

HIGH COURT OF JAMMU AND KASHMIR AT JAMMU

LPA(OW) No. 80/2008

Date of order: 27.09.2010

Krishan Chand Vs. State of J&K and ors.

Coram:

Hon'ble Mr. Justice Virender Singh, Judge.

Hon'ble Mr. Justice Mansoor Ahmad Mir, Judge.

Whether approved for reporting? Yes

Appearing counsel:

For appellant(s) : Mr. C.M.Gupta, Advocate

For respondent(s) : Mr. A.H.Qazi, AAG for R-1 to 5
 Mr. O.P.Thakur, Advocate for R-6

Per Mansoor- J

Challenge in this appeal is to the order dated 25.06.2008, passed by the learned Single Judge of this Court, whereby writ petition came to be dismissed along with connected CMP.

The writ court has neither thrashed out the facts nor discussed the merits of the case. Writ petition came to be dismissed in a summary manner without assigning reasons.

It is settled law that failure to give reasons amounts to denial of justice. Reasons are live links between the mind of the decision taker to the controversy in question and the decision or conclusion arrived at. Assigning reasons is an indispensable part of a sound

judicial system. It at least indicates that Court has applied its mind before making a decision and affected party can know why the decision has gone against him.

The Apex Court in **Vishnu Dev Sharma v State of U.P. and ors**, 2008 AIR SCW 794, has held that order must be speaking one based on reasons.

It is apt to reproduce Paras 7 and 8 herein:-

“7. As the quoted portion of the order goes to show that practically no reason was indicated. The dismissal of the writ petition in such summary manner without indicating any reason is clearly indefensible.

8. Reasons introduce clarity in an order. On Plainest consideration of justice, the High Court ought to have set forth its reasons, however brief, in its order indicative of an application of its mind, all the more when its order is amenable to further avenue of challenge. The absence of reasons has rendered the High Courts judgment not sustainable.”

We accordingly, allow the appeal and set aside the impugned order with a request to the Writ Court to decide the matter preferably within three weeks.

Registry is directed to list the case before the appropriate bench in the next week.

Disposed of.

(Mansoor Ahmad Mir)
Judge

(Virender Singh)
Judge

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