Regional Provident Fund Commissioner Vs Bombay Selection House and Another

Court: High Court Of Punjab And Haryana At Chandigarh

Date of Decision: July 10, 2012

Acts Referred: Employees Provident Funds and Miscellaneous Provisions Act, 1952 â€" Section 2A, 7A

Citation: (2013) 1 LLJ 395 : (2012) LLR 1139 : (2013) 169 PLR 668 : (2013) 1 SCT 457

Hon'ble Judges: Rajesh Bindal, J

Bench: Single Bench

Advocate: Rajesh Hooda, for the Appellant; Rajesh Punj, Advocate, for the Respondent

Judgement

Rajesh Bindal, J.
Employees" Provident Fund Organization is before this court challenging the order dated 31.5.2010, passed by the

Employees" Provident Fund Appellate Tribunal (for short "the Tribunal"), whereby in an appeal filed by respondent No. 1-establishment, order

dated 3.2.2006, passed by Assistant Provident Fund Commissioner-9, Amritsar (for short, "the Commissioner") u/s 7A of the [Employees"

Provident Fund and Miscellaneous Provisions] Act, 1952 (for short, "the EPF Act") directing clubbing of two establishments, namely, respondent

No. 1-M/s. Bombay Selection House and M/s. Best Choice for the purpose of coverage under the EPF Act, was set aside. Briefly, the facts are

that respondent No. 1-establishment was allotted a code for compliance of the provisions of the EPF Act while treating another establishment,

namely, M/s. Best Choice as part of it for the purpose of considering the number of employees employed in the establishment. The applicability

was challenged by respondent No. 1-establishment on the plea that M/s. Best Choice has been wrongly clubbed. Both the units are independently

owned by two different partnership concerns. They are having different registration under the Shops and Commercial Establishments Act. They are

assessed to income tax separately and carrying on business at different places. They never employed more than 20 or more persons. Whereas the

stand of the petitioner was that considering the fact that their line of business was same and these were family concerns, it is nothing else but

expansion of business, hence, clubbing was not illegal. Rejecting the plea raised by respondent No. 1-establishment, vide order dated 3.2.2006,

the Commissioner, while accepting the submissions of the Enforcement Officer, upheld coverage of respondent No. 1 under the EPF Act.

Aggrieved against the order, respondent No. 1-establishment preferred appeal before the Tribunal. The same was allowed vide order dated

31.5.2010. It is the aforesaid order, which has been impugned by the Employees'' Provident Fund Organization before this court.

2. Learned counsel for the petitioner submitted that the order passed by the Commissioner rejecting the plea of respondent No. 1-establishment

upholding the clubbing of respondent No. 1 with M/s. Best Choice was strictly in conformity with law. Both are family concerns, where the

partners are family members. Two of the members are even common. They are in same line of business. It is nothing else but expansion of business

for which separate firms were floated just to avoid coverage under the EPF Act. The place of business is also the same. He further submitted that

the Tribunal had gone wrong in accepting the appeal filed by respondent No. 1-establishment while not dealing with the contentions raised by the

petitioner. In support of his submissions, reliance was placed upon M/s. Rajasthan Prem Krishan Goods Transport Co. v. Regional Provident

Fund Commissioner, New Delhi and others, 1996 II CLR 217 SC L.N. Gadodia and Sons and Another Vs. Regional Provident Fund

Commissioner,

3. In response, learned counsel for respondent No. 1 submitted that both the firms are independent. Separate partnership deeds have been

executed. Respondent No. 1-establishment has three partners, whereas M/s. Best Choice has four partners. Even if two of the persons are

common, that does not mean that both the firms are owned by one person as there are other partners as well. Both are independently registered

under Shops and Commercial Establishments Act and assessed to income tax Act, 1961 separately. The place of business is different. Respondent

No. 1-establishment is being run from a shop in a self-owned premises, whereas the business is being run by M/s. Best Choice in a rented

premises. There is no financial or functional integrity between the two establishments. Merely because family members are the partners and same

type of business is being carried on, cannot be said to be a good ground for clubbing of two independent establishments. The Commissioner, while

rejecting the contentions raised by respondent No. 1, did not assign any reason. The Tribunal has rightly accepted the appeal filed by respondent

No. 1. The order does not call for any interference. In support of the plea, he placed reliance on Evans Food Corporation Vs. Union of India

(UOI) and Another, and Varanasi Fan Industries Pvt. Ltd. Vs. Regional Provident Fund Commissioner and Another, .

