

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
JABALPUR

Original Application No.200/00802/2019

Jabalpur, this Friday, the 8th day of November, 2019

HON'BLE SHRI RAMESH SINGH T HAKUR, JUDICIAL MEMBER

Prabhat Mishra S/o Shri R.P.Mishra,
Aged about 53 years, Occupation: Divisional Forest Officer,
Bhanupratappur (West), Chhattisgarh-494669 **-Applicant**

(By Advocate –Shri S.Ganguly)

V e r s u s

1. Union of India, through its Secretary,
Ministry of Environment, Forest and Climate Change,
Indira Paryavaran Bhawan, Jorbagh Road, New Delhi-110003

2. State of Chhattisgarh, Through its Principal Secretary/
Secretary, Department of Forests, Mantralaya, Mahanadi
Bhawan, Atal Nagar, Raipur, Chhattisgarh-492101

3. Principal Chief Conservator of Forests,
State of Chhattisgarh, Aranya Bhawan, Atal Nagar, Raipur,
Chhattisgarh-492101

4. Shri R.C.Meshram, Assistant Conservator of Forest, Kapsi
(West), Bhanupratappur, Chhattisgarh 494669 **-Respondents**

**(By Advocate –Shri Ajay Ojha for respondents Nos. 2 & 3 and
Shri Praveen Choubey for respondent No.4)**

O R D E R (ORAL)

At this stage, learned counsel for the applicant has placed
on record order dated 10.10.2019 passed by the respondent-State
of Chhattisgarh whereby the representation Annexure A-5 has
been decided by the respondents.

2. I have perused the said order and it is clear from the said order that the respondents had highlighted four points which has been alleged by the applicant but while deciding those points the respondents has not assigned any reasons.

3. I have heard the counsel for both the parties on this order passed by the authority and in the said order no reason has been given by the department.

4. In view of the judgment passed by the Hon'ble High Court of Madhya Pradesh vide order dated 02.09.2015 in Writ Petition No. 5410/2015, this order is bad in law.

5. The Hon'ble Supreme Court also in the matters of **Kranti Associates Private Limited and another vs. Masood Ahmed and others**, (2010), 9 SCC, 496, wherein it has been held as under:

“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 27 of Strasbourg Jurisprudence. See (1994) 19 EHRR 553, at 562 para 29 and Anya vs. University of Oxford, 2001 EWCA Civ 405, 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”.

6. Resultantly, this order is set aside and the respondents are directed to give reasons on those four points as is indicated in the order dated 10.10.2019 by passing a reasoned and speaking order, and after allowing the applicant an opportunity of hearing, within a period of 60 days from the date of receiving of this order.

7. Accordingly, the Original Application is disposed of.

(Ramesh Singh Thakur)
Judicial Member

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