
(2015) 06 CAL CK 0035

In the Calcutta High Court

Case No : WP 1249 of 2014, GA 1478 of 2015 and TA 23 of 2015

Manikuntala Sarkar

APPELLANT

Vs

The Asiatic Society

RESPONDENT

Date of Decision : 19-06-2015

Acts Referred:

Citation : (2015) 3 CALLT 560

Hon'ble Judges : Arijit Banerjee, J

Bench : Single Bench

Advocate : J. Kar, Senior Advocate, S. Majumdar and P. Chatterjee, for the Appellant; P. Chatterjee and R. Bachawat, A. Roy and S. Basu Mullick, Advocates for the Respondent

Final Decision : Disposed off

Judgement

Arijit Banerjee, J.—In this writ petition the petitioner challenges the order dated 19th September, 2012 issued by the respondents whereby the respondents decided not to extend the service of the petitioner. The essence of the petitioner's case is as follows.

2. The petitioner joined the respondent society as Telephone-cum-Receptionist in the year 1981. From time to time she was promoted and from 6th January, 1998 held the post of Administrative Officer. She was sent on deputation in November, 2000, to the Central Government service and was repatriated on 1st July, 2008. She contends that apart from the Joint Secretary, she is the senior most officer in the respondent society having high experience in administrative work. She further contends that her confidential performance report has always returned "outstanding" gradation and there has never been any adverse remark her during her entire length of service within the Asiatic Society or in the service on deputation with the Central Government through its various Ministries.

3. As per Chapter VI B of the Society's Bye-Laws, the age of retirement of the society's employees is 60 years. However, an employee's service may be

extended by the Council of the society for a period not exceeding one year at a time provided the total period of such extension shall not exceed five-years. Chapter VI B of the Bye-Laws were amended and the Service Rules for the Employees, 1991 were introduced which came into force with effect from 1st December, 1998. The said service rules contain similar provisions with regard to the retirement of an employee and extension of service of an employee.

4. The petitioner contends that although the service rules provided for retirement of an employee at 60 years of age, invariably, the service tenure of an employee is extended year by year till the employee attains the age of 65 years. She contends that the records of the respondents would show that there is not a single instance where an employee of the society joining prior to 1st January, 1986 has been made to retire on completing the age of 60 years, without there being grant of extension up to the age of 65 years. In paragraph 25 of the writ petition the petitioner enumerates the particulars of 11 employees, whose service tenures have been extended beyond the age of 60 years.

5. The petitioner completed the age of 60 years on 28th February, 2011. By an office order dated 23rd February, 2011, the society extended the tenure of the petitioner's service, describing her as Public Relation Officer, for one year with effect from 1st March, 2011. By an office order dated 29th February, 2012, the petitioner's tenure was extended for one more year with effect from that date. By an office order dated 27th February, 2013, the service of the petitioner was extended for yet another year with effect from 1st March, 2013. By an office order dated 27th February, 2014, the petitioner's service was extended for three months with effect from 1st March, 2014. Finally, by an office order dated 8th May, 2014 the petitioner's service tenure was extended for three months with effect from 29th May, 2014. No further extension of the petitioner's service tenure was granted by the society.

6. Being aggrieved by such non-extension, the petitioner filed a writ petition being WP No. 797 of 2014 in this Court. In the said writ petition the petitioner mentioned the names of 13 employees of the society who according to her were similarly situated as the petitioner and who got full extension till the age of 65 years. The petitioner alleged that she was the only person who did not get such full extension and was discriminated against.

7. The said writ petition was disposed of by this Court by a judgment and order dated 29th August, 2014, the operative portion whereof is as follows:--

"Since exercise of powers under Rule 6 is discretionary, it is upto the Asiatic Society to know why these thirteen persons got extension and why the writ petitioner did not get an extension. Whether the petitioner is similarly situated as these thirteen persons is also within the knowledge of the Asiatic Society.

As I have said before invitation of affidavits would not subserve the purpose of justice in this matter.

