
Parmanand Prasad Sah Vs State Of Bihar And Ors

Civil Writ Jurisdiction Case No. 4271 Of 2020

Court: Patna High Court

Date of Decision: Feb. 8, 2021

Hon'ble Judges: Mohit Kumar Shah, J

Bench: Single Bench

Advocate: Ranjan Kumar Singh, Arvind Ujjwal

Final Decision: Allowed

Judgement

The present writ petition has been filed for setting aside the order dated 13.12.2019 passed by the Collector, Khagaria in Supply Appeal Case No. 3 of

2019-20.

The short ground raised for assailing the aforesaid order dated 13.12.2019 is that the same is a four line order, not at all dealing with the submissions

and grounds taken by the petitioner in his appeal and moreover the same is unreasoned and a non-speaking order, hence has been passed in violation

of the principles of natural justice.

The learned counsel for the State has not been able to defend the said order dated 13.12.2019.

I have heard the learned counsel for the parties and have gone through the materials on record.

This Court finds from a bare perusal of the short impugned order dated 13.12.2019 that the same is not only unreasoned but also does not deal with

the submissions and grounds raised by the petitioner in his appeal, hence is required to be set aside. In this regard, reference be had 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. 15, 24, 25, 47 and 48 whereof are reproduced herein below:-

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".

24. In *Siemens Engg. and Mfg. Co. of India Ltd. v. Union of India* [(1976) 2 SCC 981 : AIR 1976 SC 1785] this Court held that it is far too

well settled that an authority in making an order in exercise of its quasi-judicial function, must record reasons in support of the order it

makes. The learned Judges emphatically said that every quasi-judicial order must be supported by reasons. The rule requiring reasons in

support of a quasi-judicial order is, this Court held, as basic as following the principles of natural justice. And the rule must be observed in

its proper spirit. A mere pretence of compliance would not satisfy the requirement of law (see SCC p. 986, para 6 : AIR p. 1789, para 6).

25. In *Maneka Gandhi v. Union of India* [(1978) 1 SCC 248 : AIR 1978 SC 597] which is a decision of great jurisprudential significance in

our constitutional law, Beg, C.J. in a concurring but different opinion held that an order impounding a passport is a quasi-judicial decision

(SCC p. 311, para 34 : AIR p. 612, para 34). The learned Chief Justice also held, when an administrative action involving any deprivation

of or restriction on fundamental rights is taken, the authorities must see that justice is not only done but manifestly appears to be done as

well. This principle would obviously demand disclosure of reasons for the decision.

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".

48. For the reasons aforesaid, we set aside the order of the National Consumer Disputes Redressal Commission and remand the matter to

the said forum for deciding the matter by passing a reasoned order in the light of the observations made above. Since some time has

elapsed, this Court requests the forum to decide the matter as early as possible, preferably within a period of six weeks from the date of

service of this order upon it.

Having regard to the facts, and circumstances of the case, the impugned order dated 13.12.2019 passed by the learned Collector, Khagaria is set

aside, however, with liberty to the learned Collector, Khagaria to pass a reasoned and speaking order after granting appropriate opportunity of

hearing to the petitioner herein, within a period of eight weeks from today.

The writ petition stands allowed.