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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-9116-2024 (O&M)

Date of Decision:01.12.2025

USHA GUPTA

...Petitioner

Vs.

THE DEPUTY COMMISSIONER FARIDABAD AND ORS

...Respondents

CORAM:- HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. Pradeep Sharma, Advocate for the petitioner.

Mr. Kapil Bansal, DAG, Haryana.

Mr. Abhishek Goyal, Advocate with
Ms. Kanika, Advocate for respondent Nos. 3 and 4.**KULDEEP TIWARI, J. (Oral)**

1. The present civil writ petition has been filed under Article 226 of the Constitution of India, for issuance of a writ in the nature of *certiorari*, for setting aside the impugned order dated 22.08.2023 Annexures P-1, passed by District Magistrate-cum-Appellate Authority, Faridabad under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, Faridabad (in short 'the Act') and order dated 26.12.2022, Annexure P-2, passed by Sub Divisional Magistrate, Ballabgarh.

2. The petitioner, a senior citizen, filed a complaint under Sections 5 and 23 of the Act, seeking maintenance, and also praying for setting aside the release deed in question. The Maintenance Tribunal concerned, after considering the material placed on record by both parties, dismissed the application vide order dated 26.12.2022 (Annexure P-2). Aggrieved thereby, the petitioner preferred an appeal under Section 16 of the Act of 2007. On



the date fixed for arguments, the petitioner failed to appear, and the learned Appellate Authority concerned, instead of dismissing the appeal for non-prosecution, proceeded to dismiss it on merits. Learned counsel for the petitioner contends that the learned Appellate Authority, assigned no reasons whatsoever, while dismissing the appeal, and merely reproduced the facts before rejecting it.

3. Learned counsel for the contesting respondent submits that since the petitioner remained absent on the date of hearing, the learned Appellate Authority, was under no obligation to pass a detailed order assigning reasons for dismissal. Although, the petitioner has raised several issues before this Court, and after hearing of the issues raised, this Court is of the considered view that the order passed by the learned Magistrate is completely non-speaking. No reasons, whatsoever, has been assigned, and in fact, the order consists of a single line, and appears to have been passed in a mechanical manner.

4. This Court has heard the submissions made by both the parties and has gone through the records.

5. The learned Appellate Authority erred in law by dismissing the appeal without assigning any reasons. Recording reasons is essential for arriving at a just conclusion, and enables the higher Court to evaluate the legality and correctness of the order under challenge. In the absence of such reasons, the appellate order suffers from illegality, and therefore, warrants interference by this Court. Accordingly, the impugned orders, being wholly non-speaking, are liable to be set aside.



6. In **UPSRTC vs. Jagdish Prasad Gupta (SLP(C) No.4465/06)**, the Hon'ble Supreme Court has emphasised on recording reasons, as the reasons reveal “the inscrutable face of sphinx”, it can, by its silence, render it virtually impossible for the Courts to perform their appellate function or exercise the power of judicial review in adjudging the validity of the decision. The relevant paragraph 9 of the said judgment is reproduced hereinbelow:-

“9. Even in respect of administrative orders Lord Denning M.R. in Breen v. Amalgamated Engineering Union (1971 (1) All E.R. 1148) observed "The giving of reasons is one of the fundamentals of good administration". In Alexander Machinery (Dudley) Ltd. v. Crabtree (1974 LCR 120) it was observed: "Failure to give reasons amounts to denial of justice. Reasons are live links between the mind of the decision taker to the controversy in question and the decision or conclusion arrived at". Reasons substitute subjectivity by objectivity. The emphasis on recording reasons is that if the decision reveals the "inscrutable face of the sphinx", it can, by its silence, render it virtually impossible for the Courts to perform their appellate function or exercise the power of judicial review in adjudging the validity of the decision. Right to reason is an indispensable part of a sound judicial system, reasons at least sufficient to indicate an application of mind to the matter before Court. Another rationale is that the affected party can know why the decision has gone against him. One of the salutary requirements of natural justice is spelling out reasons for the order made, in other words, a speaking out. The "inscrutable face of a sphinx" is ordinarily incongruous with a judicial or quasi-judicial performance.

7. Further, the Hon'ble Supreme Court in “**M/s Kranti Associates Pvt. Ltd.& Anr. vs. Sh.Masood Ahmed Khan & others**” (Law Finder Doc Id #217995), explained the necessity of giving the reasons and the same was



summarised after taking into consideration number of judgments, which reads as follows:-

- 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 Harvard 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 **Anyia v. 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".

8. In the touchstone of the above, the principle laid down by the Hon'ble Supreme Court, this Court has no hesitation to held that the Appellate Authority failed to perform its duty by not assigning any reasons in dismissing the appeal preferred by the petitioner.

9. Consequently, instant petition is **allowed**, and the impugned order (supra), is hereby set aside, with the matter **remanded back** to the learned trial Court concerned, to pass *de novo* order after considering the all material on record. Since matter is pending since long, therefore, further *mandamus* is passed that the appeal shall be decided within a period of 08 weeks from the date of receipt of the certified copy of this order. Both the



parties shall cause appeance before the authority concerned on 18.12.2025 at 11.00 am.

10. All pending application(s), if any, also stands disposed of.

(KULDEEP TIWARI)
JUDGE

01.12.2025
kv

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No