



2026:DHC:4250



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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
+ **W.P.(C) 8336/2025**

Date of decision: **08.05.2026****IN THE MATTER OF:-****O.C. SWEATERS LLP.****.....Petitioner**

Through: **Mr. P C Patnaik, Mr. Dillip Kumar  
Nayak, Ms. Divya Rana, Advs.**  
versus

**UNION OF INDIA & ORS.****.....Respondents**

Through: **Mr. Nishant Gautam, CGSC, Ms.  
Kavya Shukla, Mr. Vineet Negi, Mr.  
Vibhav V. Nath, Advs.**  
**Mr. Devvrat Yadav, SPC with Mr  
Kartik Sharma, GP.**

**CORAM:****HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV****J U D G E M E N T****PURUSHAINDRA KUMAR KAURAV, J. (ORAL)**

1. The petitioner in the instant writ petition has prayed for following reliefs:

*"I. Issue a Writ, Order or Direction in the nature of Certiorari and/or any other appropriate Writ, Order Or Direction, thereby quashing and setting-aside the impugned order dated 03.01.2023 bearing Case No.: 55 (in PRC Meeting No.: 26/Am.23 dated 03.01.2023), impugned order dated 20.10.2023 bearing Case No.: 33 (in PRC Meeting No.: 18/AM.24 dated 20.10.2023) and the impugned order dated 22.03.2024 bearing Case No.: 39 (in PRC Meeting No.: 33/AM24 dated 22.03.2024) passed by the Respondent No.2;*

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*II. Issue a Writ, Order or Direction in the nature of Mandamus and/or any other appropriate Writ, Order or Direction to the Respondents to consider the Exports Shipments made under the Shipping Bill Nos.: 6482393 & the Shipping Bill No.: 6483064, both dated 03.12.2021 towards fulfillment of Export Obligation under the Advance Authorisation No.: 0511005106 dated 01.10.2021; and*

*III. Pass such other/further order(s) or direction(s) in favour of the Petitioner that this Hon'ble High Court may deem fit and proper in the facts and circumstances of the case and in the interest and furtherance of justice."*

2. The facts of the case would show that the petitioner, earlier known as OC Sweaters Private Limited, is a limited liability partnership firm engaged in the business of manufacturing and exporting various kinds of garments and allied accessories. Its registered office and factory are situated at Plot No. 80, Sector 34, Hero Honda Chowk, Gurugram, Haryana – 122004.

3. The petitioner avers that one EMJ Apparel Group LLC, Los Angeles, USA, had placed an urgent order for purchase of certain garment items from the petitioner *vide* Purchase Order No. 62557 dated 05.03.2021. In order to fulfil its export obligation within time, the petitioner obtained an Advance Authorization bearing No. 0511005106 dated 01.10.2021, issued by respondent No. 3, for a freight-on-board value of USD 8,062,000. According to the petitioner, though it was entitled to import raw material duty-free on the strength of the said Advance Authorization dated 01.10.2021, it voluntarily chose to procure the required inputs from indigenous sources within India, with a view to save time and ensure timely fulfilment of the order placed under the Purchase Order dated 05.03.2021. For this purpose, the petitioner applied to respondent No. 3 for invalidation of the Advance Authorization dated 01.10.2021. Pursuant thereto, respondent No. 3 issued

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an invalidation letter dated 01.10.2021, permitting the petitioner to opt for domestic/indigenous procurement of the relevant raw material.

4. It is further the case of the petitioner that on the strength of the aforesaid invalidation letter, it procured the requisite raw material from an indigenous supplier under the cover of GST invoices bearing Nos. FI/OCT/858/2122 dated 20.10.2021, FI/OCT/945/2122 dated 23.10.2021, FI/NOV/945/2122 dated 08.11.2021, and FI/OCT/776/2122 dated 01.12.2021. Upon receipt of the said raw material, along with other essential stocks, the petitioner manufactured the final goods and made them ready for export to the consignee, namely EMJ Apparel Group LLC, USA, in terms of the Purchase Order dated 05.03.2021. In order to honour its commitment of timely fulfilment of the order, the petitioner dispatched the final goods under GST invoice Nos. 130EOCS2122 and 131EOCS2122, both dated 01.12.2021. Thereafter, the said goods were presented before the Customs Department under Export Shipping Bill Nos. 6482393 and 6483064, both dated 03.12.2021.