It would be better and I order accordingly that the Asiatic Society will reconsider the case of the writ petitioner for further extension. While making this consideration, the Asiatic Society will consider whether the above thirteen persons were similarly situated as the writ petitioner. If that is the case, some reasons are required why the writ petitioner was not granted extension. The Asiatic Society may treat the writ petition as a representation. It will pass a speaking order within a period of four weeks from the date of communication of this order

The writ petitioner may be given a short hearing

Affidavits were not invited. The allegations contained in the petition are deemed not to be admitted."

8. Pursuant to the said order of this Court the petitioner was requested to appear before a special committee of the society on 17th September, 2014. It appears from the order dated 19th September, 2014 which is impugned in the present writ petition that at the hearing dated 17th September, 2014, the committee did not allow the petitioner's advocate to participate. The petitioner was offered a hearing in person but she left the hearing since her advocate was not allowed to participate. Further it appears that she wanted to handover certain papers to the committee but the same were not accepted by the committee on the ground that this Court's order directed that the writ petition would be treated as the representation made by the petitioner.

9. The operative portion of the impugned order issued by the society is as follows:--

"The committee considered the petition and it appears to us that the main complaint is that 13 persons are similarly situated as that of petitioner but except the petitioner others have been granted full extension of service. All the other employees are not similarly situated. The committee recommended the matter and decided not to extend the service of Ms. Manikuntala Sarkar as she cannot claim the same as a matter of right.

The hearing ended and the committee decided to reiterate the earlier decision of the Society not to consider further extension of Ms. Manikuntala Sarkar who was superannuated on 28/08/2014 vide the office order No. 157 dated 28/08/2014."

10. Appearing for the writ petitioner Mr. Kar, Ld. Senior Advocate, assisted by Mr. Soumya Majumdar, Ld. Advocate submitted that the impugned order of the society is not in compliance with the order passed by this Court on 29th August, 2014 since the impugned order is not a speaking order. It was submitted that the impugned order contains no reasons for not extending the service tenure of the petitioner excepting a bald statement that the other employees whose service tenure had been extended for full term of five-years are not similarly situated. The reasons given by the society in its affidavit-in-opposition are an afterthought and cannot be looked into. The order under challenge must stand or fall on its

own merit and cannot be supported on the basis of reasons subsequently given in the form of an affidavit in the court proceeding. In this connection, Ld. Counsel relied on the oft quoted decision of the Hon''ble Supreme Court in the case of Mohinder Singh Gill and Another Vs. The Chief Election Commissioner, New Delhi and Others, AIR 1978 SC 851 : (1978) 1 SCC 405 : (1978) 2 SCR 272 wherein at paragraph 8 of the judgment it was observed as follows:--

"The second equally relevant matter is that when a statutory functionary makes an order based on certain grounds, its validity must be judged by the reasons so mentioned and cannot be supplemented by fresh reasons in the shape of affidavit or otherwise. Otherwise, an order bad in the beginning may, by the time it comes to court on account of a challenge, get validated by additional grounds later brought out. We may here draw attention to the observations of Bose J. in Gordhandas Bhanji (1) "Public orders, publicly made, in exercise of a statutory authority cannot be construed in the light of explanations subsequently given by the officer making the order of what he meant, or of what was in his mind, or what he intended to, do. Public orders made by public authorities are meant to have public effect and are intended to affect the acting and conduct of those to whom they are addressed and must be construed objectively with reference to the language used in the order itself."

Orders are not like old wine becoming better as they grow older. "

11. Ld. Counsel also relied on a decision of the Hon''ble Supreme Court in the case of Hindustan Petroleum Corporation Ltd. Vs. Darius Shapur Chenai and Others, AIR 2005 SC 3520 : (2005) 5 CTC 789 : (2005) 8 JT 470 : (2005) 7 SCALE 386 : (2005) 7 SCC 627 : (2005) 3 SCR 388 Supp . In the said case the Hon''ble Apex Court observed that when an order is passed by a statutory authority, the same must be supported either on the reasons stated therein or on the grounds available therefor in the record. A statutory authority cannot be permitted to support its order relying on or on the basis of the statements made in the affidavit dehors the order or dehors the record. The Hon''ble Supreme Court also observed that assignment of reasons is a part of the principles of natural justice unless the necessity for assigning reasons is taken away by a statute either expressly or by necessary implication.