4. Heard learned counsel for the parties and perused the paper book.

5. Before the matter is considered on merits, I deem it appropriate to refer to the law on the subject.

6. In Regional Provident Fund Commissioner, Jaipur Vs. Naraini Udyog and Others, Hon''ble the Supreme Court upheld an order of clubbing of

two establishments finding that two establishments had common telephone at Kota for residence and factories, some of the workers in one

establishment were found to be working in other and their accounts were being maintained by same set of clerks.

7. In M/s. Rajasthan Prem Krishan Goods Transport Co.''s case (supra) as well, clubbing of two entities for the purpose of coverage under the

EPF Act was upheld by Hon''ble the Supreme Court considering a finding recorded by Regional Provident Fund Commissioner therein that there

was unity of purpose on each count, inasmuch as the place of business and management was common, the letter heads of both contained same

telephone numbers and 10 out of 13 partners were common. There was functional integrity pertaining to the employees. The trucks plied by two

entities were owned by the partners which were being hired through both the establishments. On the basis thereof, legitimate inference was drawn

and it was held that Regional Provident Fund Commissioner was well within his right to pierce the veil and read between the lines. The relevant

paragraph thereof is extracted below:

6. The finding recorded by the Regional Provident Fund Commissioner is that there is unity of purpose on each count inasmuch as the place of

business is common, the management is common, the letter heads bear the same telephone numbers and 10 partners of the appellant are common

out of the 13 partners of the third respondent. The trucks plied by the two entities are owned by the partners and are being hired through both the

units. The respective employees engaged by the two entities when added together, bring the integrated entities within the grip of the Act; so is the

finding. Now, this finding is essentially one of fact or on legitimate inferences drawn from facts. Nothing could be suggested on behalf of the

appellant as to why could the Regional Provident Fund Commissioner not pierce the veil and read between the lines within the outwardliness of the

two apparents. No legal bar could be pointed out by the learned counsel as to why the views of the Regional Provident Fund Commissioner, as

affirmed by the Central Government, be overturned.

8. In Regional Provident Fund Commissioner and another v. Dharamsi Morarji Chemical Co Ltd., (1998) II CLR 151 SC, Hon''ble the Supreme

Court upheld a judgment of Bombay High Court accepting the plea of the establishment that even though both the firms were owned by one

person, but still considering various parameters laid down, those could not be clubbed for the purpose of coverage under the EPF Act. Bombay

High Court had set aside the order of clubbing of two establishments considering the facts and circumstances of the case, namely, that merely

because both the establishments are owned by one person will not make any difference in case they have separate registration numbers for

coverage under various statutes and maintain account books independently. They have separate staff at different places. The employees are not

transferable from each other. There was no inter-connection in the matter of supervision, finance or management. The fact that at the initial stage,

some experienced employees of the existing establishment were sent to the new establishment will also not make any difference. While upholding

the judgment of Bombay High Court, Hon"ble the Supreme Court opined as under:

4. It is true that if an establishment is found, as a fact, to consist of different departments or branches and if the departments and branches are

located at different places, the establishment would still be covered by the net of Section 2A and the branches and departments cannot be said to

be only on that ground not a part and parcel of the parent establishment. However, on the facts of the present case, the only connecting link which

could be pressed in service by the learned counsel for the appellant was the fact that the respondent-Company was the owner not only of the

Ambarnath factory but also of Roha factory. On the basis of common ownership it was submitted that necessarily the Board of Directors could

control and supervise the working of Roha factory also and therefore, according to the learned counsel, it could be said that there was inter-

connection between Ambarnath factory and Roha factory and it could be said that there was supervisory, financial or managerial control of the

same Board of Directors. So far as this contention is concerned the finding reached by the High Court, as extracted earlier, clearly shows that

there was no evidence to indicate any such inter-connection between the two factories in the matter of supervisory, financial or managerial control.