5. As per the petitioner, while exporting the said final goods, it had specifically requested the concerned authority to permit export of the goods under the Advance Authorization Scheme, *vide* Customs Code No. 63. However, owing to certain technical glitches attributable to respondent No. 3, the data relating to the said Advance Authorization Scheme was not transmitted to the export port/customs port/ICEGATE. Since the shipment was urgent in nature and had to be dispatched without delay, the petitioner incorporated the details of the Advance Authorization in the GST invoices, and the same were also mentioned in Shipping Bill

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Nos. 6482393 and 6483064, both dated 03.12.2021.

6. It is also pleaded that at the time of making the aforesaid export shipments, the petitioner informed respondent No. 3 as well as ICEGATE about the technical glitches and requested them to cure the same so that the export shipments could be processed under the Advance Authorization Scheme. However, despite the petitioner's best efforts and repeated communications to respondent No. 3 and ICEGATE, the issue remained unresolved. Thereafter, on 07.12.2021, the petitioner again requested respondent No. 3 to transmit the data relating to the aforesaid Advance Authorization Scheme to the customs port. However, no action was taken by respondent No. 3.

7. According to the petitioner, having been left with no other efficacious remedy, it was constrained to file an application before the PRC (PRC) functioning under the supervision of respondent No. 2, in terms of Para 2.58 of the FTP, 2023 (hereinafter referred to as "**FTP**") framed under the Foreign Trade Development and Regulation Act, 1992, which deals with cases of genuine hardship faced by exporters or importers. Pursuant to the filing of the aforesaid application, the petitioner's case was taken up in PRC Meeting No. 26/AM-23 dated 03.01.2023. However, while noticing the grievance raised by the petitioner, the said authority failed to appreciate the issue in its correct perspective and rejected the petitioner's case on the ground that the applicant had not submitted any cogent reason or justification in support of any genuine hardship faced by it.

8. Aggrieved by the order dated 03.01.2023 passed by the PRC, the

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petitioner again sought to ventilate its grievance before the said Committee by filing a review application and requested that it be granted an opportunity of personal hearing. In view of the said request, the matter was again taken up by the PRC in Meeting No. 18/AM-24 dated 20.10.2023, under Case Reference No. 33. However, without affording any opportunity of personal hearing to the petitioner, the Committee upheld the earlier order passed by the PRC on 03.01.2023.

9. Thereafter, the petitioner once again filed a review appeal before the PRC, praying for an opportunity of personal hearing. The matter was again taken up by the PRC in Meeting No. 33/AM-24 dated 22.03.2024, under Case Reference No. 39. However, the said request also did not yield any favourable result.

10. Learned counsel appearing on behalf of the petitioner submitted that the PRC, despite noticing the petitioner's contention that the export product shipment and shipping bills had been filed before the Customs authorities, failed to appreciate that the same could not be processed under the prescribed Scheme Code due to non-transmission of data from the Regional Authority to Customs for more than 40 days from the date of issuance of the authorization. It was submitted that, for this reason, the petitioner was compelled to file the two shipping bills under the zero scheme. However, despite the aforesaid circumstances being specifically brought to its notice, the PRC failed to consider the issue in its proper perspective and proceeded against the interest of the petitioner.

11. It was further submitted that the petitioner had made valid exports

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within the export obligation period, i.e. up to 01.04.2023, and had fulfilled its export obligations to the extent reflected in the statement of exports made towards fulfilment of export obligation under Advance Authorization No. 0511005106 dated 01.10.2021.

12. Learned counsel also submitted that even after the order dated 22.03.2024 passed by respondent No. 2, the petitioner continued to pursue its grievance. However, the respondents failed to consider the petitioner's case in its correct perspective.

13. It was further emphasized that, after the aforesaid two export shipments under Shipping Bill Nos. 6482393 and 6483064, both dated 03.12.2021, the petitioner made several subsequent shipments under the subject Advance Authorization No. 0511005106 dated 01.10.2021, and all such subsequent shipments were duly considered under the Advance Authorization Scheme.

14. On this basis, learned counsel submitted that the impugned orders dated 03.01.2023, 20.10.2023, and 22.03.2024, passed by the PRC, suffer from complete non-application of mind and are liable to be set aside, being unreasonable, arbitrary, and unjust to the petitioner.