12. Ld. Counsel then relied on a decision of the Hon''ble Supreme Court in the case of Dipak Babaria and Another Vs. State of Gujarat and Others, AIR 2014 SC 1792 : (2014) AIRSCW 1425 : (2014) 2 JT 234 : (2014) 1 SCALE 550 : (2014) 3 SCC 502 , wherein at paragraphs 64 and 65 of the judgment the Hon''ble Supreme Court reiterates the same principle of law.

13. Ld. Counsel then submitted that it has always been the Council which has considered the case of extension of tenure of an employee and the extension committee did not have such power. In this connection, Ld. Counsel referred to minutes of meeting of the Council held on 22nd September, 2008 and the minutes of meeting of the Council held on 26th September, 2014 in support of

the submission that it is the Council which is the final authority for granting or refusing extension. In fact, however, the Council has never rejected a request for extension. However, the Council never considered the petitioner's case for further extension. This is also a glaring irregularity. Even at the meeting dated 26th September, 2014 the tenures of 7 employees were extended.

14. Ld. Counsel then submitted that although this Court had directed that a short hearing should be given to the petitioner, the committee denied such hearing to the petitioner by not permitting the petitioner's advocate to participate in the proceeding. This, along with the committee's refusal to accept documents which the petitioner wanted to hand over to the committee, resulted in breach of the principles of natural justice.

15. Ld. Counsel then submitted that even the tenure of Sri Ashesh Ranjan Mishra, Secretary of the employees union of the society has been extended from time to time despite a case of sexual harassment being pending against him. In this connection, Ld. Counsel referred to a letter dated 17th March, 2015 written by the Ministry of Culture, Government of India to the Joint Secretary, Asiatic Society whereby the Asiatic Society has been restrained from issuing any order for extension of service of Sri Ashesh Ranjan Mishra till the sexual harassment case against him is enquired into as per extant laws and closed and any order, if already issued, was directed to be revoked with immediate effect. Ld. Counsel also referred to the minutes of the meeting of the Council of the Asiatic Society held on 23rd December, 2014 wherefrom it would appear that steps are being taken by the society for recruitment to the post of administrative officer. The aforesaid two documents are annexed to the supplementary affidavit filed on behalf of the petitioner. In the reply to the supplementary affidavit the respondents have contended that the said documents being internal documents and confidential in nature, the petitioner must have stolen such documents or procured the same through other improper means, and, as such the petitioner should not be allowed to rely on such documents. In response, it is submitted on behalf of the petitioner that if the genuineness of a document is not in issue, then it is irrelevant as to how such document has been procured and the same can be relied on. In this connection, Ld. Counsel for the petitioner relied on a decision of the Hon'ble Supreme Court in the case of Pushpadevi M. Jatia Vs. M.L. Wadhavan, Addl. Secretary, Government of India and Others, AIR 1987 SC 1748 : (1987) 3 SCC 367 wherein at paragraph 20 of the judgment it has been observed that if evidence is relevant, the court is not concerned with the method by which it was obtained. Ld. Counsel also relied upon a decision of the Hon'ble Supreme Court in the case of Umesh Kumar Vs. State of Andhra Pradesh, (2013) 9 AD 581 : AIR 2014 SC 1106 : (2013) 11 SCALE 28 : (2013) 10 SCC 591 : (2014) 2 SCJ 209 wherein at paragraph 37 of the judgment the Hon'ble Supreme Court reiterated that it is a settled legal proposition that even if a document is procured by improper means or illegal means, there is no bar to its admissibility if it is relevant and its genuineness is proved. If the evidence is admissible, it does not matter how it has been obtained.

16. On the strength of the aforesaid submissions, Ld. Counsel for the petitioner prays for quashing of the impugned order dated 19th September, 2014 and for re-consideration of the petitioner's case for extension of her service tenure by the respondent society following the principles of natural justice.