Nothing could be pointed out to us to contraindicate this finding. Therefore, the net result is that the only connecting link which could be effectively

pressed in service by the learned counsel for the appellant for culling out inter-connection between Ambarnath factory and Roha factory was that

both of them were owned by a common owner, namely, the respondent-Company and the Board of Directors were common. That by itself cannot

be sufficient unless there is clear evidence to show that there was inter-connection between these two units and there was common supervisory,

financial or managerial control. As there is no such evidence in the present case, or the peculiar facts of this case, it is not possible to agree with the

learned counsel for the appellant that Roha factory was a part and parcel of Ambarnath factory or it was an adjunct of the main parent

establishment functioning at Ambarnath since 1921,

9. In Noor Niwas Nursery Public School v. Regional Provident Fund Commissioner and others, 2001 LLR 99 : 2001 1 CLR 598 SC. Hon''ble

the Supreme Court, while referring to its earlier judgment in Management of Pratap Press, New Delhi Vs. Secretary, Delhi Press Workers'' Union

and Its Workmen, where certain tests had been laid down to see as to whether two establishments are in fact one or not and while referring to the

facts of the case in hand, upheld the order of clubbing. It was a case where two schools were being run by same management adjoining to each

other. In one of the schools, staff of only two teachers, one clerk and a peon had been engaged. It was disbelieved for the reason that a society,

which runs 30 schools, would not run a separate school with such a small number of staff. The record pertaining to the school was found to be in

knowledge and possession of the head clerk of other school. The link between the two was established. The relevant paragraphs thereof are

extracted below:

4. Whether two units are one or distinct will have to be considered in the light of the provisions of Section 2A of the Act which declares that where

an establishment consists of different departments or has branches whether situate in the same place or in different places, all such departments or

branches shall be treated as parts of the same establishment. In such cases, the court has to consider how far there is functional integrity between

the two units, whether one unit cannot exist conveniently and reasonably without the other, and on the further question, in matters of finance and

employment, the employer has actually kept the two units distinct or integrated. In fact, this Court set out certain tests in Pratap Press v. Secy.,

Delhi Press Workers'' Union. However, we may point out that each case would depend upon its own peculiar facts and has to be decided

accordingly.

5. In the present case, when two units are located adjacent to one another and there are only two teachers with an aaya, a clerk and a peon, it is

difficult to believe that the society which runs 30 schools would run a separate school consisting of such a small number of staff. If the unit of the

appellant School was not part of the unit of Francis Girls Higher Secondary School, the Head Clerk, Mrs., Wadhavan could not have been in

possession of the particulars of the appellant School and could not have furnished such particulars to the Inspector when he visited the school in

connection with the grant of a code number. Undisputably, the two units are run by the same society and they are located in one and the same

address thereby establishing geographical proximity and nothing worthwhile has been elicited in the cross-examination of the Inspector in regard to

inquiries made by him from Mrs. P. Wadhavan. Mrs. P. Wadhavan was not examined before the Provident Fund Commissioner. All these facts

clearly point out to one factor that the two units constitute one single establishment. After all the appellant School caters to nursery classes, while

the higher classes are provided in Francis Girls Higher Secondary School. Thus, the link between the two cannot be ruled out. In the facts and

circumstances of the case, we hold that the view taken by the Provident Fund Commissioner as affirmed by the High Court in this regard is

correct.