15. Learned counsel further submitted that despite sufficient evidence and material having been placed on record, the impugned orders failed to consider the material facts. According to him, it was only on account of certain technical glitches on the part of the respondents that the data relating to the Advance Authorization could not be transmitted to the Customs port, thereby causing grave prejudice to the petitioner. As a result, despite the



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petitioner's best efforts, the two export shipments covered under Shipping Bill Nos. 6482393 and 6483064, both dated 03.12.2021, were not considered under the Advance Authorization Scheme.

16. It was submitted that if any fault was to be attributed, the same lay with the respondents, since the petitioner had no control over the technical glitch. Learned counsel also pointed out that the subsequent export shipments made by the petitioner were smoothly processed under the Advance Authorization Scheme, which itself demonstrated that the petitioner was otherwise eligible and compliant.

17. Learned counsel further submitted that despite the petitioner having specifically prayed for an opportunity of personal hearing, not once but on two separate occasions, respondent No. 2 rejected such requests and did not afford the petitioner any opportunity to present its case effectively.

18. On the strength of the aforesaid submissions, it was contended on behalf of the petitioner that the principles of natural justice, which include the grant of an opportunity of personal hearing, were not followed.

19. Learned counsel also drew the attention of this Court to Para 2.60 of the FTP, which deals with personal hearing by the Director General of Foreign Trade for grievance redressal. It was submitted that the said provision clearly underscores the significance of affording an opportunity of being heard through personal hearing and casts an obligation upon respondent No. 2 to grant such hearing.

20. He further placed reliance upon Para 2.59 of the FTP, which deals



with exemption from policy/procedure. It was submitted that respondent No. 2 is empowered to grant exemption, relaxation, and relief, on the grounds of genuine hardship and adverse impact on trade, to any person or class/category of persons from any provision or procedure under the FTP.

21. According to learned counsel, the petitioner had been continuously intimating the respondents about the delay in transmission of the Advance Authorization data to the Customs authorities. However, no heed was paid to the information supplied by the petitioner. It was contended that despite repeated follow-ups with the concerned authorities, no action was taken, leaving the petitioner with no alternative but to approach this Court for redressal of its grievance.

22. In view of the aforesaid submissions, learned counsel submitted that the impugned orders deserve to be set aside.

23. It is noteworthy that although an opportunity to file reply was granted to the respondents, no reply has been filed till date. Consequently, the submissions made on behalf of the petitioner remain uncontroverted.

24. I have heard learned counsel appearing for the parties and perused the record.

25. The short issue which arises for consideration is whether the impugned orders passed by the PRC, rejecting the petitioner's request for relaxation and refusing to consider the two export shipments under the Advance Authorization Scheme, violate the principles of natural justice and contravene stipulations envisaged in FTP.



26. At the outset, it would be apposite to refer to Para 2.59 of the FTP, which deals with exemption from policy/procedure and reads as under:

*“DGFT may in public interest pass such orders or grant such exemption, relaxation or relief, as he may deem fit and proper, on grounds of genuine hardship and adverse impact on trade to any person or class or category of persons from any provision of FTP or any Procedures. While granting such exemption, DGFT may impose such conditions as he may deem fit after consulting the Committees as under:*

| <b>Sl. No.</b> | <b>Description</b>                                                   | <b>Committee</b>        |
|----------------|----------------------------------------------------------------------|-------------------------|
| (a)            | <i>Fixation/modification of product norms under all schemes</i>      | <i>Norms Committees</i> |
| (b)            | <i>Nexus with Capital Goods (CG) and benefits under EPCG Schemes</i> | <i>EPCG Committee</i>   |
| (c)            | <i>All other issues</i>                                              | <i>PRC (PRC)”</i>       |

27. A perusal of the aforesaid provision would clearly indicate that the DGFT is vested with the power to grant exemption, relaxation or relief, on the grounds of genuine hardship and adverse impact on trade, to any person or class/category of persons from any provision of the FTP or any procedure framed thereunder. The provision also empowers the DGFT to impose such conditions as it may deem fit, after consulting the concerned committees. The table contained in the said provision further shows that the issue involved in the present case falls within the domain of the PRC.

