

Abdul Rasheed And 6 Others vs State Of Up And 2 Others on 2 January, 2025

Author: Prakash Padia

Bench: Prakash Padia

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Neutral Citation No. - 2025:AHC:169

Court No. - 7

Case :- WRIT - C No. - 40796 of 2024

Petitioner :- Abdul Rasheed And 6 Others

Respondent :- State Of Up And 2 Others

Counsel for Petitioner :- Mujiburrahman,Mushir Khan

Counsel for Respondent :- C.S.C.

Hon'ble Prakash Padia,J.

1. The order dated 18.10.2024 passed by the respondent no.2 namely Sub Divisional Magistrate, Naugarh, District Siddharthnagar in Case No.T202317630108978 (Buttunnisha Vs. Abdul Rasheed & others) is under challenge in the present writ petition.
2. By the aforesaid order the application for condonation of delay in the appeal filed by the respondent no.3 was allowed imposing cost of Rs.3500/-.
3. It is argued by counsel for the petitioners that against the order dated 30.11.2000 passed by the Tehsildar, Naugarh, District Siddharth Nagar under Section 34 of the U.P. Revenue Code, an appeal

was filed by the respondent no.3-Butunnisha before the respondent no.2-Sub Divisional Magistrate, Naugarh, District Siddharth Nagar, under Section 207 of the U.P. Land Revenue Act, 1901. The aforesaid appeal was filed after more than 22 years. Along-with said appeal an application for condonation of delay was also filed. Objections were filed against the aforesaid delay condonation application by the present writ petitioners but without considering the objections submitted by the petitioners the application for condonation of delay filed by the respondent no.3 was allowed.

4. Heard learned counsel for the petitioners, learned Standing Counsel for the respondent nos.1 & 2 and perused the records.

5. In view of the order proposed to be passed herein, no useful purpose would be served by putting the respondent no.3 to notice and keeping this petition pending before this Court. However, in case the respondent no.3 feels aggrieved by the order his/her right to seek modification/variation of the order is being kept reserved.

6. From perusal of the record, it is clear that the order impugned dated 18.10.2024 passed by the respondent no.2 is absolutely non speaking order and no reasons whatsoever has been mentioned in the entire order by the respondent no.2 while allowing the application for condonation of delay.

7. Law in this connection is well settled that judicial/administrative authorities are duty bound to pass reasoned and speaking order. The Hon'ble Supreme Court in the case of Assistant Commissioner Commercial Tax Department, Works Contract & Leasing, Kota v. M/s Shukla & Brothers Civil Appeal No..... of 2010/SLP (C) NO. 16466 of 2009) has held that the Reasons are the soul of orders. Non-recording of reasons could lead to dual infirmities; firstly, it may cause prejudice to the affected party and secondly, more particularly, hamper the proper administration of justice. The relevant portion of the aforesaid judgement reads as follows:-

"Reasons are the soul of orders. Non-recording of reasons could lead to dual infirmities; firstly, it may cause prejudice to the affected party and secondly, more particularly, hamper the proper administration of justice. These principles are not only applicable to administrative or executive actions, but they apply with equal force and, in fact, with a greater degree of precision to judicial pronouncements. A judgment without reasons causes prejudice to the person against whom it is pronounced, as that litigant is unable to know the ground which weighed with the Court in rejecting his claim and also causes impediments in his taking adequate and appropriate grounds before the higher Court in the event of challenge to that judgment."

