THE HIGH COURT OF JUDICATURE FOR MADHYA PRADESH, AT JABALPUR

(DIVISION BENCH)

WP-9678-2020

Kishan Patel & others …….. Petitioner

Vs.

State of Madhya Pradesh and others …… Respondents

AND

WP-12120-2020

Baliram Rai & others …….. Petitioner

Vs.

State of Madhya Pradesh and others …… Respondents

Coram :

Hon'ble Mr. Justice Mohammad Rafiq, Chief Justice

Hon'ble Mr. Justice Vijay Kumar Shukla, Judge

Presence :

Mr. Aseem Trivedi, Advocate for the petitioners in WP-9678-2020.

Mr. Kundan Lal Prajapati, Advocate for the petitioners in WP-12120-2020.

Mr. R.K. Verma, Additional Advocate General for the respondents-State.

Whether approved for reporting: **Yes**.

***Law Laid Down*:**

➔ A duly elected person is entitled to hold the office for the term for which he has been elected and he can be removed only on proven misconduct or any other procedure prescribed under the law. Even in administrative matters, the reasons should be recorded as it is incumbent upon the authorities to pass speaking and reasoned order. - *Relied* - ***Ravi Yashwant Bhori vs. The Collector, District Raigad & others, (2012) 4 SCC 407.***

➔ Reasons are sacrosanct not only for a judicial order but now as per settled proposition of law, even for an administrative order. Reasons are the links between the material, the foundation of their erection and the actual conclusion. Proper reasons, even in administrative order, are the necessary concomitant for a valid order passed by the administrative authority. Reason is the heartbeat of every conclusion, and without the same it become lifeless. The necessity of recording reasons in administrative orders is to convey to the affected parties the satisfaction arrived at by the authority for the conclusion it has reached, so that the aggrieved person will have the opportunity to get the correctness of such reasons tested before the appropriate forum, be it appellate authority or the constitutional courts. - *Relied* - ***Siemens Engineering & Manufacturing Co. of India Ltd. vs. The Union of India & another, (1976) 2 SCC 981; Gurdial Singh Fijji vs. State of Punjab and others, (1979) 2 SCC 368; Krishna Swami vs. Union of India & others, AIR 1993 SC 1407; State of Orissa vs. Dhaniram Luhar, (2004) 5 SCC 568 & Nareshbhai Bhagubhai and others vs. Union of India & others, (2019) 15 SCC 1.***

Significant paragraphs: **8, 9, 10, 11 & 17.**

Heard on : **02.02.2021** *(Hearing Convened through Video Conferencing)*

O R D E R

(Passed on this 09th day of February, 2021)

Per: Mohammad Rafiq, Chief Justice

These two writ petitions have been filed by eight writ petitioners challenging the validity of notification dated 6th March, 2020 (Annexure-P/3) whereby the respondents/State in exercise of powers conferred upon it by Section 41 and other enabling provisions of the Madhya Pradesh Sinchai Prabandhan Me Krishkon Ki Bhagidari Adhiniyam, 1999 (No.23 of 1999) (for short "the Principal Act of 1999") and consequent upon changes made in Section 4 of the Principal Act of 1999 by the Madhya Pradesh Sinchai Prabandhan Me Krishkon Ki Bhagidari (Second Amendment) Adhiniyam,

2019 (No.5 of 2020) (for short "the Second Amendment Act of 2019") thereby reducing the tenure of the Association from six years to five years, dissolved all the existing Water Users' Associations with immediate effect. The petitioners have also challenged the notification dated 09th June, 2020 (Annexure-P/4) passed by the Principal Secretary, Narmada Valley Development Department, Government of Madhya Pradesh, Bhopal (respondent No.1), whereby the State Government in exercise of powers conferred upon it by Section 34 and other enabling provisions of the Principal Act of 1999 appointed Sub-Divisional Officers concerned to discharge duties assigned to Water Users' Association till election/constitution of new Water Users' Association.