17. Appearing on behalf of the respondent society, Mr. Pratap Chatterjee, Ld. Senior Advocate submitted that the society does not accept that the petitioner is an administrative officer of the society. In this connection, Ld. Counsel referred to the judgment and order dated 6th September, 2011 passed by this Court on an application filed by the petitioner being GA No. 1969 of 2011 in connection with WP No. 1739 of 2008. The said application was disposed of by directing the Asiatic Society to extend the benefit of the pay of scale of Rs. 10,000/- to 15,200/- to the petitioner with effect from January 6, 1998 with its subsequent revision including the arrears within September 30, 2011 in terms of the order dated May 13, 2011 read with the order dated June 20, 2011 passed by the Additional Secretary and Financial Advisor to the Government of India, Ministry of Culture without prejudice to the rights and contentions of the parties in so far as the claim of the petitioner for the designation of "administrative officer" is concerned.

18. Mr. Chatterjee then referred to this Court's judgment and order dated 29th August, 2014 and submitted that even the said order records that the society has an absolute discretion whether or not to grant an extension of service to a particular employee. An employee cannot claim extension of service as a matter of right. The petitioner has no vested right to extension of service.

19. As regards the petitioner's submission that the order impugned is not supported by reasons, Mr. Chatterjee submitted that on a proper reading of this Court's order dated 29th August, 2014, reasons were required to be given only if the 13 other employees were similarly situated as the writ petitioner. However, since the committee held that the 13 persons were not similarly situated as the writ petitioner, no further reasons were required to be given.

20. Ld. Sr. Counsel then submitted that the petitioner is guilty of violating this Court's order dated 29th August, 2014. The petitioner took her lawyer with her to the hearing granted by the society although this court's order did not permit the petitioner to do so. Further, this court did not grant liberty to the petitioner to file additional documents before the committee which the petitioner endeavoured to do. Having violated this court's order the petitioner is not entitled to any relief.

21. Ld. Counsel then referred to the decision of the Hon'ble Supreme Court in the case of Hindustan Petroleum Corporation Ltd. v. Darius Shapur Chenai (supra) and submitted that records can be looked into, to find reasons in support of an order even if the order itself does not contain such reasons.

22. Mr. Chatterjee also submitted that although a document which has been obtained by improper or illegal means may be relied upon if it is otherwise relevant, a writ court which is a court of equity should not grant any relief to

such a person who has procured documents by illegal means.

23. Mr. Chatterjee then relied upon a decision of the Hon"ble Supreme Court in the case of Union of India (UOI) and Others Vs. Dulal Dutt, (1993) 3 JT 706 : (1993) 2 LLJ 360 : (1993) 1 SCALE 578 : (1993) 2 SCC 179 : (1993) 1 SCR 853 wherein at paragraph 18 of the judgment the Hon"ble Supreme Court held that an order of compulsory retirement need not be a reasoned order. Such an order is not an order of punishment. Whether or not to compulsorily retire an employee is a prerogative of the Government but it should be based on material and has to be based on the subjective satisfaction of the Government. Very often, on enquiry by the Court, the Government may disclose the material but that is very much different from saying that the order should be a speaking order.

24. Mr. Chatterjee then relied on a decision of the Hon"ble Supreme Court in the case of Krishnadevaraya Education Trust and Another Vs. L.A. Balakrishna, AIR 2001 SC 625 : (2001) 88 FLR 753 : (2001) 1 JT 617 : (2001) 1 SCALE 196 : (2001) 9 SCC 319 : (2001) 1 SCR 387 : (2001) 1 UJ 385 : (2001) AIRSCW 253 : (2001) 3 Supreme 503 wherein the Hon"ble Supreme Court held that the service of a probationer may be terminated without assigning any reason.

25. Ld. Sr. Counsel then relied on a decision of the Hon"ble Supreme Court in the case of Chairman, All India Railway Rec. Board and Another Vs. K. Shyam Kumar and Others, (2010) 5 JT 382 : (2010) 5 SCALE 391 : (2010) 6 SCC 614 : (2010) 3 SLJ 34 : (2010) 4 SLR 1 : (2010) 5 UJ 2599 . At paragraphs 44 and 45 the Hon"ble Supreme Court observed as follows:--