8. The Hon'ble Apex Court again in the case of Kranti Associate Private Limited and another Vs. Masood Ahmed Khan and others reported in (2010) 9 SCC 496 has held that recording of reasons also operates as a valid restraint on any possible arbitrary exercise of judicial and quasi judicial or even administrative power. The Paragraph Nos.46 & 47 of the aforesaid judgement reads as follows:-

"46. The position in the United States has been indicated by this Court in S.N. Mukherjee (1990) 4 SCC 594 of the judgment. This Court held that in the United States the courts have always insisted on the recording of reasons by administrative authorities in exercise of their powers. It was further held that such recording of reasons is required as "the courts cannot exercise their duty of review unless they are advised of the considerations underlying the action under review". In S.N. Mukherjee this Court relied on the decisions of the US Court in Securities and Exchange Commission v. Chenery Corp. 421 US 560 80 (542) and Dunlop v. Bachowski 421 US 560 80 (1942) in support of its opinion discussed above.

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).

(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, 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?."

9. The only question for consideration is as to whether any finding given by the revenue court without giving any reason could be upheld or not.

10. Reasons are the backbone of the order and only from the deciphered as to what persuaded the authority to draw a particular conclusion. Once the petitioner is not aware of the reasons, then this Court can ignore the availability of alternative remedy because in absence of reasons, the petitioner is not in a position to meet out the grounds on which his application was rejected.

11. The Supreme Court in the case of Central Board of Trustees v. M/s Indore Composite Pvt. Ltd. decided in C.A. No.7240/2018 has held as under:

"14. Indeed, in the absence of any application of judicial mind to the factual and legal controversy involved in the appeal and without there being any discussion, appreciation, reasoning and categorical findings on the issues and why the findings impugned in the writ petition deserve to be upheld or reversed, while dealing with the arguments of the parties in the light of legal principles applicable to the case, it is

difficult for this Court to sustain such order of the Division Bench. The only expression used by the Division Bench in disposing of the writ petition is "on due consideration". It is not clear to us as to what was that due consideration which persuaded the Division Bench to dispose of the writ petition because we find that in the earlier paras only facts are set out.

15. Time and again, this Court has emphasized on the Courts the need to pass reasoned order in every case which must contain the narration of the bare facts of the case of the parties to the lis, the issues arising in the case, the submissions urged by the parties, the legal principles applicable to the issues involved and the reasons in support of the findings on all the issues arising in the case and urged by the learned counsel for the parties in support of its conclusion. It is really unfortunate that the Division Bench failed to keep in mind these principles while disposing of the writ petition. Such order, in our view, has undoubtedly caused prejudice to the parties because it deprived them to know the reasons as to why one party has won and other has lost. We can never countenance the manner in which such order was passed by the High Court which has compelled us to remand the matter to the High Court for deciding the writ petition afresh on merits."

12. The Supreme Court in the case of Brijmani Devi v. Pappu Kumar, reported in (2022) 4 SCC 497 has held as under :-

"32. On the aspect of the duty to accord reasons for a decision arrived at by a court, or for that matter, even a quasi-judicial authority, it would be useful to refer to a judgment of this Court in *Kranti Associates (P) Ltd. v. Masood Ahmed Khan* [*Kranti Associates (P) Ltd. v. Masood Ahmed Khan*, (2010) 9 SCC 496 (2010) 3 SCC (Civ) 852], wherein after referring to a number of judgments this Court summarised at para 47 the law on the point. The relevant principles for the purpose of this case are extracted as under:

32.1. 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.

32.2. Recording of reasons also operates as a valid restraint on any possible arbitrary exercise of judicial and quasi-judicial or even administrative power.

32.3. Reasons reassure that discretion has been exercised by the decision-maker on relevant grounds and by disregarding extraneous considerations.

32.4. 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.

32.5. 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.

32.6. 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.

32.7. Insistence on reason is a requirement for both judicial accountability and transparency.

32.8. 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.

32.9. 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.

32.10. 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]) 32.11. 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. In this view of the matter, the Court is of the prima facie opinion that the order impugned dated 18.10.2024 has been passed without application of mind and bad in the eyes of law hence same is liable to be set aside and is hereby set aside.

14. The writ petition is allowed. This order will not restrain the respondent no.2 to pass a fresh order strictly in accordance with law.

Order Date :- 2.1.2025 Pramod Tripathi