2. The factual matrix of the case, as set out in the writ petitions, in brief, is that the petitioners are elected members/office bearers of the Water Users' Association having been elected as such for a period of six years. The election to the Water Users' Association is regulated under the provisions of the Principal Act of 1999. The Government by Gazette Notification dated 23rd January, 2020 amended Section 4 of the Principal Act of 1999 and provided in sub-section (6) thereof that the President and the Members of the Managing Committee shall, if not recalled earlier, be in office for a period of five years from the date of appointment of competent authority under Section 21(1). By aforesaid notification, sub-section (8) was also inserted in Section 4, which provides that the State Government may, by notification, dissolve the Managing Committee of Water Users' Association before the

period of five years, recording the reasons therefor and the new elections shall be conducted in such manner as may be prescribed.

3. Mr. Aseem Trivedi and Mr. Kundan Lal Prajapati, learned counsels for the petitioners have argued that the State Government has inserted the aforesaid amendment with *mala fide* intention and with oblique motive as well as legal malice. The elections of the Water Users' Association were held in the year 2017 for a period of six years. In these elections, most of the elected persons were from the ruling party- BJP. However, in the Legislative Election that were held in the year 2018, the Congress became the ruling party and the impugned amendments have been brought with *mala fide* intention. It is argued that the Committees have been dissolved in an illegal and arbitrary manner. Even though sub-section (8) inserted in Section 4 by the Second Amendment Act of 2019 provides that the State Government while dissolving the Managing Committee of Water Users' Associations before the period of five years shall record reasons therefor but the impugned notifications do not record any reason whatsoever. It is therefore prayed that the impugned notification be set aside and the petitioners be allowed to complete the tenure of six years for which they were originally elected.

4. Mr. R.K. Verma, learned Additional Advocate General opposed the writ petitions and submitted that though as per the Principal Act of 1999 the tenure of the President and the Members of the Managing Committee was for five years from the date of first meeting, but this was increased to six years by the Madhya Pradesh Sinchai Prabandhan Me Krishkon Ki

Bhagidari (Sanshodhan) Adhiniyam, 2013 (No.23 of 2013) (for short "the Sanshodhan Adhiniyam of 2013"). The aforesaid Sanshodhan Adhiniyam of 2013 while substituting Section 4 provided that the Managing Committee for Water Users' Association shall be a continuous body, with one third of its elected members retiring every two years as specified in sub-section (3) of Section 4. Although the total tenure of the Members/Office-bearers will be of six years, but after first election of the Members, one-third out of them shall retire on completion of two years and another one-third shall retire after completion of four years and the remaining one-third shall retire after completion of six years. Later, the tenure of the President and the Members of the Managing Committee was again reduced to five years by the Second Amendment Act of 2019. Sub-section (8) of Section 4 of the Second Amendment Act of 2019 provides that the State Government may, by notification, dissolve the Managing Committee of Water Users' Association even before the period of five years. As far as the requirement of recording reasons for dissolution of the Water Users' Association is concerned, the respondents have already recorded such reasons.

5. Learned Additional Advocate General submitted that the writ petitions are liable to be dismissed because the petitioners have not challenged the constitutional validity of the Second Amendment Act, 2019, without which the challenge to the consequential notification dated 06th March, 2020, dissolving the Water Users' Association and subsequent notification dated 09th June, 2020, cannot be sustained. It is argued that infact it is not a case of amendment rather it is the case of substitution. The effect of substitution of

