

Rishabh @ Rishabh Singh Bhadauriya vs State Of U.P. And 2 Others on 28 February, 2025

Author: Saurabh Lavania

Bench: Saurabh Lavania

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Neutral Citation No. - 2025:AHC:28799

Court No. - 85

Case :- CRIMINAL MISC. WRIT PETITION No. - 883 of 2025

Petitioner :- Rishabh @ Rishabh Singh Bhadauriya

Respondent :- State Of U.P. And 2 Others

Counsel for Petitioner :- Digvijay Singh, Shashi Kant Shukla

Counsel for Respondent :- G.A.

Hon'ble Saurabh Lavania, J.

1. The oral prayer sought by the learned counsel for the petitioner to correct the prayer clause is acceded.
2. Counsel for the applicant is permitted to carry out the necessary corrections in the prayer clause during the course of the day.
3. Heard learned counsel for the petitioner and the learned AGA for the State.
4. The present petition has been filed seeking the following main reliefs:

"(I) Issue a writ, order or direction in the nature of certiorari quashing the impugned order dated 23.12.2024 (Annexure No. 5 to this writ petition) to that extent passed by respondent No. 2 and further allowing the stay application dated 02.12.2024 filed by the petitioner in Appeal No. 3690/2024 (Computerized Case No. Co2403000003690) (Rishabh Singh Bhadauriya Vs. State of U.P.) U/s-6 of The Uttar Pradesh Control of Goondas Act, 1970 pending before respondent No.2."

5. It is stated that the based upon the four criminal cases related to offence indicated under Sections 147, 323, 380, 427, 504, 90 IPC and one Beat report the respondent No.3-Additional Commissioner of Police (Law and Order)/Executive Magistrate, Police Commissionerate, Kanpur Nagar passed the order dated 26.11.2024, without considering the reply of the petitioner in its true spirit and as per law, ought not to have passed order in the manner the same has been passed and further, the petitioner can be treated as 'Goonda' under the U.P. Control of Goondas Act, 1970 and, therefore, being aggrieved, the petitioner filed an appeal challenging the order dated 26.11.2024 passed by the respondent No.3-Additional Commissioner of Police (Law and Order)/Executive Magistrate, Police Commissionerate, Kanpur Nagar before the respondent No.2-Commissioner, Kanpur Division Kanpur.

6. It is further stated that the respondent No.2-Appellate Authority, after due consideration of the contents of the order dated 26.11.2024 and the grounds taken in the memo of appeal as also the relevant provisions of the Act of 1970, as explained by this Court, admitted the appeal vide order dated 23.12.2024 and by means of the same orders without recording reasons after taking note of the grounds and facts indicated for seeking interim relief related to the order dated 26.11.2024, rejected the interim relief prayed for. As such, the interference in the order dated 23.12.2024 is required only to the extent of rejecting the prayer seeking interim protection.

7. Learned AGA opposed the contention of counsel for the petitioner.

8. Considering the aforesaid facts including the relevant part of order dated 23.12.2024 in issue.

9. The recording of reasons are necessary. It is well known that "conclusions" and "reasons" are two different things and reasons must show mental exercise of authorities in arriving at a particular conclusion.

10. Reasons substitute subjectivity by objectivity. The emphasis on recording reasons is that if the decision reveals the 'inscrutable face of the sphinx', it can be its silence, render it virtually impossible for the Courts to perform their appellate function or exercise the power of judicial review in adjudging the validity of the decision. Right to reason is an indispensable part of a sound judicial system, reasons at least sufficient to indicate an application of mind to the later before Court. Another rationale is that the affected party can know why the decision has gone against him. One of the salutary requirements of natural justice is spelling out reasons for the order made. In other words, a speaking out. The inscrutable face of the sphinx' is ordinarily incongruous with a judicial or quasi-judicial performance.

11. In Breen Vs. Amalgamated Engg. Union, reported in 1971(1) AIER 1148, it was held that the giving of reasons is one of the fundamentals of good administration.

12. In Alexander Machinery (Dudley) Ltd.Vs. Crabtree, reported in 1974(4) IRC 120 (NIRC) it was observed that "failure to give reasons amounts to denial of justice. Reasons are live links between the mind of the decision taker to the controversy in question and the decision or conclusion arrived at.

