writ Jurisdiction Case No.21024 of 2019

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Mosafir Prasad Yadav Son of Sanichar Yadav Resident of Village- Akal
Bigha, Village- Panchayat- Bahsa Pipra, P.S.- Tankuppa, District- Gaya.

... .. Appellant/s

Versus

1. The State of Bihar through the Principal Secretary, Food and Consumer Protection Department, Govt. of Bihar at Patna.
2. The District Magistrate, Gaya.
3. The Sub Divisional Officer, Sadar Gaya.
4. The Block Supply Officer, Tankuppa, Dist- Gaya.

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Binay Kumar, Advocate
For the Respondent/s : Mr. S. Raza Ahmad, Sr. Advocate, AAG 5
Mr. Alok Ranjan, AC to AAG 5

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE SUNIL DUTTA MISHRA
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

6 06-03-2025 Appellant has assailed the order dated 14.09.2019 passed by the Sub-Divisional Officer, Sadar, Gaya by which appellant's License No. 31/16 in respect to P.D.S. shop has been cancelled.

2. The learned Single Judge relegated the appellant to invoke remedy of appeal before the appellate authority. Feeling aggrieved by the order of the learned Single Judge dated 06.11.2020 passed in CWJC No. 21024 of 2019, present LPA No. 85 of 2021 has been filed. There is delay of about 15 days



in filing the present appeal.

3. For the reasons stated in the application read with the affidavit, delay stands condoned. I.A. No. 1 of 2021, filed for condonation of delay in filing the present appeal, stands allowed.

4. With the consent of learned counsel for the respective parties, main matter is taken up for final disposal.

5. No doubt appellant has statutory remedy of appeal before the appellate authority, however, appellant is not in a position to prefer effective appeal for the reasons that in the impugned order, prior to issuance of cancellation of licence, notice was issued and appellant is stated to have submitted explanation. There is no consideration of appellant's explanation in the manner known to the law. The Hon'ble Supreme Court in the case of ***Kranti Associates Private Ltd. and Another vs. Masood Ahmed Khan and Others*** reported in (2010) 9 SCC 496, Para - 47 held as under:

“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.

(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.”

6. The Sub-Divisional Officer, Sadar, Gaya is performing *quasi judicial* functions insofar as cancellation of P.D.S. license, in that event, it was bounden duty to follow the principles laid down by the Hon'ble Supreme Court in the aforementioned cited decision. On this point, learned Single Judge has committed error in relegating the appellant to invoke remedy of appeal. It would go to the root of the matter and violation of principles of natural justice, therefore, the learned Single Judge, in all fairness, should not have relegated the appellant to the appellate authority. Taking note of these facts and circumstances, appellant has made out a case so as to interfere with the impugned order dated 14.09.2019 read with the order of the learned Single Judge dated 06.11.2020 passed in



CWJC No. 21024 of 2019, hence, both are set aside. The Sub-Divisional Officer, Sadar, Gaya is hereby directed to pass a fresh order in the light of the Hon'ble Supreme Court decision cites *supra*. In the meanwhile, appellant is also permitted to file additional explanation, if any.

7. The above exercise shall be completed by the Sub-Divisional Officer, Sadar, Gaya within a period of three months from the date of receipt of this order.

8. Accordingly, present LPA No. 85 of 2021 stands allowed.

(P. B. Bajanthri, J)

(Sunil Dutta Mishra, J)

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