Section 4 of the Principal Act of 1999 by the Second Amendment Act, 2019 would be that the tenure of the Management Committee of any existing Water Association would now be governed by the amended provisions. The petitioners have no vested right to continue in the office. They were elected for the Water Users' Association as per the provisions of the statute and, therefore, are entitled to hold office only for the duration prescribed under the statute. In support of the aforesaid argument, learned counsel placed reliance on the judgment of the Supreme Court in the case of ***Gottumukkala Venkata Krishamraju vs. Union of India,*** **2018 SCC Online SC 1386**; Full Bench decision of this Court in ***Viva Highways Ltd. Vs Madhya Pradesh Raod Development Corporation Ltd.***, **2017 (2) MPLJ 681** and another Full Bench decision of Allahabad High Court in the case of ***Committee of Management, Saltnat Bahadur P.G. College, Badlapur & another vs. State of U.P. & others,*** **AIR 2013 All. 183**. It is further argued that the right to contest election and hold elective office is not a fundamental right or a common law right but only a statutory right. The elected members therefore cannot claim protection of Clause 6(c) of the General Clauses Act. Reliance in this connection is placed on the judgment of Supreme Court in the cases of ***Jitu Patnaik vs. Sanatan Mohakud*** reported in **(2012) 4 SCC 194** and ***Udai Singh Dagar vs. Union of India & others*** reported in **AIR 2007 SC 2599**.

6. We have given our anxious consideration to the rival contentions of the parties and perused the record.

7. The contention that the writ petitions are liable to be dismissed for the failure of the petitioners to challenge the constitutional validity of the Second Amendment Act of 2019 is noted to be rejected for the simple reason that the validity of the notification dated 06th March, 2020 and another notification dated 09th June, 2020, has been challenged solely on the ground that such notifications have not been passed even as per the amended Section 4 of the Act. What therefore has to be examined in the present writ petitions is whether the notifications of the respondents while dissolving the Water Users' Associations elected for a period of six years, even before they could complete three years, let alone five years as per the amended provisions, has been passed in conformity with the amended Section 4. In order to appreciate the rival submissions, it is deemed appropriate to reproduce Section 4 of the Principal Act as substituted by the Second Amendment Act of 2019, which reads as under:

> "**4. Managing Committee of Water Users' Association**. -
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> (1) There shall be a managing committee for every water users' association, which shall consist of a President and one member from each of the territorial constituencies of the water user's area.
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> (2) The Collector shall make arrangements for the election of President of the managing committee of the water users' association by direct election through the method of secret ballot in such manner as may be prescribed.
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> (3) The Collector shall also cause arrangements for the election of the members of managing committee through the method of secret ballot in such manner as may be prescribed.
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> (4) If at an election held under sub-sections (2) and (3), the President or the members of any territorial constituency of water users' association are not elected, fresh election shall be held in such manner as may be prescribed.

(5) If the managing committee of the water users' association does not have a woman member, the managing committee shall co-opt a woman as a member who shall ordinarily be a resident of the farmer's organization area.

(6) The President and the members of the managing committee shall, if not recalled earlier, be in office for a period of five years from the date of appointment of competent authority under sub-section (1) of Section 21:

Provided that on expiry of term of the President and the members of the managing committee, a new managing committee is not constituted, the State Government may, by notification, extend the term of President and the member of the managing committee for further period of six months from the date of such expiration, recording the reasons for extension.

(7) The managing committee shall exercise the powers and perform the functions of the water users' association.

(8) The State Government may, by notification, dissolve the managing committee of water users' association before the period of five years, recording the reasons therefor and the new elections shall be conducted in such manner as may be prescribed."

Sub-section (6) of Section 4 of the aforesaid clearly provides that the President and the Members of the Managing Committee shall, if not recalled earlier, be in office for a period of five years from the date of appointment of competent authority under sub-section (1) of Section 21. The maximum term of the President and the Members of the Managing Committee as per sub-section (6) of Section 4 of the Second Amendment Act of 2019 aforesaid is five years but the power has been conferred on the State Government to recall them even before completion of five years, which is what has been done in the present case. Here at this stage, sub-section (8) of Section 4 acquires significance which *inter-alia* provides that the State Government may by notification dissolve the Managing Committee of Water Users'