10. In Regional Provident Fund Commr. v. Raj"s Continental Exports (P) Ltd., 2007 II CLR 755 : 2007 II CLR 755: 2007 LLR 642 (SC), a

judgment of Division Bench of Karnataka High Court setting aside the order passed by the Provident Fund Commissioner clubbing two

establishments, was upheld by Hon''ble the Supreme Court. The case set up by the Employees'' Provident Fund Organization therein was that the

second establishment was nothing but an extension of the existing one as the owner was common. The plea of the establishment therein was

accepted for the reason that there was no financial integrity. They were registered independently under the Factories Act, Central Sales Tax Act,

1956, Income Tax Act, 1961 and the Employees'' State Insurance Act. They were maintaining their accounts separately. Even if they were in same

line of business, considering the fact that there was no financial or functional integrity, both could not be clubbed for the purpose of coverage under

the EPF Act. The relevant paragraphs thereof are extracted below:

6. In Pratap Press v. Workmen, it was inter alia held as follows: (AIR 1960 1215 2)

2. The question whether the two activities in which the single owner is engaged are one industrial unit or two distinct industrial units is not always

easy of solution. No hard-and-fast rule can be laid down for the decision of the question and each case has to be decided on its own peculiar

facts. In some cases the two activities each of which by itself comes within the definition of industry are so closely linked together that no

reasonable man would consider them as independent industries. There may be other cases where the connection between the two activities is not

by itself sufficient to justify an answer one way or the other, but the employer"s own conduct in mixing up or not mixing up the capital, staff and

management may often provide a certain answer.

7. In RPF Commr. v. Dharamsi Morarji Chemical Co. Ltd. it was held that unless there is clear evidence to show that there was any supervisory,

financial or managerial control, it cannot be said that one is the branch of the other. As noted by the learned Single Judge, the respondent was

separately registered under the Factories Act. It was separately registered under the Central Sales Tax Act and the Employees'' State Insurance

Act. It has also been found by the learned Single Judge that there was total independence of the two units. The learned Single Judge and the

Division Bench were right in their conclusion that the respondent is not a branch of M/s. Continental Exporters.

11. In M/s. L.N. Gadodia''s case (supra), Hon''ble the Supreme Court considered the question as to whether two units are to be regarded as one

establishment for the purpose of coverage under the EPF Act. While considering the principles laid down in the earlier judgments, referred to, and

applying the same in the case in hand and finding that the Directors of the two companies, being of the same family, Managing Director, two senior

officers of the companies being common, the employees of the two companies were being swapped, they were having common telephone number

and gram address, there was financial integrity as well as. The loan being given by one establishment to the other. It was under these circumstances

that Hon''ble the Supreme Court opined that clubbing of both the units for the purpose of coverage under the EPF Act was not illegal. Relevant

paragraphs 11 to 14 are extracted below:

11. Now on the question as to whether such two units should be considered as one establishment or otherwise, there is no hard and fast rule.

However, guidelines have been laid down in two judgments of this Court rendered way back in the years 1959-60 and they are followed from

time to time. Thus, in The The Associated Cement Companies Limited, Chaibassa Cement Works, Jhinkpani Vs. Their Workmen, a Bench of

three Judges was considering the question as to whether the factory and the limestone quarry belonging to the appellant-company should be

considered as one establishment for the purpose of Industrial Disputes Act, 1947. This Court observed therein as follows:

... What then is ''one establishment'' in the ordinary industrial or business sense?.... It is, perhaps, impossible to lay down any one test as an

absolute and invariable test for all cases. The real purpose of these tests is to find out the true relation between the parts, branches, units etc. If in

their true relation they constitute one integrated whole, the establishment is one; if on the contrary they do not constitute one integrated whole, each

unit, is then a separate unit. How the relation between the units will be judged must depend on the facts proved, having regard to the scheme and

object of the statute which gives the right of unemployment compensation and also prescribes a disqualification therefor. Thus, in one case the unity

of ownership, management and control may be the important test in another case functional integrality or general unity may be the important test;

and in still another case, the important test may be the unity of employment. Indeed, in a large number of cases several tests may fall for

consideration at the same. The difficulty of applying these tests arises because of the complexities of modern industrial organization; many

enterprises may have functional integrality between factories which are separately owned; some may be integrated in part with units or factories

having the same ownership and in part with factories or plants which are independently owned.

