

(2019) 07 JH CK 0253
In the Jharkhand High Court
Case No : Writ Petition(C) No. 2268 of 2019

Maitreya Resources Pvt. Ltd

APPELLANT

Vs

State of Jharkhand And Ors

RESPONDENT

Date of Decision : 16-07-2019

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2019) 07 JH CK 0253

Hon'ble Judges : Sujit Narayan Prasad, J

Bench : Single Bench

Advocate : Ashutosh Anand, C.A. Bardhan, R.C.P. Sah

Final Decision : Disposed Of

Judgement

1. This writ petition is under Article 226 of the Constitution of India, whereby and whereunder the communication dated 24.03.2019 passed by the Jharkhand Industrial Area Development Authority in short "JIADA" wherein, the application filed by the petitioner for allotment of plot no.T-2 at Tetuldanga, East Singhbhum, has been rejected but according to the petitioner without assigning any reason and in one word, it has been held to be found not satisfactory by the Project Clearance Committee.

2. According to the petitioner that even accepting the application submitted by the petitioner is not proper, even thereafter, it was incumbent upon the authority concerned to pass a reasoned order reflecting the mind of the authority on which basis they have come to the finding that the application is not found to be satisfactory, therefore, in absence of any reason, the said order would be said to be mechanical and cryptic and hence not sustainable in the eye of law.

3. Mr. R.C.P. Sah, learned counsel appearing for the respondent no.4-Deputy Regional Director, Adityapur Industrial Area Development Authority, who has passed the order on the direction of the Managing Director, Jharkhand Industrial Area Development Authority-respondent no.3 and the authority after accepting

the application has found that the petitioner has not fulfilled all the criteria which was to be fulfilled as per the terms and conditions and therefore, the said application has found to be not satisfactory and accordingly, the same has not been entertained.

4. Submission has been made on behalf of the learned counsel appearing for the respondent nos.3 and 4 that it was incumbent upon the petitioner to fulfill all criteria which was required to be fulfilled as per the terms and conditions and when he has not fulfilled, he cannot come before this Court and say that the decision taken by the authority/committee is illegal merely by saying that the said application has found to be not satisfactory.

5. Having heard the learned counsel for the parties and on appreciation of their rival submissions, this Court instead of entering into the controversy about the eligibility of the petitioner, deem it fit and proper to appreciate the argument which has been advanced on behalf of the petitioner by questioning the legality and propriety of the order by saying that the said order is mechanical and cryptic and improper on the ground of violation of natural justice.

6. It is not in dispute that the order is without any reason would be said to be in violation of principle of natural justice.

Further, if the order is without any reason, the same would be said to be infringement of the fundamental right of the person concerned and the requirement to reflect the order in the decision taken by the authority to reflect the mind of the authority so that when it will be appreciated by any individual or any Court of law, they may be able to appreciate that what led the authority to come to the finding about the unsatisfactory or in case of taking any adverse decision, the said order would be said to be not sustainable in the eye of law.

Reference in this regard may be made to the judgment rendered by the Hon'ble Apex Court in the case of Siemens Engineering & Manufacturing Co. of India Ltd. Vrs. The Union of India and Anr, reported in (1976) 2 SCC 981 at para 6, which reads as under:-

"6. It is now settled law that where an authority makes an order in exercise of a quasi-judicial function, it must record its reasons in support of the order it makes. Every quasi-judicial order must be supported by reasons. That has been laid down by a long line of decisions of this Court ending with N.M. Desai V. Testeels Ltd."

The Hon'ble Apex Court in the case of S.N. Mukherjee V. Union of India, reported in (1990) 4 SCC 594 at para 39 has been pleased to inter alia, hold as under:-

"39. The object underlying the rules of natural justice "is to prevent miscarriage of justice" and secure "fair play in action". As pointed out earlier the requirement about recording of reasons for its decision by an administrative authority exercising quasi-judicial functions achieves this object by excluding chances of arbitrariness and ensuring a degree of fairness in the process of decision-making.

Keeping in view the expanding horizon of the principles of natural justice, we are of the opinion, that the requirement to record reason can be regarded as one of the principles of natural justice which govern exercise of power by administrative authorities.

7. In view of the aforesaid settled position when this Court has gone across the impugned communication dated 24.03.2019 wherefrom it is evident that the Project Clearance Committee in an application submitted by the petitioner for allotment of the plot no.T-2 at Tetuldanga, has found the application as not satisfactory, thereby rejecting the application in one word by holding it not satisfactory but how the authority/committee has come to the finding that it is not satisfactory, is lacking in the aforesaid order, therefore, the said decision will not be said to be in accordance with law.

8. In view thereof, the impugned order/communication dated 24.03.2019 (annexure-4), is quashed only on the ground that the order is without any reason.

9. In consequence thereof, the matter is remitted before the competent authority to take decision afresh by passing the speaking order within the period of four weeks' from the date of receipt of copy of the order.

10. Accordingly, the writ petition stands disposed of.