28. It would also be relevant to refer to Para 2.60 of the FTP, which deals with personal hearing by the DGFT and reads as under:

*“a) Government is committed to easy and speedy redressal of grievances*



*from Trade and Industry. Paragraph 2.59 of FTP provides for relaxation of Policy and Procedures on grounds of genuine hardship and adverse impact on trade. If an importer/exporter is aggrieved by any decision taken by Policy Relaxation Committee (PRC), or a decision/order by any authority in the Directorate General of Foreign Trade, a specific request for Personal Hearing (PH) along with the prescribed application fee as per Appendix-2K has to be made to DGFT. DGFT may consider request for relaxation after consulting concerned Norms Committee, EPCG Committee or Policy Relaxation Committee (PRC) and the decision conveyed in pursuance to the personal hearing shall be final and binding.*

*(b) The opportunity for Personal Hearing will not apply to a decision/order made in any proceeding, including an adjudication proceeding, whether at the original stage or at the appellate stage, under the relevant provisions of FT (D&R) Act, 1992, as amended from time to time.”*

29. From a reading of the aforesaid provision, it is discernible that where an importer or exporter is aggrieved by any decision taken by the PRC, or by any decision/order passed by any authority under the Directorate General of Foreign Trade, such importer or exporter may make a specific request for personal hearing before the DGFT, along with the prescribed application fee as per Appendix 2K.

30. A conjoint reading of Paras 2.59 and 2.60 of the FTP would show that the DGFT/competent authority is not powerless in cases where an exporter or importer demonstrates genuine hardship or adverse impact on trade. Rather, the policy itself contemplates grant of relaxation, exemption or relief in appropriate cases, and also recognizes the importance of affording personal hearing for effective grievance redressal.

31. In the present case, the petitioner's grievance is that though the two export shipments covered under Shipping Bill Nos. 6482393 and 6483064,



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both dated 03.12.2021, were intended to be processed under the Advance Authorization Scheme, the same could not be so processed due to non-transmission of the Advance Authorization data from the Regional Authority to the Customs system/ICEGATE. It is the specific case of the petitioner that the said difficulty arose on account of technical glitches attributable to the respondents and not on account of any lapse on the part of the petitioner. The petitioner had also pleaded that the details of the Advance Authorization were mentioned in the GST invoices as well as in the relevant shipping bills, and that repeated communications were addressed to respondent No. 3 and ICEGATE for curing the technical glitches.

32. The record further reflects that the petitioner approached the PRC. The PRC, in its meeting dated 03.01.2023, rejected the petitioner's request on the ground that the petitioner had not submitted any cogent reason or justification in support of any genuine hardship. Thereafter, the petitioner filed a review application seeking an opportunity of personal hearing, but the same was also rejected in the meeting dated 20.10.2023 without granting such opportunity. The petitioner again pursued the matter before the PRC, which was taken up on 22.03.2024, but the request did not yield any favourable result.

33. As is borne out from the record, the Petitioner had specifically stated that the subject Advance Authorisation was obtained on 01.10.2021 under paragraph 4.07 of the HBP for sourcing inputs indigenously, and that invalidation was issued concurrently. The inputs were duly sourced, the final product was manufactured, and filing of the shipping bill was attempted on 01.12.2021. It was further contended that the shipping bills could not be

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filed under the Advance Authorisation scheme because the authorisation had not been transmitted to ICEGATE/Customs. The Petitioner also emphasised that, since the export order was liable to be cancelled, the shipping bills were filed under the zero-rated scheme. Thereafter, while applying online for redemption/EODC, the portal reflected that the authorisation had not been transmitted to ICEGATE/Customs, as a result of which the Petitioner was unable to file the online application for EODC. Accordingly, the Petitioner requested that permission be granted to the concerned Regional Authority to accept a manual application for EODC in respect of Advance Authorisation No. 0511005106 dated 01.10.2021.

34. In review, it was also highlighted that the delivery deadline for shipment to the USA was expiring on 08.12.2021, and the Petitioner did not have even a single day to spare while awaiting transmission of the authorisation. The Petitioner was, therefore, compelled to file the shipping bill under the zero-rated scheme. It was further pointed out that the authorisation details had, in any event, been mentioned in the description column of the shipping bill.