Association before the period of five years, recording reasons therefor and the new elections shall be conducted in such manner as may be prescribed. The notification dated 06th March, 2020 has simply provided that "consequent upon the changes made in Section 4 of the Principal Act of 1999 by the Act No.5 of 2020", "for proper enforcement of amended provisions of the Act, all Water User's Associations are required to be dissolved" with immediate effect. This notification further provides that "in exercise of the powers conferred by Section 41 and all other enabling provisions of the Principal Act of 1999 (No.23 of 1999) in this regard", "all existing Water Users' Association constituted stand dissolved with immediate effect". Lastly, this notification provides "in exercise of powers conferred by Section 34 and all other enabling provisions of the Principal Act of 1999 (No.23 of 1999) in this regard", "the controlling Basin Chief Engineer of Water Resources Department are authorized to appoint Sub-Divisional Officers concerned to discharge the duties assigned to Water Users' Association till the new Water Users' Associations are constituted". The further consequential notification has been issued on 09th June, 2020 by the State Government which merely provides that since the tenure of the President and Secretary of the Water Users' Association, which was earlier six years, has been reduced to five years vide amendment brought in the year 2020, the Water Users' Associations have been dissolved by notification dated 06th March, 2020. In exercise of powers conferred by Section 41 of the Principal Act of 1999, the State Government hereby dissolved all such Water Users' Associations whose term has not come to end, on the date of issuance of this notification and appointed concerned Sub-Divisional

Officers/Assistant Engineers (Field) by exercising power under Section 21 of the Act as the competent authority.

8. Obviously, the first notification dated 06th March, 2020, except for saying that consequent upon the changes made in Section 4 of the Principal Act and for proper enforcement of the amended provisions of the Act all Water Users' Associations are required to be dissolved, does not record any reason whatsoever why all Water Users' Associations have been dissolved at one go by single notification. The respondents in their counter affidavit have tried to justify their action by stating as under:

> "11. That, the answering respondents submit that last elections were held in the year 2017 in accordance with the provisions of the Amendment Act 2013, which prescribes the scheme of continuous managing committee and term of the Office was prescribed as six years. It was also prescribed in the said amendment that at the first election of the territorial constituency members shall be elected on one time, out of which one third of the members thereof shall retire on completion of 2 years, another one third shall retire after completion of four years and remaining one third shall retire after completion of six years from the Office and their terms of retirement shall be decided before commencement of first election of the members of the territorial constituency by drawl of lots. On the said premises, last elections were held which were conducted on altogether different scheme than has been provided under Amendment Act 2019. If Associations which were elected in accordance with Act of 2013 are permitted to be continued then provisions of Amendment Act 2019 cannot be implemented. For proper implementation of Second Amendment Act 2019, it was required for the State Government to dissolve all the managing committee which were constituted in accordance with Amendment Act 2013. Section 41 confers power to the State Government to pass any order for removing any difficulty. Sub Section (8) of Sec. 4 of the Amendment Act 2019 also confers power to the State Government to dissolve the committee before completion of five years. Therefore, in exercise of powers conferred

> u/s 41, State Government has passed notification on 6/3/2020 taking decision to dissolve all the water users associations with immediate effect. The order of dissolution passed by the State Government is absolutely in accordance with law and within its jurisdiction. As the State Government has competence to enact the law and within its jurisdiction State Legislature has made amendment in the Act of 2019 and by exercising powers conferred under the Principal Act as also in Amendment Act, order impugned i.e., 6/3/2020 has been passed, which cannot be said as illegal and arbitrary in any manner."

The afore-noted narrative cannot be considered as a reason. A careful consideration of the above-mentioned paragraph would make it evident that the only reason which the respondents have given in their counter-affidavit/return for their decision to dissolve the Water Users' Association elected for six years is that their tenure has been reduced by substituting Section 4 of the Principal Act of 1999 to five years. This argument would perhaps have been valid if the elected bodies would have been dissolved soon upon completion of five years. In the present case, however, these bodies have been dissolved even before they could complete the period of three years. The impugned notifications does not mention any reason as to why such dissolution was necessary.