"44. We are also of the view that the High Court has committed a grave error in taking the view that the order of the Board could be judged only on the basis of the reasons stated in the impugned order based on the report of vigilance and not on the subsequent materials furnished by the CBI. Possibly, the High Court had in mind the constitution bench judgment of this Court in Mohinder Singh Gill and Another Vs. The Chief Election Commissioner, New Delhi and Others, AIR 1978 SC 851 : (1978) 1 SCC 405 : (1978) 2 SCR 272

45. We are of the view that the decision maker can always rely upon subsequent materials to support the decision already taken when larger public interest is involved. This Court in Madhyamic Shiksha Mandal, M.P. Vs. Abhilash Shiksha Prasar Samiti and Others, (1997) 10 JT 363 : (1998) 9 SCC 236 found no irregularity in placing reliance on a subsequent report to sustain the cancellation of the examination conducted where there were serious allegations of mass copying. The principle laid down in Mohinder Singh Gill's case is not applicable where larger public interest is involved and in such situations, additional grounds can be looked into to examine the validity of an order. Finding recorded by the High Court that the report of the CBI cannot be looked into to examine the validity of order dated 04.06.2004, cannot be sustained."

Relying on the aforesaid case Mr. Chatterjee submitted that the principle of law laid down in the case of Mohinder Singh Gill (Supra) is not an absolute

proposition of law and there are exceptions to the same.

26. Mr. Chatterjee next submitted that the petitioner's submission that all employees of the society were granted full extension of five-years is factually incorrect. By way of example, he submitted that the request of Smt. Mitali Chatterjee, Librarian, for fourth extension, (page 25 of the society's affidavit in opposition) was not allowed. Similarly the request of Smt. Nilima Sen (page 27 of the society's affidavit in opposition) for fifth extension was also declined. Hence, according to Mr. Chatterjee, the petitioner's case is no exception. The contention of the petitioner that she has been discriminated against is baseless and ill-founded. He submitted that pursuant to this Court's order dated 29th August, 2014 the petitioner's case was duly considered afresh by a committee constituted by the society and the petitioner's request was disposed of in accordance with law.

27. Appearing on behalf of the respondent Nos. 8 and 9 Mr. Ranjan Bachawat, Ld. Senior Advocate submitted that the allegation of the petitioner in paragraph 36 of the writ petition that the petitioner's advocate was threatened and man-handled at the hearing organised by the committee constituted by the society, is completely baseless and is not supported by any evidence. He submitted that the members of the said committee are all hon'ble and learned people, well-respected by the society at large.

28. Mr. Bachawat then submitted that the petitioner's contention that the society has been vindictive against her is also baseless. The service rules prescribe 60 years as the retirement age. After the petitioner completed 60 years, she was granted three extensions of one year each and two further extensions of three months each. If the society had any personal vendetta against the petitioner, those extensions would not have been granted.

29. Mr. Bachawat then submitted that there has been no confidential report of the petitioner since after 1st January, 2013 and no superior officer has recommended her further extension beyond 31st August, 2014 which is one criterion for extension of service. Further, the other persons whose services have been extended do not stand on the same footing as the petitioner. The society considered the application of such persons for extension of service and found that extension of their service was essential to and in the best interest of the respondent society and as such their tenures were extended.

30. Ld. Counsel finally submitted that a new case cannot be made out in a supplementary affidavit if the same has not been made out in the writ petition, as the petitioner has sought to do. In this connection Mr. Bachawat relied on a Division Bench decision of this court in the case of Bharat Bhari Udyog Nigam Ltd. Vs. Jessop and Co. Ltd. Staff Association and Others, (2003) 4 CompLJ 333 . At paragraph 29 of the judgment the Division Bench observed that certain points were not taken in the writ petition but were sought to be developed by filing supplementary affidavits and additional documents from time to time. This

procedure cannot be countenanced.

31. In reply, Ld. Counsel for the petitioner submitted that it would appear from the impugned order itself that the society itself understood this Court's order dated 29th August, 2014 to mean that the society was required to pass a reasoned order. However, the impugned order contains no reasons. He sought to distinguish the decisions relied upon by Ld. Counsel for the respondents and submitted that the same have no application to the facts of the instant case.