Later in paragraph 5 of Management of Pratap Press, New Delhi Vs. Secretary, Delhi Press Workers'' Union and Its Workmen, another Bench of

three Judges explained the above proposition in Associated Cement Company (supra) in the following words:-

While pointing out that it was impossible to lay down any one test as an absolute and invariable test for all cases it observed that the real purpose

of these tests would be to find out the true relation between the parts, branches, units etc. This court, however, mentioned certain tests which might

be useful in deciding whether two units form part of the same establishment. Unity of ownership, unity of management and control, unity of finance

and unity of labour, unity of employment and unity of functional ""integrality"" were the tests which the Court applied in that case.....

12. Accordingly, depending upon the facts of the particular case, in some cases the concerned units were hold to be part of one establishment,

whereas, in some other cases they were held not to be so. Regional Provident Fund Commissioner v. Dharamsi Morarji Chemical Co. Ltd.,

reported in 1998 || CLR 151 SC and Regional Provident Fund Commissioner Vs. Raj''s Continental Exports (P) Ltd., are cases where the two

units were held to be independent. In Dharamsi Morarji (supra), the appellant-company was running a factory manufacturing fertilizers at

Ambarnath in Distt. Thane, Maharashtra since 1921. The appellant established another factory at Roha in the adjoining district in the year 1977 to

manufacture organic chemicals with separate set of workers, separate profit and loss account, separate works manager, plant superintendents and

separate registration under the Factories Act. The two were held to be separate for the purposes of coverage under the Provident Funds Act. In

Raj''s Continental Export (supra), Dharamsi Morarji was followed since the two entities had separate registration under the Factories Act, Central

Sales Tax Act, 1956, income tax Act, 1961, Employees'' State Insurance Act, separate balance sheets and audited statement and separate

employees working under them.

13. As against that in Rajasthan Prem Krishan Goods Transport Co. v. Regional Provident Fund Commissioner, New Delhi, reported in 1996 ||

CLR 217 SC : AIR 1997 SC 58, and Regional Provident Fund Commissioner, Jaipur Vs. Naraini Udyog and Others, , the concerned units were

held to be the units of the same establishment. In Rajasthan Prem Kishan Goods Transport Co. (supra) the trucks plied by the two entities were

owned by their partners, ten out of thirteen partners were common, the place of business was common, the management was common, the letter

heads bore the same telephone numbers. In Naraini Udyog (supra) the two entities were located within a distance of three kilometers as separate

small-scale industries but were represented by the members of the same Hindu undivided family. They had a common head office at New Delhi,

common branch at Bombay and common telephone at Kota. The accounts of the two entities were maintained by the same set of clerks. Separate

registration under the Factories Act, The Sales Tax Act and the ESIC Act were held to be of no relevance and the two units were held to be one

establishment for the purpose of Provident Funds Act.

14. In the present case the Directors of the two petitioner-companies belong to the same family, The Managing Director is common. The two

senior officers i.e. Commercial Manager and Technical Manager are common. At the time of inspection, the Enforcement Officer noticed that the

employees of the two companies were being swapped. Both of them have same registered address and common telephone numbers and a

common gram number. The audited accounts revealed that the second petitioner-company had given a loan of Rs. 5 lakhs to the first petitioner in

the year 1988. The two companies are family concerns of the Gadodia family. Hence, in the facts of the present case we have to hold that there is

an integrity of management, finance and the workforce in the two private limited companies. The two companies have seen to it that on record

each of the two entities engage less than twenty employees, although the number of employees engaged by them is more than twenty when taken

together. The entire attempt of the petitioners is to show that the two entities are separate units so that the Provident Funds Act does not get

attracted. The material on record however, leads to only one pointer that the two entities are parts of the same establishment and in which case

they get covered under the Provident Funds Act.

