

(1996) 01 P&H CK 0052

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous No. 16268-M of 1995

Kehar Singh

APPELLANT

Vs

State of Haryana

RESPONDENT

Date of Decision : 05-01-1996

Acts Referred:

Citation : (1996) 2 AICLR 66 : (1996) 1 RCR(Criminal) 580

Hon'ble Judges : Swatanter Kumar, J

Advocate : N.S. Bhinder, Sarla Chaudhary, Advocates for appearing Parties

Judgement

Swatanter Kumar, J.

1. This is a petition under Section 482 Cr.P.C. read with Article 226 of the Constitution of India and Section 3(1)(c) of Haryana Good Conduct Prisoners (Temporary Release) Act, 1988, filed by the petitioner for releasing him temporarily for doing agricultural pursuits. The petitioner was sentenced in F.I.R. No. 137 dated 13.3.1977 and was sentenced by the learned Sessions Judge, Karnal, on 11.11.1978. The petitioner has been in jail since then. The petitioner remained on bail for 11 years during trial and thereafter he had reentered the jail upon pronouncement of sentence. Now he has been in jail for more than two years. The petition lacks complete facts and even in the reply the respondents have also not endeavoured to give the complete facts to the Court. However, the petitioner has averred that he was earlier released on parole on the death of his father. He lived in the village peacefully and thereafter he had surrendered. Now the petitioner had made a request for temporary release on parole for agricultural purposes which appears to have been rejected vide order dated 8.8.1995. In the reply it has been stated that upon the request of the petitioner which was initiated vide letter dated 7.6.1995 the case was sent for verification and the District Magistrate, Karnal, did not recommend the release of the petitioner on parole as there was apprehension of breach of peace and consequently vide order dated 8.8.1995 the Director General of Prisons, Haryana, has rejected the request of the petitioner.

2. The submission of the petitioner that he was on bail earlier and when released on parole earlier there was no complaint against him and he had lived very peacefully in the village has not been denied in the counteraffidavit. In these circumstances it clearly stands to reason that the ground which has been stated in the order dated 8.8.1994 is valid and can be used against the petitioner for declining his request. Even if it is assumed that such a ground would be available under Section 6 of the Act to the respondents, even then this kind of an order would be completely and unreasoned, unjust and unacceptable order which would also apparently suffer from nonapplication of mind. The very fact that earlier record of the petitioner was not even considered by the authorities shows that the order has been passed more than in a routine and mechanical manner rather than with an objective approach to the request of the petitioner.

3. In various cases this Court has held that passing of such orders would be indicative of arbitrariness on the part of the authorities concerned. May be there is no statutory obligation upon them to pass a detailed order like judgment but least they are expected is to give an order which would show minimum required application of mind into the facts of the case and passing of the order with some plausible ground. The Supreme Court in the case of Union of India and others v. E.G. Nambudiri, J.T. 1991(2) S.C. 285 held as under:

"The purpose of the rules of natural justice is to prevent miscarriage of justice and it is no more in doubt that the principles of natural justice are applicable to administrative orders if such orders affect the right of a citizen. Arriving at the just decision is the aim of both quasijudicial as well as administrative enquiry, an unjust decision in an administrative enquiry may have more far reaching effect than decision in a quasijudicial enquiry."

Though the principles of natural justice do not require reasons for decision, there is necessity for giving reasons in view of the expanding law of judicial review to enable the citizens to discover the reasoning behind the decision. Right to reasons in an indispensable part of a sound system of judicial review. Under our Constitution an administrative decision is subject to judicial review if it affects the right of a citizen, it is therefore desirable that reasons should be stated."

4. In the present case no reference has been made to the circumstances which could justify the rejection or request of the petitioner for the said purpose. In view of the above discussion, the impugned order Annexure P/1 is hereby set aside and quashed. The respondents are directed to reconsider the case of the petitioner for temporary release on parole for agricultural purposes under Section 3(1)(c) of the Act within four weeks from the date on which the copy of this order is served upon them. The petition is, accordingly, disposed of.