

Gram Vikas Kalyan Ashram Samiti Vs Chairman, Central Certification Committee, Khadi and Village Industries Commission and Khadi and Village Industries Commission

Court: Allahabad High Court

Date of Decision: Aug. 3, 2004

Citation: (2004) 5 AWC 4864

Hon'ble Judges: U. Pandey, J; M. Katju, J

Bench: Division Bench

Advocate: A.K. Singh, Vinod Kumar, Anil Kr. Srivastava, Swarn Kumar Srivastava and Janardan Singh, for the Appellant; Rajiv Sharma and S.C., for the Respondent

Final Decision: Allowed

Judgement

M. Katju and U. Pandey, JJ.

Heard learned Counsel for the parties.

2. This writ petition has been filed against the impugned order of the Chairman, Central Certification Committee, Khadi and Village Industries

Commission dated 24/27/28.5.2002 (vide Annexure-8 to the writ petition).

3. The petitioner is a registered body under the Societies Registration Act. It holds a certificate for production of Swalamban and sale of Khadi

issued by the Central Certification Committee established under the Certification Rules. The petitioner is engaged in the development of Khadi by

its production and sale.

4. The Commission besides other financial assistance gives 20% of the sale price of Khadi products as rebate to the institutions engaged in Khadi

production and sale.

5. The petitioner was getting financial assistance and rebate from the Commission.

6. It appears that a show cause notice dated 23.7.2001 was issued by the Chairman, Central Certification Committee of the Commission to the

petitioner (vide Annexure-5 to the petition). The petitioner sent a reply dated 6.9.2001 (vide Annexure-6 to the petition).

7. The petitioner made an application dated 12.11.2001 to the Chairman of the Central Certification Committee (vide Annexure-7 to the petition).

Ultimately, by the impugned order dated 24/27/28.5.2002 the petitioner's certificate was cancelled. Hence this writ petition.

8. It is not necessary to go into all the points raised in the petition as we are of the opinion that the petition deserves to be allowed on the very first

point, i.e., no reasons have been given in the impugned order nor has the petitioner's reply to the show cause notice (copy of which is Annexure-6

to the petition) and the petitioner's application dated 12.11.2001 (copy of which Annexure-7 to the petition) taken into consideration in the

impugned order.

9. It is well settled that there is a difference between reasons and conclusion. The impugned order has civil consequences, and hence it had to

comply with the principles of natural justice. Giving of reasons is one of the requirements of natural justice as held by the Constitution Bench of the

Supreme Court in S.N. Mukherjee Vs. Union of India, . In that decision the matter has been considered in great detail and it has been held that

recording of reasons is a part of natural justice.

10. In paragraph 35 of the said decision the Supreme Court observed:-

Reasons, when recorded by an administrative authority in an order passed by it while exercising quasi-judicial functions, would no doubt facilitate

the exercise of its jurisdiction by the appellate or supervisory authority. But the other considerations, referred to above, which have also weighed

with this Court in holding that an administrative authority must record reasons for its decision are of no less significance. These considerations show

that the recording of reasons by an administrative authority serves a salutary purpose, namely, it excludes chances of arbitrariness and ensures a

degree of fairness in the process of decision-making. The said purpose would apply equally to all decisions and its application cannot be confined

to decisions which are subject to appeal, revision or judicial review. In our opinion, therefore, the requirement that reasons be recorded should

govern the decisions of an administrative authority exercising quasi-judicial functions irrespective of the fact whether the decision is subject to

appeal, revision or judicial review. It may, however, be added that it is not required that the reasons should be as elaborate as in the decision of a

Court of law. The extent and nature of the reasons would depend on particular facts and circumstances. What is necessary is that the reasons are

clear and explicit so as to indicate that the authority has given due consideration to the points in controversy. The need for recording of reasons is

greater in a case where the order is passed at the original stage. The appellate or revisional authority, if it affirms such an order, need not give

separate reasons if the appellate or revisional authority agrees with the reasons contained in the order under challenge.

11. We have carefully perused the impugned order and we are of the opinion that it neither records reasons nor does it deal with the explanation

furnished by the petitioner in its reply to the show cause notice and its application dated 12.11.2001.

12. All that the impugned order states is that there are various allegations against the petitioner which were examined. The impugned order states.-

And whereas after careful consideration, the Central Certification Committee found that the replies furnished by the institution are not satisfactory

and far from reality and therefore drawn conclusions beyond doubt that Gram Vikas Kalyan Ashram Samity, Kachuwa Raipur (Ghazipur) has

committed irregularities, infringement of Certification Rules, guilt of mal-practice and therefore, the Central Certification Committee decided that it

has left no other option but to invoke the powers conferred under Certification Rules and to cancel the certificate issued in favour of Gram Vikas

Kalyan Ashram Samity, Kachuwa Raipur, District Ghazipur (UP).

13. In our opinion the aforesaid observations do not amount to giving of reasons but only giving of conclusions.

14. In Committee of Management, Durga Dutt Chunni Lal Sagar Mal Khandelwal Post Graduate College and Another Vs. V.B.S. Purvanchal

University and Others, a division Bench of this Court has held that there is a difference between recording of conclusion and recording of reasons.

The division Bench followed the Supreme Court decision in Union of India (UOI) Vs. Mohan Lal Capoor and Others, (vide paragraphs 27 and

28) as well as the decision of this Court in Committee of Management v. State of U.P. 1985 (1) UPLBEC 530.

15. The petitioner had given a reply to the show cause notice (copy of which is Annexure-6 to the petition), and also filed an application dated

12.11.2001 (copy of which is Annexure-7 to the petition). In our opinion these should have been considered by the respondent No. 1 while

passing the impugned order, but that has not been done.

16. For the reasons given above this petition is allowed. Impugned order is set aside.

17. However, it is open to the respondent No. 1 to pass a fresh order after giving opportunity of hearing to the petitioner and by recording reasons

apart from the conclusion.