12. Kerala High Court in Evans Food Corporation"s case (supra) set aside the order passed by the Provident Fund Commissioner treating two

establishments as one considering the principles laid down by Hon''ble the Supreme Court in various judgments, as referred to above.

13. In similar line is the judgment of Madhya Pradesh High Court in Varanasi Fan Industries Pvt. Ltd.''s case (supra).

14. What can be culled out of the various judgments on the issues, as referred to above, is that no straight-jacket formula has been laid down for

considering as to whether two units should be considered one establishment for the purpose of coverage under the provisions of the EPF Act.

Various steps, as are required to be considered for the purpose, are in the form of unity of ownership, management, control, finance, labour,

employment and functional integrality. Place of business of two units is another factor which may be relevant. The mere fact that both the units are

owned by one person or some of the partners are common may not be sufficient to treat two units as one establishment.

15. Now coming to the case in hand, the Commissioner, while passing a totally non-speaking order, accepted the contention raised by the

Enforcement Officer while upholding clubbing of two establishments. The case set up by the Enforcement Officer was that line of business of both

the establishments was same and they were family concerns. It has no where been pointed out in the order by the Commissioner that there was

unity of ownership, management, control, finance, labour, employment and functional integrality. The Tribunal, while setting aside the order passed

by the Commissioner, merely recorded that the order of the Commissioner does not indicate that there was financial or functional inter-dependency

between the two establishments, hence, the order was set aside. It is not even mentioned as to what is the date of the impugned order.

16. The plea raised by the petitioner before this court is also that both the units are family concerns, hence, the issue of financial and functional

inter-dependency looses significance, as ultimately it is the employer or the employee which is relevant. They are in same line of business even if

located at two different places and are registered separately under the Shops and Commercial Establishments Act.

17. Even before this court, the petitioner has not referred to any material, which has either not been considered by the Tribunal or has been

misread to take a view that the finding recorded is perverse. These are two different partnership firms with three partners in one and five in other.

May be these are family concerns, where some partners are common, but that itself will not make any difference. Both are carrying on their

business at different places. There is no financial or functional integrality or interdependency as there is no material referred to in support thereof.

Both the firms being separately registered under the Shops and Commercial Establishments Act are assessed to income tax separately. Their

nature of business is selling of cloth.

18. The aforesaid facts do not, in any manner, justify that it was a case where lifting the veil, the establishments could be clubbed and treated one

for the purpose of coverage under the provisions of EPF Act. Accordingly, I do not find any reason to interfere with the impugned order passed

by the Tribunal and the writ petition is dismissed.

19. Before parting with the order, this court would like to observe that the order passed by the Commissioner does not record the reasons in

support thereof while discussing the contentions raised by both the parties. It had merely agreed with the submissions of the Enforcement Officer.

Similar is the position with the order passed by the Tribunal.

20. Hon''ble the Supreme Court in ORYX Fisheries Private Limited Vs. Union of India (UOI) and Others, while considering the issue regarding

disclosing of reasons by the quasi-judicial authorities in support of the orders passed, observed as under:

39. On the requirement of disclosing reasons by a quasi-judicial authority in support of its order, this court has recently delivered a judgment in

Kranti Associates Pvt. Ltd. and Another Vs. Sh. Masood Ahmed Khan and Others, on 8.9.2010.

40. In Kranti Associates, this court after considering various judgments formulated certain principles in SCC para 47 of the judgment which are set

out below: (SCC pp. 510-12).

(a) In India the judicial trend has always been to record reasons oven 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 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 in-crementalism.

(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 Harv. L. Rev. 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 (562) 29;

Anya v. University of Oxford, 2001 EWCA Civ 405, 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.

41. In the instant case, the appellate order contains reasons. However, absence of reasons in the original order cannot be compensated by

disclosure of reason in the appellate order.

It is hoped that in future the authorities will keep in mind the observations made by Hon''ble the Supreme Court while passing the orders.