35. Despite the aforesaid material, the impugned orders do not appear to have considered the issue as to whether the petitioner was prevented from availing the benefit of the Advance Authorization Scheme on account of a technical glitch beyond its control. The orders also do not reflect any meaningful consideration of the petitioner's plea that it had fulfilled its export obligations within the prescribed period and had repeatedly approached the authorities for resolution of the technical issue.



36. At this stage, it is beneficial to refer to the decision of the Supreme Court in *V Kranti Associates (P) Ltd. v. Masood Ahmed Khan*<sup>1</sup> wherein, the court has held that the face of an order passed by a quasi-judicial authority or even an administrative authority affecting the rights of parties, must speak and it must not be like the “inscrutable face of a sphinx”. While referring to line of precedents, the in the said judgment noted the following conclusions:

*“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.*

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<sup>1</sup> (2010) 9 SCC 496



(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”.*

*(emphasis supplied)*

37. It is observed from the aforesaid discussion that reasons in support of an administrative or quasi-judicial decision must be cogent, clear and succinct. A mere pretence of reasons, or the recording of “rubber-stamp reasons”, cannot be equated with a valid decision-making process. Applying the aforesaid principle to the present case, it is evident that the orders passed by the concerned authorities are merely mechanical in nature and amount to



rubber-stamping, without reflecting any independent application of mind.

38. In addition to the above, the petitioner had also specifically prayed for an opportunity of personal hearing on more than one occasion. However, no such opportunity was granted. On this aspect, reliance may be placed upon the decision of the Constitution Bench of the Supreme Court in ***Gullapalli Nageswara Rao v. Andhra Pradesh State Road Transport Corporation***<sup>2</sup>, particularly paragraphs 29 and 30 thereof, wherein the importance of fair procedure in administrative decision-making was emphasized. The said paragraphs read as under:

*“29. The mode of performing quasi-judicial acts by Administrative Tribunals has been the subject of judicial decisions in England as well as in India. The House of Lords in Local Government Board v. Arlidge [(1915) AC 120] in the context of the Housing, town Planning Etc., Act, 1909, made the following observations at p. 132:*

*“My Lords, when the duty of deciding an appeal is imposed, those whose duty it is to decide it must act judicially. They must deal with the question referred to them without bias, and they must give to each of the parties the opportunity of adequately presenting the case made. The decision must be come to in the spirit and with the sense of responsibility of a tribunal whose duty it is to mete out justice. But it does not follow that the procedure of every such tribunal must be the same.”*

*In New Prakash Transport Co., Ltd. v. New Swarna Transport Co., Ltd. [AIR 1958 SC 398] this Court reviewed the case law on the subject and came to the conclusion that the rules of natural justice vary with varying constitutions of statutory bodies, and the rules prescribed by the legislature under which they have to act, and the question whether in a particular case they have been contravened must be judged not by any preconceived notion of what they may be but in the light of the provisions of the relevant Act. This Court re-affirmed the principle in Nagendra Nath Bora v. Commissioner of Hills Division (supra) [AIR 1958 SC 398].*

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<sup>2</sup> 1958 SCC OnLine SC 49



30. With this background we shall proceed to consider the validity of the three alleged deviations of the State Government from the fundamental judicial procedure. In the present case, the officer who received the objections of the parties and heard them personally or through their representatives, was the Secretary of the Transport Department. Under the 'Madras Government Business Rules and Secretariat Instructions' made by the Governor under Article 166 of the Constitution, the Secretary of a department is its head. One of the parties to the dispute before the State Government was the Transport Department functioning as a statutory authority under the Act. The head of that department received the objections, heard the parties, recorded the entire proceedings and presumably discussed the matter with the Chief Minister before the latter approved the scheme. Though the formal orders were made by the Chief Minister, in effect and substance, the enquiry was conducted and personal hearing was given by one of the parties to the dispute itself. It is one of the fundamental principles of judicial procedure that the person or persons who are entrusted with the duty of hearing a case judicially should be those who have no personal bias in the matter. In *Ranger v. Great Western By. Co.* [(1854) 5 HLC 72, 89 : 10 ER 824, 827] Lord Cranworth L.C., says:

*"A Judge ought to be, and is supposed to be, indifferent between the parties. He has, or is supposed to have, no bias inducing him to lean to the one side rather than to the other. In ordinary cases it is just ground of exception to a Judge that he is not indifferent, and the fact that he is himself a party, or interested as a party, affords the strongest proof that he cannot be indifferent."*