9. The contention that petitioners would not have any vested right to continue to hold the office for the period of six years inasmuch as the right to contest election and to get elected is neither a fundamental right nor a common law right and this being a statutory right, can always be curtailed by amendment in the statute, also cannot be countenanced because what has been done by the Legislature by substituting Section 4 is to provide in its sub-section (6) that the Presidents and the Members of the Managing

Committee shall, if not recalled earlier, be in office for a period of five years from the date of appointment of competent authority under sub-section (1) of Section 21, but at the same time, the Legislature consciously provided in sub-section (8) of the substituted Section 4 that the State Government may, by notification, dissolve the Managing Committee of Water Users' Association before the period of five years, recording the reasons therefor and the new elections shall be conducted in such manner as may be prescribed. The tenure of the elected Presidents and the Members of the Managing Committees therefore could not have been abruptly reduced for a period less than five years and, in any case, if the State Government wanted to recall them earlier, as is envisaged in sub-section (6) of Section 4, as per the mandate given in sub-section (8) thereof, it could do so only after recording reasons therefor and not otherwise. Recording of reasons is thus *sine qua non* for exercising the power of dissolution of elected body of Water Users' Association.

10. Reasons are sacrosanct not only for a judicial order but now as per settled proposition of law, even for an administrative order. This would be evident from a catena of judgments rendered by the Apex Court which we shall presently discuss hereunder.

11. The Supreme Court in ***Ravi Yashwant Bhori vs. The Collector, District Raigad & others***, reported in **(2012) 4 SCC 407** held that a duly elected person is entitled to hold the office for the term for which he has been elected and he can be removed only on proven misconduct or any other procedure prescribed under the law. Even in administrative matters, the

reasons should be recorded as it is incumbent upon the authorities to pass speaking and reasoned order. The relevant paragraphs of the aforesaid judgment read as under:

> "**36.** In view of the above, the law on the issue stands crystallized to the effect that an elected member can be removed in exceptional circumstances giving strict adherence to the statutory provisions and holding the enquiry, meeting the requirement of principles of natural justice and giving an incumbent an opportunity to defend himself, for the reason that removal of an elected person casts stigma upon him and takes away his valuable statutory right. Not only the elected office bearer but his constituency/electoral college is also deprived of representation by the person of their choice.
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> **37.** A duly elected person is entitled to hold office for the term for which he has been elected and he can be removed only on a proved misconduct or any other procedure established under law like "no confidence motion", etc. The elected official is accountable to its electorate as he has been elected by a large number of voters and it would have serious repercussions when he is removed from the office and further declared disqualified to contest the election for a further stipulated period.
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> ***Recording of reasons***
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> **38.** It is a settled proposition of law that even in administrative matters, the reasons should be recorded as it is incumbent upon the authorities to pass a speaking and reasoned order.
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> 39. In ***Shrilekha Vidyarthi vs. State of U.P. & Ors.,*** *AIR 1991 SC 537*, this Court has observed as under:-
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> > "36. …….Every State action may be informed by reason and if follows that an act uninformed by reason, is arbitrary. The rule of law contemplates governance by laws and not by humour, whims or caprices of the men to whom the governance is entrusted for the time being. It is the trite law that "be you ever so high, the laws are above you." This is what a man in power must remember always."
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> ***Malice in law***
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> **47.** This Court has consistently held that the State is under an obligation to act fairly without ill will or malice- in fact or in law. Where

malice is attributed to the State, it can never be a case of personal ill will or spite on the part of the State. "Legal malice" or "malice in law" means something done without lawful excuse. It is a deliberate act in disregard to the rights of others. It is an act which is taken with an oblique or indirect object. It is an act done wrongfully and wilfully without reasonable or probable cause, and not necessarily an act done from ill feeling and spite.