32. I have considered the rival contentions of the parties.

33. Judicial review is not concerned with reviewing the decision on its merit but is concerned with the decision making process. In *Chief Constable of North Wales Police v. Evenas* reported in (1982) 3 All ER 141, Lord Brightman observed as follows: "Judicial review is concerned, not with the decision, but with the decision making process; unless that restriction on the power of the court is observed, the court would itself be guilty of usurping power." In the same case Lord Hailsham observed that this remedy, vastly increased in extent in recent years, is intended to protect the individual against the abuse of power by a wide range of authorities, judicial, quasi judicial and administrative. It is not intended to take away from those authorities the powers and discretions properly vested in them by law and to substitute courts as the bodies making the decisions. It is intended to see that the relevant authorities use their power in a proper manner.

34. In *Re-Amin* reported in (1985) 2 All ER 864, Lord Fraser observed that judicial review is concerned not with the merits of a decision but with the manner in which the decision was made. Judicial review is entirely different from an ordinary appeal. It is made effective by the court quashing an administrative decision without substituting its own decision and is to be contrasted with an appeal where the Appellate Forum substitutes its own decision on the merits for that of the Lower Forum.

35. A similar view has been expressed by the Hon'ble Supreme Court in several decisions including the decision in the case of *Dwarkadas Marfatia and Sons Vs. Board of Trustees of the Port of Bombay*, AIR 1989 SC 1642 : (1989) JT 146 Supp : (1989) 1 SCALE 1157 : (1989) 3 SCC 293 : (1989) 2 SCR 751 : (1989) 2 UJ 419 .

36. Keeping the aforesaid principle of law in mind let me consider the order impugned in the present writ petition.

37. This court by its order dated 29th August, 2014 had directed the respondent society to pass a reasoned order after giving a short hearing to the petitioner. However, the order impugned is not a reasoned order. The committee that was constituted by the respondent society merely stated in the order that the other thirteen employees are not similarly situated and the petitioner cannot claim extension as a matter of right. In my view, the committee should have been a little more eloquent and should have discussed how the other employees who

were granted extension were situated differently from the petitioner.

38. The respondent society has given two examples of extension not being granted to its employees. However, I find from record that in an overwhelming majority of cases extension was granted to the employees. Hence, although I would not say that the petitioner had a right to have her tenure extended, surely she can claim to have a legitimate expectation that her tenure would also be extended. In the least, her case for extension should have been considered by the extension committee and/or the Council. However, from the records it does not appear that her case was so considered. The respondent society might have very good reasons for not further extending the service tenure of the petitioner but in my opinion, if so, then the Special Committee should have disclosed such reasons in the order impugned.

39. I am unable to accept the submission made on behalf of the respondents that the Committee was required to give reasons for not extending the petitioner's tenure only if the Committee found that the 13 other persons were similarly situated as the petitioner. This, in my opinion, is not a proper construction of the order dated 29th August, 2014 passed by this court. The order of a Court cannot be interpreted in a manner which is inconsistent with the general law of the land.

40. It is now settled law that the decision of a judicial or quasi judicial or even an administrative authority must be supported by reasons. In the case of *Union of India v. M.L. Kapoor* reported in AIR 1974 SC 1987, the Supreme Court while considering the provisions of Regulation 5 (5) of the Indian Police (Appointment by Promotion) Regulations, 1955 observed that it was incumbent on the Selection Committee to have stated the reasons in a manner which would disclose how the record of each superseded officer stood in relation to records of others who were to be preferred. The Supreme Court laid emphasis on the need to record reason as this is the only remaining visible safeguard against possible injustice and arbitrariness in making selections.

41. Reasons are the links between materials on which certain conclusions are based and the actual conclusions. They disclose how the mind is applied to the subject matter for a decision whether it is purely administrative or quasi judicial. They should reveal a rational nexus between the facts considered and conclusions reached. Only in this way can decisions or orders be shown to be just and reasonable. Only if reasons are disclosed it would show whether the conclusions reached are based on actual materials or not.

