

Balaji Baliram Mupade vs The State Of Maharashtra on 29 October, 2020

Equivalent citations: AIR 2020 SUPREME COURT 5758, AIR ONLINE 2020 SC 820

Author: Sanjay Kishan Kaul

Bench: Hrishikesh Roy, Sanjay Kishan Kaul

1

REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.3564/2020
[@ SLP [C] NO.11626/2020]

BALAJI BALIRAM MUPADE & ANR.

Appellant

VERSUS

THE STATE OF MAHARASHTRA & ORS.

Respondent

J U D G M E N T

SANJAY KISHAN KAUL, J.

Leave granted.

1. Judicial discipline requires promptness in delivery of judgments – an aspect repeatedly emphasized by this Court. The problem is compounded where the result is known but not the reasons. This deprives any aggrieved party of the opportunity to seek further judicial redressal in the next tier of judicial scrutiny.

2. A Constitution Bench of this Court as far back as in the year 1983 in the State of Punjab & Ors. v. Jagdev Singh Talwandi - 1984 (1) SCC 596 drew the attention of the High Courts to the serious difficulties which were caused on account of a practice which was increasingly being adopted by several High Courts, that of pronouncing the final orders without a reasoned judgment. The relevant

paragraph is reproduced as under:

“30. We would like to take this opportunity to point out that serious difficulties arise on account of the practice increasingly adopted by the High Courts, of pronouncing the final order without a reasoned judgment. It is desirable that the final order which the High Court intends to pass should not be announced until a reasoned judgment is ready for pronouncement. Suppose, for example, that a final order without a reasoned judgment is announced by the High Court that a house shall be demolished, or that the custody of a child shall be handed over to one parent as against the other, or that a person accused of a serious charge is acquitted, or that a statute is unconstitutional or, as in the instant case, that a detenu be released from detention. If the object of passing such orders is to ensure speedy compliance with them, that object is more often defeated by the aggrieved party filing a special Leave Petition in this Court against the order passed by the High Court. That places this Court in a predicament because, without the benefit of the reasoning of the High Court, it is difficult for this Court to allow the bare order to be implemented. The result inevitably is that the operation of the order passed by the High Court has to be stayed pending delivery of the reasoned judgment.”

3. Further, much later but still almost two decades ago, this Court in *Anil Rai v. State of Bihar* - 2001 (7) SCC 318 deemed it appropriate to provide some guidelines regarding the pronouncement of judgments, expecting them to be followed by all concerned under the mandate of this Court. It is not necessary to reproduce the directions except to state that normally the judgment is expected within two months of the conclusion of the arguments, and on expiry of three months any of the parties can file an application in the High Court with prayer for early judgment. If, for any reason, no judgment is pronounced for six months, any of the parties is entitled to move an application before the then Chief Justice of the High Court with a prayer to re-assign the case before another Bench for fresh arguments.

4. The aforementioned principle has been forcefully restated by this Court on several occasions including in *Zahira Habibulla H. Sheikh & Ors. v. State of Gujarat & Ors.* [AIR 2004 SC 3467 paras 80-82], *Mangat Ram v. State of Haryana* (2008) 7 SCC 96 paras 5-10] and most recently in *Ajay Singh & Anr. Etc. v. State of Chhattisgarh & Anr.*- AIR 2017 SC 310.

5. The facts of the present case speak for themselves. The Special Leave Petition was filed against the impugned order dated 21.01.2020 which read as under:

“OPERATIVE ORDER”

1. For the reasons separately recorded, the present writ petition is dismissed.
2. The prayer for continuation of interim order is rejected.

3. Authenticated copy of this order be supplied to learned Asstt.Govt.Pleader. In turn, learned Asstt.Govt.Pleader is directed to communicate the same to the Returning Officer forthwith.”

6. The Special Leave Petition was filed in March, 2020 and when it was listed before this Court on 07.10.2020, counsel for the petitioner categorically stated that a copy of the reasons for the order dated 21.01.2020 had still not been uploaded till the morning of that day.

7. We thus called upon the Registrar of the Aurangabad Bench of the Bombay High Court to verify the aforesaid fact and communicate to this Court forthwith as to why the order had not been uploaded. We also restrained any coercive action in pursuance of the impugned order as we were unable to appreciate the controversy in the absence of any reasons.

8. The report was submitted by the Registrar (Judicial) stating that the order was pronounced on 21.01.2020 being only the operative portion, and the reasons were received by the Registry only on 09.10.2020 after almost nine months. It was uploaded on the same date.

9. On the aforesaid short ground, without even looking at any other aspect, we issued notice returnable for today and stayed the operation of the impugned order.

10. We must note with regret that the counsel extended through various judicial pronouncements including the one referred to aforesaid appear to have been ignored, more importantly where oral orders are pronounced. In case of such orders, it is expected that they are either dictated in the Court or at least must follow immediately thereafter, to facilitate any aggrieved party to seek redressal from the higher Court. The delay in delivery of judgments has been observed to be a violation of Article 21 of the Constitution of India in Anil Rai's case (supra) and as stated aforesaid, the problem gets aggravated when the operative portion is made available early and the reasons follow much later.

11. It cannot be countenanced that between the date of the operative portion of the order and the reasons disclosed, there is a hiatus period of nine months! This is much more than what has been observed to be the maximum time period for even pronouncement of reserved judgment as per Anil Rai's case (supra).

12. The appellant undoubtedly being the aggrieved party and prejudiced by the impugned order is unable to avail of the legal remedy of approaching this Court where reasons can be scrutinized. It really amounts to defeating the rights of the appellant to challenge the impugned order on merits and even the succeeding party is unable to obtain the fruits of success of the litigation.

13. We are constrained to pen down a more detailed order and refer to the earlier view on account of the fact that recently a number of such orders have come to our notice and we thought it is time to send a reminder to the High Courts.

14. We have little option in the aforesaid facts of the case but to set aside the impugned order and remit the matter back for reconsideration of the High Court on merits, uninfluenced by the reasons which have been finally disclosed in respect of the impugned order.

15. Needless to say, the matter would be taken up by a Bench not consisting of the Members who constituted the Bench earlier.

16. The appeal is allowed in the aforesaid terms leaving the parties to bear their own costs.

17. Since the matter has to be re-heard, the interim order which was operating in favour of the appellant in terms of the order dated 15.05.2013 of the High Court would continue to enure for the benefit of the appellant.

18. A copy of this order be circulated to all High Courts.

.....J [SANJAY KISHAN KAUL]J
[HRISHIKESH ROY] NEW DELHI;

OCTOBER 29, 2020.