48. Mala fide exercise of power does not imply any moral turpitude. It means exercise of statutory power for "purposes foreign to those for which it is in law intended." It means conscious violation of the law to the prejudice of another, a depraved inclination on the part of the authority to disregard the rights of others, where intent is manifested by its injurious acts. Passing an order for unauthorized purpose constitutes malice in law. (See: *Addl. Distt. Magistrate, Jabalpur v. Shivakant Shukla, AIR 1976 SC 1207*; *Union of India thr. Govt. of Pondicherry & Anr. v. V. Ramakrishnan & Ors., (2005) 8 SCC 394*; and *Kalabharati Advertising v. Hemant Vimalnath Narichania & Ors., AIR 2010 SC 3745*)"

12. In ***Krishna Swami vs. Union of India & others***, **AIR 1993 SC 1407** the Supreme Court highlighting the necessity of recording reasons in administrative orders has held as under:

"**46.** …...Reasons are the links between the material, the foundation for their erection and the actual conclusions. They would also demonstrate how the mind of the maker was activated and actuated and their rational nexus and synthesis with the facts considered and the conclusions reached. Lest it would be arbitrary, unfair and unjust, violating Article 14 or unfair procedure offending Article 21….."

13. The Supreme Court in ***Nareshbhai Bhagubhai and others vs. Union of India & others***, reported in **(2019) 15 SCC 1** held as under:

"**21.** In the present case, it is the undisputed position that no order as contemplated in the eye of the law was passed by the competent authority in deciding the objections raised by the appellants. A statutory authority discharging a quasi-judicial function is required to pass a reasoned order after due application of mind. In ***Laxmi Devi v. State of***

Bihar, (2015) 10 SCC 241, this Court held that : (SCC pp. 254-55, para 9)

> "9. *The importance of Section 5-A cannot be overemphasised. It is conceived from natural justice and has matured into manhood in the maxim of audi alteram partem i.e. every person likely to be adversely affected by a decision must be granted a meaningful opportunity of being heard. This right cannot be taken away by a side wind, as so powerfully and pellucidly stated in* ***Nandeshwar Prasad v. State of U.P., AIR 1964 SC 1217***. So stringent is this right that it mandates that the person who heard and considered the objections can alone decide them; and not even his successor is competent to do so even on the basis of the materials collected by his predecessor. *Furthermore, the decision on the objections should be available in a self-contained, speaking and reasoned order; reasons cannot be added to it later as that would be akin to putting old wine in new bottles*. We can do no better than commend a careful perusal of Union of India v. Shiv Raj, (2014) 6 SCC 564, on these as well as cognate considerations."
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> (emphasis supplied)

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File notings and lack of communication

26. It is settled law that a valid order must be a reasoned order, which is duly communicated to the parties. The file noting contained in an internal office file, or in the report submitted by the competent authority to the Central Government, would not constitute a valid order in the eye of the law. In the present case, there was no order whatsoever passed rejecting the objections, after the personal hearing was concluded on 30-7-2011. It is important to note that the competent authority did not communicate the contents of the file noting to the appellants at any stage of the proceedings. The said file noting came to light when the matter was pending before the High Court, and the original files were summoned. The High Court, upon a perusal of the files, came across the file noting recording rejection of the objections only on the ground that the matter pertained to an infrastructure project for public utility.

27. In ***Bachhittar Singh v. State of Punjab, AIR 1963 SC 395*** a Constitution Bench held that merely writing something on the file does

not amount to an order. For a file noting to amount to a decision of the Government, it must be communicated to the person so affected, before that person can be bound by that order. Until the order is communicated to the person affected by it, it cannot be regarded as anything more than being provisional in character.

28. Similarly, in ***Shanti Sports Club v. Union of India, (2009) 15 SCC 705*** this Court held that notings recorded in the official files, by the officers of the Government at different levels, and even the Ministers, do not become a decision of the Government, unless the same are sanctified and acted upon, by issuing an order in the name of the President or Governor, as the case may be, and are communicated to the affected persons.