13. In Union of India Vs. Mohan Lal Kapoor (1973) 2 SCC 836, as under:

"Reasons are the links between the materials on which certain conclusions are based and the actual conclusions. They disclose how the mind is applied to the subject matter for a decision whether it is purely administrative or quasi-judicial. They should reveal a rational nexus between the facts considered and the conclusions reached."

14. The Apex Court in the case of Uma Charan Vs. State of Madhya Pradesh & Anr. AIR 1981 SC 1915 said:

"Reasons are the links between the materials on which certain conclusions are based and the actual conclusions. They disclose how the mind is applied to the subject matter for a decision whether it is purely administrative or quasi-judicial. They should reveal a rational nexus between the facts considered and the conclusions reached. Only in this way can opinions or decisions recorded be shown to be manifestly just and reasonable"

15. The Hon'ble Supreme Court of India in the case of S.N. Mukherjee v. Union of India, AIR 1990 SC 1984, has explained that reasons are necessary links between the facts and the findings recorded in the administrative orders, which visit a party with evil civil consequences. In absence of reasons such an order cannot be permitted to stand.

16. The Hon'ble Supreme Court of India in the case of Raj Kishore Jha v. State of Bihar and others, (2003) 11 SCC 519, has held that reasons are the heartbeat of every conclusion and without the same, it becomes lifeless.

17. The Supreme Court in State of Orissa v. Dhaniram Luhar (2004) 5 SCC 568 while dealing with the criminal appeal, insisted that the reasons in support of the decision was a cardinal principle and the High Court should record its reasons while disposing of the matter. The Court held as under:

"8. Even in respect of administrative orders Lord Denning, M.R. In Breen v. Amalgamated Engg. Union, (1971)2 QB 175, observed:(QB p.191 C) "The giving of reasons is one of the fundamentals of good administration." In Alexander Machinery (Dudley) Ltd. v. Crabtree it was observed: "Failure to give reasons amounts to denial of justice." "Reasons are live links between the mind of the decision-taker to the

controversy in question and the decision or conclusion arrived at." Reasons substitute subjectivity by objectivity. The emphasis on recording reasons is that if the decision reveals the "inscrutable face of the sphinx", it can, by its silence, render it virtually impossible for the Courts to perform their appellate function or exercise the power of judicial review in adjudging the validity of the decision. Right to reason is an indispensable part of a sound judicial system; reasons at least sufficient to indicate an application of mind to the matter before Court. Another rationale is that the affected party can know why the decision has gone against him. One of the salutary requirements of natural justice is spelling out reasons for the order made; in other words, a speaking-out. The "inscrutable face of the sphinx" is ordinarily incongruous with a judicial or quasi-judicial performance."

18. In *Mc Dermott International Inc. Vs. Burn Standard Co. Ltd. & Ors.* (2006) 11 SCC 181 Apex Court referring to Bachawat's *Law of Arbitration and Conciliation*, 4th Edn., pp. 855-56 in para 56 said:

"Reasons are the links between the materials on which certain conclusions are based and the actual conclusions..."

19. In *State of Rajasthan v. Rajendra Prasad Jain*, (2008)15 SSC 711 stated that 'reason is the heartbeat of every conclusion, and without the same it becomes lifeless.'

20. The Apex Court in *Kranti Associates Private Limited & Anr. Vs. Masood Ahmed Khan & Ors.* (2010) 9 SCC 496 referring to the judgment in *Mohan Lal Capoor* (supra) in para(s) 23 and 47 said:

"Such reasons must disclose how mind was applied to the subject-matter for a decision regardless of the fact whether such a decision is purely administrative or quasi-judicial. This Court held that the reasons in such context would mean the link between materials which are considered and the conclusions which are reached. Reasons must reveal a rational nexus between the two.

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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 process. 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?.""

21. The Apex Court also in Competition Commission of India Vs. Steel Authority of India Ltd. & Anr. JT 2010 (10) SC 26 in para 68 referring to the judgment in the case of Gurdial Singh Fijji (supra) said:

"Reasons are the links between the materials on which certain conclusions are based and the actual conclusions. By practice adopted in all courts and by virtue of judge-made law, the concept of reasoned judgment has become an indispensable part of basic rule of law and in fact, is a mandatory requirement of the procedural law. Clarity of thoughts leads to clarity of vision and therefore, proper reasoning is foundation of a just and fair decision."

