
(2020) 12 P&H CK 0435

In the Punjab And Haryana At Chandigarh

Case No : Criminal Writ Petition No. 9806 Of 2020

Atma Ram

APPELLANT

Vs

State Of Punjab And Others

RESPONDENT

Date of Decision : 16-12-2020

Acts Referred:

Narcotic Drugs And Psychotroic Substantes Act, 1985 — Section 18
Constitution Of India, 1950 — Article 226, 227

Citation : (2020) 12 P&H CK 0435

Hon'ble Judges : Harnaresh Singh Gill, J

Bench : Single Bench

Advocate : Ranbir Singh Sekhon, Randeep S. Khaira

Final Decision : Allowed

Judgement

Harnaresh Singh Gill, J

Case is taken up for hearing through video conferencing.

This petition has been filed by the petitioner under Article 226/227 of the Constitution of India for issuance of a writ in the nature of certiorari for

quashing of the order dated 17.10.2019 (Annexure P-1), passed by respondent No. 4, vide which the parole has been declined to the petitioner and,

further for grant of parole for six weeks.

Reply by way of affidavit of Superintendent of Central Jail, Ferozepur, filed in the Registry, is taken on record.

Learned counsel for the petitioner submits that the petitioner was convicted and sentenced for 10 years on 23.1.2019 in case FIR No. 39 dated

01.3.2015 under Section 18 of the Narcotic Drugs and Psychotropic Substances Act, 1985, registered at Police Station City-1, Abohar, District

Fazilka. The petitioner had applied for six weeks' parole which was rejected on 17.10.2019 and he has been in custody for the last more than 02 years

and 05 months. He further submits that parole of the petitioner has been declined by the concerned Magistrate Sriganaganagar on the ground that after

the grant of parole, the petitioner may again indulge in the sale of intoxicants. In support of his contentions, learned counsel has placed reliance on the

judgments passed by the Co-ordinate Benches of this Court in CRWP No. 4219 of 2020 titled 'Rohit @ Kalia versus State of Haryana and others

decided on 26.8.2020 and CRWP No. 2156 of 2019 'titled Jeet Singh versus State of Punjab and others' decided on 07.1.2020.

On the other hand, learned State counsel submits that the matter was referred to the Collector-cum-District Magistrate, Sriganaganagar and after

recording of the statements of the father of the petitioner, namely, Gopi Ram, brother-Radhe Shayam and neighbours-Hetram, Shatinder Singh and

Jaswant Singh, the impugned order was passed.

I have heard the learned counsel for the petitioner as well as the learned State counsel.

It is settled principle that administrative order has to be reasonable and the authorities are to take into consideration all the relevant facts and exclude

irrelevant facts from consideration. The decision would neither be perverse nor irrational, improper or contradictory, to which no person properly

advised on the facts would reach at.

It has time and again been held that the reasons would give clarity in the order and in the absence of the same, the order will not be sustainable.

Reliance can be placed upon the judgment of the Apex Court passed in 'Union of India and others Vs. Jai Parkash Singh', 2007 AIR (SC) 1363.

Relevant part of the said judgment reads as under:-

â??7. Reasons introduce clarity in an order. On plainest consideration of justice, the High Court ought to have set forth its reasons, howsoever brief,

in its order indicative of an application of its mind, all the more when its order is amenable to further avenue of challenge. The absence of reasons has

rendered the High Court's judgment not sustainable. 8. Even in respect of administrative orders Lord Denning M.R. in Breen v. Amalgamated

Engineering Union (1971 (1) All England Reporter 1148) observed ""The giving of reasons is one of the fundamentals of good administration"". In

Alexander Machinery (Dudley) Ltd. v. Crabtree (1974 LCR 120) 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 a sphinx"" is ordinarily incongruous
with a judicial or quasi-judicial performance.â??

A perusal of the petition reveals that the petitioner stands convicted on
23.1.2019 and his parole application was rejected on 17.10.2019 and that he
has already undergone the actual sentence of 02 years and 05 months, as stated
by the learned counsel for the petitioner.

Considering the above circumstances, the present petition is allowed and the
impugned order dated 17.10.2019 (Annexure P-1) is set aside. The
petitioner is ordered to be released on four weeks' parole, to the satisfaction of
the District Magistrate concerned, who is further directed to impose
such conditions as may be required in the Jail Manual towards the ends of
securing the presence of the petitioner in jail after the period of parole is
over and done with and the temporary release is not misused.