42. In the case of *The Siemens Engineering and Manufacturing Co. of India Ltd. Vs. The Union of India (UOI) and Another*, AIR 1976 SC 1785 : (1976) 2 SCC 981 : (1976) SCR 489 Supp , the Supreme Court while considering the discharge of statutory duties held that giving of reasons is like the principle of *audi alteram partem*, a basic principle of natural justice which must inform quasi judicial process and this rule must be observed in its proper spirit. It is essential that

administrative authorities should accord fair and proper hearing to the persons sought to be affected by their orders and give sufficiently clear and explicit reasons in support of the orders made by them.

43. In the case of S.N. Mukherjee Vs. Union of India, AIR 1990 SC 1984 : (1990) CriLJ 2148(1) : (1990) 3 JT 630 : (1990) 4 SCC 594 : (1990) 1 SCR 44 Supp : (1991) 1 SLJ 1 , the Hon"ble Supreme Court after reviewing various decisions on the point, held that in view of the expanding horizon of the principle of natural justice, the requirement to record reason can be regarded as one of the principles of natural justice which govern exercise of power by administrative authorities. Except in cases where the requirement has been dispensed with expressly or by necessary implication an administrative authority discharging judicial or quasi-judicial functions is required to record reasons for its decision. The requirement of recording reasons by an administrative authority serves a salutary purpose, namely, it excludes chances of arbitrariness and assures a degree of fairness in the process of decision making.

44. Thus, giving of reasons is an essential element of administration of justice. A right to reason, is, therefore, an indispensable part of a sound system of judicial review. Reasoned decision is not only for the purpose of showing that the citizen is receiving justice, but also a valid discipline for the authority making a decision. It prevents unfairness or arbitrariness in reaching a conclusion. The very search for reasons will put the authority on the alert and minimise the chances of unconscious infiltration of personal bias or unfairness in the conclusion and will discard irrelevant or extraneous considerations. Further, it is a well known principle that justice should not only be done but should also appear to be done. Unreasoned decision may be just but they may not appear to be just to those who read them. Reasoned conclusions, on the other hand, will justify the decision. It should appear from an order or a decision as to what prompted the authority to make such an order or decision. If an order or decision adversely affects a person, that person is entitled to know the reasons for which such adverse order was passed. Only then can he meaningfully challenge such order or decision by way of appeal or judicial review as the case may be.

45. In Lala Ram Swarup and Others Vs. Shikar Chand and Another, AIR 1966 SC 893 : (1966) 2 SCR 553 , the Supreme Court observed that an order passed in violation of the principles of natural justice is a nullity. Similarly in R.B. Shreeram Durga Prasad and Fatechand Nursing Das Vs. Settlement Commission (It and Wt) and Another, AIR 1989 SC 1038 : (1989) 75 CTR 187 : (1989) 176 ITR 169 : (1989) 1 JT 234 : (1989) 1 SCALE 247 : (1989) 1 SCC 628 : (1989) 1 SCR 335 , the Supreme Court held that an order or a quasi judicial act in violation of the principles of natural justice is void and of no value. If giving of reasons has come to be recognised as a part of the principles of natural justice, as it appears, then an order of an authority which is devoid of reasons would be in breach of the principles of natural justice and accordingly a nullity.

46. The decisions of the Hon"ble Supreme Court in the cases of Union of India v.

Dulal Dutt (supra) and Chairman, All India Railway Recruitment Board v. K. Shyam Kumar (supra) relied upon by Mr. Chatterjee on behalf of the respondents, in my opinion, have no manner of application to the facts of the instant case. The principles laid down in those cases apply when larger public interest is involved and not in the case of a private dispute like the present case. Further, the respondents have not produced any records or materials which would disclose the reasons for passing the order impugned.

47. In view of the aforesaid principles of law and in view of the fact that the order impugned in the present case is not supported by reasons, I am unable to sustain the order. The order dated 19th September, 2014 issued by the respondent society is accordingly quashed and the matter is remanded back to the respondent society for fresh consideration and disposal by way of a reasoned order in accordance with law after giving a personal hearing to the writ petitioner within a period of three weeks from date. I make it clear that the respondent society will be entitled to arrive at a decision in accordance with the principles of fairness and natural justice without being influenced by any observation in this order as I have not gone into the merit of the case.

48. This writ application is accordingly disposed of.