
(2004) 02 BOM CK 0040
In the Bombay High Court
Case No : Writ Petition No. 242 of 2004

Unique Coordinators	Vs	APPELLANT
Union of India (UOI)		RESPONDENT

Date of Decision : 09-02-2004

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2004) 2 BomCR 693 : (2004) 93 ECC 99 : (2004) 165 ELT 396 :
(2004) 2 MhLj 532

Hon'ble Judges : V.C. Daga, J;J.P. Devadhar, J

Bench : Division Bench

Advocate : S.N. Kantawala, instructed by Kantawala and Co, for the Appellant;
A.C. Singh and R. Asokan, instructed by T.C. Kaushik, for the Respondent

Final Decision : Allowed

Judgement

V.C. Daga, J.

1 Rule returnable forthwith. Heard finally, by consent of the parties.

2. The petition is directed against the order dated 17th October, 2003. It appears that the appeal was heard on 28th November, 2002 and the order appears to have been passed practically after one year. No reasons are to be seen in the order. This order is a subject matter of challenge on the ground that the order suffers from non-application of mind, non-consideration of material on record and that the order is not only perfunctory but passed in a most casual manner, as such unsustainable in law.

3. The learned Counsel for the petitioner took us through the impugned order passed by the CEGAT and brought to our notice that no findings on merits of the case are recorded by the CEGAT which, according to the petitioner, exhibits complete non-application of mind on the part of the CEGAT. In the submission of the petitioner, all this, has happened because of delayed delivery of judgment on the part of the CEGAT.

4. The inordinate and unexplained delay in pronouncement of the judgment or order is alleged to have actually negated the right of appeal conferred by the statute. Any procedure or course of action which does not ensure a reasonable quick adjudication has been termed to be unjust.

5. It has been held time and again that justice should not only be done but should also appear to have been done. Similarly whereas justice delayed is justice denied, Justice withheld is even worse than that. The Apex Court in the case of *Madhav Hayawadanrao Hoskot v. State of Maharashtra* - (1978) 3 SSC 544 had occasion to take serious note of the prejudice normally caused to the litigant due to delayed pronouncement of the judgment for the reason which are not attributable either to the litigant or to the State or to the legal profession. The learned Counsel for the petitioner has referred to various judgments of various High Courts, reference of which is not necessary, to show that only on the ground of delay in rendering the judgment for a period ranging from 6 months to 10 months judgments were held to be bad in law and set aside.

6. It is needless to mention that the appellate authority is expected to deal with each and every contention of the appellant. In short if the order is an order of confirmation of the order passed by the authorities below. In the case of order or confirmation, it is not necessary to pass a detailed order, but atleast it must demonstrate application of mind on the part of the authority, especially when the order can be a subject matter of challenge before the higher forum. Recording of reasons is necessary in order to enable the litigant to know the reasons which weighed in the mind of the Court or authority in determining the question and also enable the higher Court to know the reasons. [See *Vasudeo Vishwanath Saraf Vs. New Education Institute and Others*,]. The reasons act as a live link between the evidence on record and the findings recorded on the basis of such evidence. It inspires the confidence of the litigant in the institution of Courts.

7. In the above view of the matter, the impugned order cannot stand to the to the scrutiny of law. Considering the consensus between the parties, without examining the merits and demerits of the findings recorded, we keeping the rival contentions open, set aside the impugned order being clearly in breach of principles of natural justice and remit the matter back to the CEGAT for hearing afresh with direction to pass reasoned order on merits as expeditiously as possible, at any rate within three months from the date of this order.

8. In the result, petition is allowed. Rule is made absolute in terms of this order with no order as to costs.

9. Parties to act on ordinary copy of this order duly authenticated by the Associate.