

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.24893 of 2019

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R. K. Impex Pvt. Ltd. a company having one of its offices at Adarsh Nagar, Birgunj- 13, Nepal- 44301, through Ravi Ranjan Kumar Ojha male aged about 25 years son of Bhulan Ojha resident of Manana Ward No. 2, Raxaul, Hardia, East Champaran Bihar - 8453053

... .. Petitioner/s

Versus

1. The Union of India through the Secretary, Ministry of Railway, Government of India, New Delhi.
2. The General Manager, East Central Railway, Hazipur.
3. The Chief Commercial Manager, East Central Railway, Hazipur.
4. The Divisional Railway Manager (Commercial), Sonapur, East Central Railway, Sonapur.
5. The Goods Superintendant, Narayanpur Anant East Central Railway, Muzaffarpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	M/s Gautam Kumar Kejriwal Alok Kumar Jha Akash Kumar, Advocates
For the Respondent/s	:	Mr. Ram Tujabh Singh, CGC Mr. Radhika Raman, Advocate

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CORAM: HONOURABLE JUSTICE SMT. G. ANUPAMA CHAKRAVARTHY

ORAL JUDGMENT

Date : 20-07-2026

1. The petitioner has filed the instant application for the following reliefs:

“a) For issuance of appropriate writ or order or direction for quashing of letter no. ECR/CRM/FM/DC/NRPA/18 dated 25.06.2019 whereby the application filed by the petitioner seeking waiver of the demurrage charges of Rs. 4,672,800/- has been disposed off by a nonspeaking



and fully silent decision insofar as consideration of the grounds urged by the petitioner in the application for waiver;

b) For issuance of a direction upon the respondent number 2 to reconsider and decide the application dated 08.03.2018 filed by the petitioner for waiver of demurrage charges in accordance with the relevant guidelines and circulars of the Railway Board by a speaking order so as to enable the petitioner learn about the reasons and findings on the basis of which the application for waiver has been disposed of;

c) For grant of any other relief or reliefs to which the petitioner is found entitled in the facts and circumstances of this case;"

2. At the very outset, the Learned counsel Mr. Gautam Kumar Kejriwal, appearing on behalf of the petitioner submits that the issue involved in the present writ petition is no longer *res integra*. It is contended that the issue stands squarely covered by the judgment dated 24.08.2021 passed by a Co-ordinate Bench of this



Court in **C.W.J.C. No. 3097 of 2021 (M/s Swastik Associate Vs. The State of Bihar & Ors)**, wherein an identical issue was considered and adjudicated. The Learned counsel for the parties, therefore, submit that in view of the aforesaid judgment, the present writ petition may also be disposed of, in terms of the order dated 24.08.2021.

3. In **M/s Swastik Associate** (supra) this Court has held as follows:

“4. The brief facts of the case are that the petitioner had booked consignment of cement bags with the railways, to be transported by Railway Wagons. The rake of 42 wagons, containing the cement consignment of the petitioner had arrived at the Dauram siding on 27.09.2019, however, the petitioner could not unload the cement bags from the wagons within the stipulated time frame and the cement bags could be unloaded only on 01.10.2019, after cessation of rains, resulting in levy of demurrage charges to the tune of Rs. 5,60,700/-. The petitioner, in terms of Clause-2 of Railways' Rates Master Circular Demurrage-Waiver/2016, had paid the demurrage charges on 06.10.2019 and on



the very same day had submitted waiver application before the Goods Superintendent, Dauram to be forwarded to the Divisional Railway Manager, Samastipur along with his recommendations. Thereafter, the respondent Goods Superintendent, Dauram on 06.10.2019 itself, had forwarded the application of the petitioner to the Divisional Railway Manager, Samastipur, along with his recommendation, which is reproduced hereinbelow:—

रैक स्थापना से पूर्व ही घनघोर बारिश शुरू था 27.09.19 को शाम 18:00 तक लगातार बारिश हुई-28.09.19 को प्रातः से रात्रि तक लगातार बिना रुके बारिश, 29.09.19 को भी इसी प्रकार 30.09.19 को भी सुबह से रात तक वैगन का सील भी नहीं खोला गया 01.10.19 को सुबह 07:00 बजे से बारिश रुकने से कार्य संपादन की प्रक्रिया शुरू किया गया। इस प्राकृतिक कोप का पार्टी शिका हुआ और रेलवे का अत्यधिक विलम्बन हुआ एवं पार्टी को विलम्बन का सामना करना पड़ा चूँकि बारिश के कारण सिमेंट जैसे संवेदनशील वस्तु तुरन्त नष्ट हो जाता और पार्टी का अत्यधिक नुकसान का सामना करना पड़ता। शैड न होने से नीचे रखना भी संभव नहीं था। वार्फ गीला होने के कारण सीधे वैगन से वाहनों में उतराई संपन्न किया गया।

