
(2015) 09 DEL CK 0341
In the Delhi High Court
Case No : W.P. (Crl.) 1841/2015

Khoob Singh

APPELLANT

Vs

State and Others

RESPONDENT

Date of Decision : 07-09-2015

Acts Referred:

Constitution of India, 1950 — Article 226, 227
Criminal Procedure Code, 1973 (CrPC) — Section 482
Delhi Police Act, 1978 — Section 5, 51

Citation : (2015) 09 DEL CK 0341

Hon'ble Judges : Siddharth Mridul, J.

Bench : Single Bench

Advocate : Amit Rao, Advocate, for the Appellant; R.S. Kundu, ASC and M.K. Mann, SI, for the Respondent

Final Decision : Disposed Off

Judgement

Siddharth Mridul, J.

CRL.M.A.12356/2015 (Exemption)

Exemption granted subject to all just exceptions.

The application is disposed of accordingly.

W.P.(CRL) 1841/2015

1. The present is a petition under Article 226 and 227 of the Constitution of India read with section 482 Cr.P.C., 1973 praying for quashing of impugned order dated 24.03.2015 (Case No. 772-73/Ext./Cell/C), passed by the Additional Deputy Commissioner of Police, Central District, Delhi and order dated 22.07.2015 passed by the Hon'ble Lieutenant Governor of Delhi in criminal appeal No. 63/2015.

2. Notice.

3. Mr. R.S. Kundu, learned Additional Standing Counsel (Criminal) appearing on behalf of the official respondents accepts notice. With the consent of counsel appearing on behalf of the parties, in the facts and circumstances of the case, the instant petition has been heard and disposed of by the present order.

4. I need not labour on the facts in the present petition save and except to note that the petitioner, is alleged to be involved in sixteen offences and was issued a notice bearing No. 1346/2005 dated 26.07.2005 under section 5 of the Delhi Police Act. As a consequence of his alleged involvements, by way of the impugned order dated 22.07.2015, the petitioner's appeal under section 51 of the Delhi Police Act, 1978 against the order dated 24.03.2015, passed by the Additional Deputy Commissioner of Police, Central District, Delhi, ordering the petitioner to enter into a bond of Rs. 10,000/- along with one surety of the like amount to maintain peace and good behavior for a period of six months from the date of the order, has been rejected by the Hon"ble Lieutenant Governor, Delhi.

5. Counsel for the petitioner invites my attention to the impugned order dated 22.07.2015 to urge that it is a non-speaking order and no reasons for upholding the order passed by the Additional Deputy Commissioner of Police, Central District, Delhi have been stated. The appeal has been dismissed in a casual manner, without considering the submissions and contentions made on behalf of the petitioner.

6. The operative part of the impugned order dated 22.07.2015 reads as follows:-

"After hearing both the parties and careful perusal of documents on record, I am of the opinion that the respondent after considering all aspects of the matter has passed the fair order and I find no reason to interfere with it. The appeal, therefore, rejected."

7. A perusal of the above impugned order reveals that it does not assign any reason whatsoever in arriving at the decision.

8. In *Kranti Associates Pvt. Ltd. and Another Vs. Sh. Masood Ahmed Khan and Others*, the Hon"ble Supreme Court observed as under:-

"47. Summarizing 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 life blood 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. (See: David Shapiro in Defence of Judicial Candor (1987) 100 Harward Law Review 731-737).

(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 , at 562 para 29 and Anya v. University of Oxford, , 2001 EWCA Civ 405 (CA) , wherein the Court referred to Article 6 of 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".

The Hon"ble Supreme Court in Kranti Associates (supra), has given an indispensable status to reasons in administrative decisions. The Supreme Court observed that recording of reasons serves the principles of justice and puts a

valid restraint on arbitrary exercise of quasi-judicial powers exercised by administrative authorities. Reasons also expedite the process of judicial review by superior courts.

9. Further, this Court in *Adesh Kumar Gupta vs. CBI*, W.P.(CRL) 725/2015 decided on 02.09.2015 has emphasized the importance of recording reasons while setting aside an unreasoned order by the concerned Magistrate. The relevant extracts of the aforementioned judgment are as follows:-

"30. The impugned order dated 21.11.2014, extracted hereinabove, clearly demonstrates that the concerned Magistrate has acted in a casual, cavalier and routine manner. The said order only refers to the grant of permission to investigate into the matter mechanically without assigning any reasons and cannot be countenanced by this Court. The same deserves to be set aside."

10. While dealing with the aforesaid issue, this Court also relied upon the Apex Court's decision in *Assistant Commissioner, Commercial Tax Department Works Contract and Leasing, Kota vs. Shukla and Brothers*, wherein it was held as under:

"A litigant who approaches the court with any grievance in accordance with law is entitled to know the reasons for grant or rejection of his prayer. Reasons are the soul of orders. Non-recording of reasons could lead to dual infirmities; firstly, it may cause prejudice to the affected party and secondly, more particularly, hamper the proper administration of justice. These principles are not only applicable to administrative or executive actions, but they apply with equal force and, in fact, with a greater degree of precision to judicial pronouncements. A judgment without reasons causes prejudice to the person against whom it is pronounced, as that litigant is unable to know the ground which weighed with the court in rejecting his claim and also causes impediments in his taking adequate and appropriate grounds before the higher court in the event of challenge to that judgment."

11. It is trite to say that the law of the land requires every quasi judicial authority to assign reasons for arriving at a conclusion in every case adjudicated by it. The impugned order, I regretfully state does not comply with that basic requirement.

12. In view of the foregoing, the present petition is allowed. The order dated 22.07.2015 passed by the Hon"ble Lieutenant Governor is set aside. The order passed by the Additional Deputy Commissioner of Police, Central District, Delhi ordering the petitioner to enter into a bond of Rs. 10,000/- along with one surety of the like amount to maintain peace and good behavior for a period of six months from the date of the said order is also set aside and quashed and the bond furnished by the petitioner is discharged herewith.

13. The present order shall not be construed as an expression on merit of the facts of the case.

14. The petition is disposed of accordingly.