
(2015) 08 MP CK 0089

In the Madhya Pradesh High Court

Case No : Writ Petition Nos. 6304 and 6313 of 2011

Dadhu and Others

APPELLANT

Vs

State of M.P. and Others

RESPONDENT

Date of Decision : 27-08-2015

Acts Referred:

Limitation Act, 1963 — Section 5

Citation : (2015) 08 MP CK 0089

Hon'ble Judges : Sujoy Paul, J

Bench : Single Bench

Advocate : J.P. Mishra, for the Appellant; R.P. Gupta, Deputy Government Advocate, Advocates for the Respondent

Final Decision : Disposed off

Judgement

Sujoy Paul, J—With the consent of the parties, matters are finally heard.

2. Shri J.P. Mishra, at the outset submits that these matters are covered by common order passed in W.P. No. 6308/2011 (Lalaram Oud & Ors. Vs. State of M.P. & Ors.), decided on 15.07.2015. He submits that these matters are exactly identical to the said petitions.

3. Shri Gupta and Shri G.S. Sharma fairly accepted the aforesaid legal contention.

4. It is seen that this Court has passed the following order in Lalaram Oud & Ors. (supra):-

"7. It is seen that revisional authority up to para 2 (8) narrated the facts of the case and contentions of the counsel for the revision petitioners. In para 3 also in first portion, he recorded the contention of learned counsel appearing for the present petitioners. However, he reached to following conclusion:-

(Emphasis supplied)

8. Plain reading of impugned order shows that the Commissioner was not

satisfied with the application preferred under section 5 of the Limitation Act, hence, delay is not condoned by him. In para 4 he opined that case of the petitioners is barred by limitation and therefore, rejected the revision.

9. In the opinion of this Court, the authority below should have given opportunity to the petitioners to file affidavit in support of said application.

10. If ultimately the said application is disallowed, there was no question of dealing with merits of the matter.

11. In other words, unless delay is condoned, revision cannot be treated as maintainable. Thus there was no occasion for learned Commissioner to deal with the merits of the matter.

12. Apart from this, the conclusion which is arrived at (reproduced above) is not based on any reason.

13. The contentions of revisionists are mentioned in the impugned order, but no reasons are assigned as to why those contentions are not trust worthy.

14. The Supreme Court emphasized the need for assigning reasons in the case of Kranti Associates Pvt. Ltd. and Another Vs. Sh. Masood Ahmed Khan and Others, (2010) 9 JT 362 : (2010) 9 SCC 496 : (2010) 10 SCR 1070 : (2010) 8 UJ 4022 :-

"(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.

(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.

(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"

15. As analysed above, in my opinion, the Commissioner has committed error in passing the impugned order.

16. Resultantly, the impugned orders in all writ petitions passed by the Commissioner, Chambal Division, Morena (Annexure P-1) are hereby set aside.

17. The petitioners are given liberty to file affidavit in support of their pending applications for condonation of delay.

18. This be done within 15 days from the next date of hearing before the Commissioner.

19. The Commissioner shall take up the matter on 5th August, 2015.

20. The petitioners may also file stay applications seeking interim relief within aforesaid time.

21. If such applications are preferred by the petitioners, the learned Commissioner may deal with it on merits in accordance with law.

22. Till decision on the aforesaid applications is taken by the Commissioner, the interim relief granted by this Court shall continue to remain in force.

23. It is made clear that this Court has not expressed any opinion on the merits

of the matter.

24. Revisional authority shall decide the matter in accordance with law expeditiously.

25. These petitions are disposed of.

No order as to costs."

5. It is seen that the impugned orders in the present cases are identically worded. Resultantly, the impugned orders in these writ petitions (Annexure P/1) are set aside. The petitions are disposed of with the same directions which were given in Lalaram Oud (supra).