आवेदक नियमित पार्टी है अतः श्रीमान् के समक्ष प्राकृतिक कोप को ध्यान में रखते † सहायुभूति पूर्वक विचारार्थ प्रस्तुत है।

10. Consequently, this Court finds that the order dated 21.01.2020 passed by the respondent Divisional Railway Manager (Commercial), Samastipur is wholly unreasoned, has not considered the recommendation of the Goods Superintendent and moreover, no cogent and succinct reasons have been furnished in support of the impugned order dated 21.01.2020, which is an indispensable component of a decision making process,



hence this court finds that the impugned order dated 21.01.2020 stands vitiated, having been passed in violation of the principles of natural justice. In this regard, it would be relevant to refer to a judgment rendered by the Hon'ble Apex Court in the case of ***Kranti Associates (P) Ltd. v. Masood Ahmed Khan***, reported in (2010) 9 SCC 496, paragraphs No. 12 to 15 and 47 whereof are reproduced hereinbelow:—

12. The necessity of giving reason by a body or authority in support of its decision came up for consideration before this Court in several cases. Initially this Court recognised a sort of demarcation between administrative orders and quasi-judicial orders but with the passage of time the distinction between the two got blurred and thinned out and virtually reached a vanishing point in the judgment of this Court in *A.K. Kraipak v. Union of India* [(1969) 2 SCC 262 : AIR 1970 SC 150].

13. In *Keshav Mills Co. Ltd. v. Union of India* [(1973) 1 SCC 380 : AIR 1973 SC 389] this Court approvingly referred to the opinion of Lord Denning in *R. v. Gaming Board for Great Britain, ex p Benaim* [[1970] 2 Q.B. 417 : [1970] 2 WLR 1009 : (1970) 2 All ER 528 (CA)] and quoted him as saying “that heresy was scotched in *Ridge v. Baldwin* [[1964] A.C. 40 : [1963] 2 WLR 935 : (1963) 2



All ER 66 (HL)]”.

14. The expression “speaking order” was first coined by Lord Chancellor Earl Cairns in a rather strange context. The Lord Chancellor, while explaining the ambit of the writ of certiorari, referred to orders with errors on the face of the record and pointed out that an order with errors on its face, is a speaking order. (See pp. 1878-97, Vol. 4, Appeal Cases 30 at 40 of the Report).

15. This Court always opined that the face of an order passed by a quasi-judicial authority or even an administrative authority affecting the rights of parties, must speak. It must not be like the “inscrutable face of a sphinx”.

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 transparency 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 decisionmakers 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”.

13. Having regard to the facts and circumstances of the case and for the reasons mentioned hereinabove, the impugned order dated 21.01.2020, passed by the Divisional Railway Manager (Commercial), Samastipur is set aside and the matter is remanded back to the Divisional Railway Manager (Commercial), Samastipur, with a direction to him to consider the recommendation of the Goods Superintendent, Dauram dated 06.10.2019 and pass a reasoned and a speaking order, after application of mind within a period of six weeks from the date of receipt/production of a copy of this judgment, in accordance with law.

14. The writ petition stands disposed of on the aforesaid terms.



4. Having regard to the submissions made by the parties, the present writ petition stands disposed of in terms of the aforesaid judgment passed in **M/s Swastik Associate** (supra).

5. Accordingly, the impugned order dated 25.06.2019 (Annexure 2) is set aside and the and the matter is remanded back to the Divisional Railway Manager (Commercial), Sonapur, with a direction to him to consider the recommendation of the Goods Superintendent, Narayanpur Anant dated 08.3.2018 and pass a reasoned and a speaking order, after application of mind within a period of six weeks from the date of receipt/production of a copy of this judgment, in accordance with law.

6. Interlocutory Application, if any, shall stands disposed of.

(G. Anupama Chakravarthy, J)

Spd/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	22.07.2026
Transmission Date	