*In Rex v. Sussex Justices Ex parte McCarthy* [(1924) 1 KB 256, 258] Lord Hewart C.J., observed:

*"It is said, and, no doubt, truly, that when that gentleman retired in the usual way with the justices, taking with him the notes of the evidence in case the justices might desire to consult him, the justices came to a conclusion without consulting him, and that he scrupulously abstained from referring to the case in any way. But while that is so, a long line of cases shows that it is not merely of some importance but is of fundamental importance that justice should not only be done, but should manifestly and undoubtedly be seen to be done. The question therefore is not whether in this case the deputy clerk made any observation or offered any criticism which he might not properly have made or offered; the question is whether he was so related to the case in its civil aspects as to be unfit to act as clerk to the justices in the criminal*



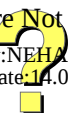
*matter. The answer to that question depends not upon what actually was done, but upon what might appear to be done.”*

*This was followed in Rex v. Essex Justices Ex parte Perkins [(1927) 2 KB 475] . In Franklin's Case (supra) [(1948) AC 87] , though on a construction of the provisions of that Act under consideration in that case it was held that the Minister was not acting judicially in discharging his duties, his Lordship accepted the aforesaid principle and expressed his view on the doctrine of ‘bias’ thus, at p. 103:*

*“My Lords, I could wish that the use of the word ‘bias’ should be confined to its proper sphere. Its proper significance, in my opinion, is to denote a departure from the standard of even-handed justice which the law requires from those who occupy judicial office, or those who are commonly regarded as holding a quasi-judicial office, such as an arbitrator. The reason for this clearly is that, having to adjudicate as between two or more parties, he must come to his adjudication with an independent mind, without any inclination or bias towards one side or other in the dispute.”*

*The aforesaid decisions accept the fundamental principle of natural justice that in the case of quasi-judicial proceedings, the authority empowered to decide the dispute between opposing parties must be one without bias towards one side or other in the dispute. It is also a matter of fundamental importance that a person interested in one party or the other should not, even formally, take part in the proceedings though in fact he does not influence the mind of the person, who finally decides the case. This is on the principle that justice should not only be done, but should manifestly and undoubtedly be seen to be done. The hearing given by the Secretary, Transport Department, certainly offends the said principle of natural justice and the proceeding and the hearing given, in violation of that principle, are bad.”*

39. In the case of ***Automotive Tyre Manufacturers Association v. Designated Authority and Others***<sup>3</sup>, the Supreme Court reiterated that unless expressly excluded by statute, adherence to the principles of natural justice must be read into every statutory procedure, especially where the decision results in adverse civil consequences. It is further held that the principles of natural justice apply irrespective of whether the power exercised by the





statutory authority is administrative or quasi-judicial in nature.

40. Another important aspect which cannot be lost sight of is that although opportunity was granted to the respondents to file a reply, no reply has been filed till date. Consequently, the factual assertions made by the petitioner, including the assertion regarding technical glitches and repeated representations, remain substantially uncontroverted.

41. In view of the aforesaid discussion, this Court finds that the impugned orders dated 03.01.2023, 20.10.2023 and 22.03.2024 suffer from non-application of mind and are also vitiated on account of violation of the principles of natural justice. The competent authority was required to consider the petitioner's claim in the light of Paras 2.59 and 2.60 of the FTP, particularly when the petitioner had specifically invoked genuine hardship and had requested for personal hearing.

42. Accordingly, the impugned orders dated 03.01.2023, 20.10.2023, and 22.03.2024 are hereby set aside. The matter is remanded to the competent authority for fresh consideration. The competent authority shall afford an effective opportunity of personal hearing to the petitioner and thereafter pass a fresh, reasoned order in accordance with law.

43. It is clarified that this Court has not expressed any final opinion on the merits of the petitioner's claim. The competent authority shall be at liberty to consider the matter *de novo*, in accordance with law and the applicable provisions of the FTP.

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<sup>3</sup> (2011) 2 SCC 258



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44. All rights and contentions of the parties are kept open.

45. The writ petition is disposed of in the aforesaid terms. Pending applications, if any, also stand disposed of.

**(PURUSHAINDRA KUMAR KAURAV)**  
**JUDGE**

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