22. It is well settled that an order without valid reasons cannot be sustained. To give reasons is the rule of natural justice. Highlighting this rule, Hon'ble Supreme Court held in the case of The Secretary & Curator, Victoria Memorial v. Howrah Ganatantrik Nagrik Samity and ors., JT 2010(2)SC 566 para 31 to 33 as under :

"31. It is a settled legal proposition that not only administrative but also judicial order must be supported by reasons, recorded in it. Thus, while deciding an issue, the Court is bound to give reasons for its conclusion. It is the duty and obligation on the part of the Court to record reasons while disposing of the case. The hallmark of an order and exercise of judicial power by a judicial forum is to disclose its reasons by itself and giving of reasons has always been insisted upon as one of the fundamentals of sound administration justice - delivery system, to make known that there had been proper and due application of mind to the issue before the Court and also as an essential requisite of principles of natural justice. The giving of reasons for a decision is an essential attribute of judicial and judicious disposal of a matter before Courts, and which is the only indication to know about the manner and quality of exercise undertaken, as also the fact that the Court concerned had really applied its mind. " [Vide State of Orissa Vs. Dhaniram Luhar (JT 2004(2) SC 172 and State of Rajasthan Vs. Sohan Lal & Ors. JT 2004 (5) SCC 338:2004 (5) SCC 573].

32. Reason is the heartbeat of every conclusion. It introduces clarity in an order and without the same, it becomes lifeless. Reasons substitute subjectivity by objectivity. Absence of reasons renders the order indefensible/unsustainable particularly when the order is subject to further challenge before a higher forum. [Vide Raj Kishore Jha Vs. State of Bihar & Ors. AIR 2003 SC 4664; Vishnu Dev Sharma Vs. State of Uttar Pradesh & Ors. (2008) 3 SCC 172; Steel Authority of India Ltd. Vs. Sales Tax Officer,

Rourkela I Circle & Ors. (2008) 9 SCC 407; State of Uttaranchal & Anr. Vs. Sunil Kumar Singh Negi AIR 2008 SC 2026; U.P.S.R.T.C. Vs. Jagdish Prasad Gupta AIR 2009 SC 2328; Ram Phal Vs. State of Haryana & Ors. (2009) 3 SCC 258; Mohammed Yusuf Vs. Faij Mohammad & Ors. (2009) 3 SCC 513; and State of Himachal Pradesh Vs. Sada Ram & Anr. (2009) 4 SCC 422].

33. Thus, it is evident that the recording of reasons is principle of natural justice and every judicial order must be supported by reasons recorded in writing. It ensures transparency and fairness in decision making. The person who is adversely affected may know, as why his application has been rejected."

23. Non recording of reasons, non consideration of admissible evidence or consideration of inadmissible evidence renders the order to be unsustainable. Hon'ble Supreme Court in the case of Chandana Impex Pvt. Ltd. Vs. Commissioner of Customs, New Delhi , 2011(269)E.L.T. 433 (S.C.), held as under :

"8. ? It needs to be emphasised that every litigant, who approaches the court for relief is entitled to know the reason for acceptance or rejection of his prayer, particularly when either of the parties to the lis has a right of further appeal. Unless the litigant is made aware of the reasons which weighed with the court in denying him the relief prayed for, the remedy of appeal will not be meaningful. It is that reasoning, which can be subjected to examination at the higher forums. In State of Orissa Vs. Dhaniram Luhar² this Court, while reiterating that reason is the heart beat of every conclusion and without the same, it becomes lifeless, observed thus :

"8.....Right to reason is an indispensable part of a sound judicial system; reasons at least sufficient to indicate an application of mind to the matter before court. Another rationale is that the affected party can know why the decision has gone against him. One of the salutary requirements of natural justice is spelling out reasons for the order made;....."

24. Considering the facts and principle settled on the issue of recording of reasons in an order, this Court is of the view that the present petition is liable to be allowed as while rejecting the prayer seeking interim protection reasons, as required under law, have not been recorded by the respondent No.2-Appellate Authority-Commissioner, Kanpur Division Kanpur in the order dated 23.12.2024. Accordingly, the order dated 23.11.2024 passed by the respondent No.2-Appellate Authority-Commissioner, Kanpur Division Kanpur is hereby set aside only to the extent it rejects the prayer seeking interim protection.

25. The matter is remanded back to the respondent No.2-Appellate Authority-Commissioner, Kanpur Division Kanpur who shall pass a reasoned and speaking order on the prayer sought by the petitioner seeking interim protection within a period of two weeks' from the date of production of a certified copy of this order.

Order Date :- 28.2.2025 NSC