29. In ***Sethi Auto Service Station v. DDA, (2009) 1 SCC 180***, this Court held that : (SCC pp. 185-86, paras 14 & 16)

> "*14*. It is trite to state that notings in a departmental file do not have the sanction of law to be an effective order. A noting by an officer is an expression of his viewpoint on the subject. It is no more than an opinion by an officer for internal use and consideration of the other officials of the department and for the benefit of the final decision-making authority. Needless to add that internal notings are not meant for outside exposure. *Notings in the file culminate into an executable order, affecting the rights of the parties, only when it reaches the final decision-making authority in the department, gets his approval and the final order is communicated to the person concerned*.
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> *16. To the like effect are the observations of this Court in Laxminarayan R. Bhattad* v. *State of Maharashtra*, (2003) 5 SCC 413, *wherein it was said that a right created under an order of a statutory authority must be communicated to the person concerned so as to confer an enforceable right*."
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> (emphasis supplied)"

14. The Supreme Court in ***Siemens Engineering & Manufacturing Co. of India Ltd. vs. The Union of India & another*** reported in **(1976) 2 SCC 981** highlighting the importance of reasons, albeit in the context of arbitral

award, but also emphasizing on the need on giving reason by the administrative authorities as well, in para-6 of the judgment has held as under:

> "6……..If courts of law are to be replaced by administrative authorities and tribunals, as indeed, in some kinds of cases, with the proliferation of Administrative law, they may have to be so replaced, it is essential that administrative authorities and tribunals 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. Then alone administrative authorities and tribunals exercising quasi-judicial function will be able to justify their existence and carry credibility with the people by inspiring confidence in the adjudicatory process. The rule requiring reasons to be given in support of an order is, like the principle of **audi alteram partem**, a basic principle of natural justice which must inform every quasi-judicial process and this rule must be observed in its proper spirit and mere pretence of compliance with it would not satisfy the requirement of law….."

15. In ***Gurdial Singh Fijji vs. State of Punjab and others*** reported in **(1979) 2 SCC 368**, in para-18 the Supreme Court held as under;

> "**18.** …… "Re5asons", according to Beg J. (with whom Mathew J. concurred) "are the links between the materials on which certain conclusions are based and the actual conclusions". The Court accordingly held that the mandatory provisions of regulation 5(5) were not complied with by the Selection Committee. That an officer was "not found suitable" is the conclusion and not a reason in support of the decision to supersede him. True, that it is not expected that the Selection Committee should give anything approaching the judgment of a Court, but it must at least state, as briefly as it may, why it came to the conclusion that the officer concerned was found to be not suitable for inclusion in the Select List. In the absence of any such reason, we are unable to agree with the High Court that the Selection Committee had another "reason" for not bringing the appellant on the Select List."

16. The Supreme Court in ***State of Orissa vs. Dhaniram Luhar*** reported in **(2004) 5 SCC 568** by referring to its earlier decision in ***Raj Kishore Jha vs. State of Bihar***, **(2003) 11 SCC 519** while highlighting the necessity for giving reasons held that "reason is the heartbeat of every conclusion, and without the same it becomes lifeless".

17. In view of the analysis of law as above-discussed, it is well settled that reasons are the link between the order and the mind of the authority who passes the order. Proper reasons, even in administrative order, are the necessary concomitant for a valid order passed by the administrative authority. The purpose of indicating such reasons in administrative order is to convey to the affected parties the satisfaction arrived at by the authority for the conclusion it has reached, so that the aggrieved person will have the opportunity to get the correctness of such reasons tested before the appropriate forum, be it appellate authority or the Constitutional Courts.

In view of the above discussion, the present writ petitions deserve to succeed. The impugned notifications are quashed and set aside. Accordingly, the writ petitions are **allowed**.

(MOHAMMAD RAFIQ)
CHIEF JUSTICE

(VIJAY KUMAR SHUKLA)
JUDGE

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