
(2008) 02 GUJ CK 0048

In the Gujarat High Court

Case No : Special Civil Application No. 2251 of 2008

Ratiya Sev Sahakari Mandli Ltd.

APPELLANT

Vs

State of Gujarat and Others

RESPONDENT

Date of Decision : 20-02-2008

Acts Referred:

Citation : (2008) 02 GUJ CK 0048

Hon'ble Judges : Jayant M. Patel, J

Bench : Single Bench

Advocate : P.S. Champaneri, for the Appellant; Trusha Patel, AGP for Respondent 1, for the Respondent

Final Decision : Allowed

Judgement

Jayant Patel, J.—Rule. Ms. Patel, learned AGP appears and waives service of notice of Rule for respondents No. 2 and 3. With the consent of the learned Counsel appearing for both the sides, the matter is finally heard today.

2. The petitioner has preferred the petition for challenging the order passed by the State Government in revisional jurisdiction, whereby, the revision has been dismissed.

3. Upon hearing the learned Counsel appearing for both the sides including the AGP, it is apparent that no reasons whatsoever are stated by the State Government who has passed the order, except stating that the submissions are considered, record of the lower Court is examined and no case is made out for interference. The order is ex facie without recording the reasons which has weighed to the authority for rejection of the revision application.

4. It deserves to be recorded that in the present case, the State Government has not exercised administrative power, but has exercised quasi judicial power. When the power is exercised by the quasi judicial authority, the principles of natural justice demands that if not elaborative, but the reasons which weighed to the authorities for passing the final order must be stated. The aforesaid recording of

the reasons would also help the higher forum to undertake the judicial scrutiny, if ultimately, challenged. Unless the reasons are recorded, it may not be possible for the higher authority or the higher forum to know the grounds on the basis of which the final order has been passed by the quasi judicial authority. Therefore, it is expected and required for the quasi judicial authority which is the State Government in the present case to record the reasons and then to pass the order. As no reasons whatsoever are mentioned, the order being non-speaking order, the same cannot sustain in the eye of law.

5. Hence, the impugned order of the State Government dated 26.12.2007 is quashed and set aside with the further direction that the Revision No. 215/2003 shall stand restored to the file of the State Government and the State Government after giving opportunity of hearing to both the sides, shall pass appropriate orders as early as possible, preferably within one month from the receipt of the order of this Court. Until the decision is taken by the State Government and is communicated to the petitioner by Regd. A.D. Post, the status quo qua the management of the Society shall be maintained.

6. Petition allowed to the aforesaid extent. Rule made absolute accordingly with no order as to costs.