

**IN THE HIGH COURT OF TELANGANA AT HYDERABAD**

**W.P.No.18457 OF 2023**

**Between:**

B.Uma Hymavathi

... **Petitioner**

**And**

State of Telangana & others

... **Respondents**

**JUDGMENT PRONOUNCED ON: 03.06.2024**

**THE HON'BLE MRS JUSTICE SUREPALLI NANDA**

1. Whether Reporters of Local newspapers : Yes  
may be allowed to see the Judgment?
2. Whether the copies of judgment may be : Yes  
marked to Law Reporters/Journals?
3. Whether Their Lordships wish to : Yes  
see the fair copy of the Judgment?

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**SUREPALLI NANDA, J**

**THE HON'BLE MRS JUSTICE SUREPALLI NANDA****W.P.No.18457 OF 2023****% 03.06.2024****Between:**

# B.Uma Hymavathi

**... Petitioner****And**

\$ State of Telangana &amp; others

**... Respondents**

&lt; Gist:

&gt; Head Note:

**! Counsel for the Petitioner** : Ms.S.Kiranmayee**^ Counsel for Respondents** : Asst.Government  
Pleader for R.1  
Mr.Thoom Srinivas,  
S.C.for R2 to R4

? Cases Referred:

- (1) (2001) 5 SCC 664
- (2) (2010) 9 SCC 496
- (3) (1951) SCC 1088
- (4) (1978) 1 SCC 248
- (5) AIR 2009 Supplement SC 561
- (6) (1974) ICR 120 (NIRC)
- (7) (1981) 1 SCC 664
- (8) (2009) 12 SCC 40
- (9) (2023) 6 Supreme Court Cases 1

**THE HON'BLE MRS. JUSTICE SUREPALLI NANDA****W.P. No.18457 OF 2023****ORDER:**

Heard Smt. S.Kiranmayee, the learned counsel appearing on behalf of the Petitioner, Mr. Thoom Srinivas, learned standing counsel for TSRTC appearing on behalf of Respondents No.2, 3 and 4 and learned Asst. Govt. Pleader for Transport appearing on behalf of the 1<sup>st</sup> Respondent.

**PRAYER:**

2. **The Petitioner approached the Court seeking prayer as under :**

"...to issue an appropriate Writ, Order or Direction, more particularly one in the nature of Writ of Mandamus, declaring the action of the Respondent No. 3 in issuing the Impugned Proceedings No. E4/359(23)/2022-RR, dated 12.06.2023, whereby imposing penalty for late production of buses for inspection, in spite of accepting the representation of the petitioner by revising the earlier allotment letter dated 16.09.2022 by its subsequent letter dated 27.12.2022 by the 3<sup>rd</sup> respondent and their by condoning the delay for relaxation of imposing penalty, as illegal, arbitrary, unconstitutional and against the principles of natural justice and consequently direct the respondents to consider the representation of the

petitioner dated 04.05.2023 submitted to the Respondent Nos.2 & 3 to revise the penalty by calculating from 91<sup>st</sup> day of the revised allotment letter dated 27.12.2022 for production of buses and to allow the petitioner to ply the buses, till the production of buses for inspection and to pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case."

**3. PERUSED THE RECORD.**

**A) Representation of the Petitioner submitted to the Chairman, Entrepreneurs Selection Committee, TSRTC, TSRTC Bus Bhavan, RTC X-Road, Musheerabad, Hyderabad dated 18.10.2022, in particular, the relevant para reads as under:**

"...Hence, considering our inability to obtain financing, we request you to kindly amend the allotment letter by removing the Hyd - Madanapally and Hyd - Palamaneru routes from Cluster No 7. Also request you to grant us 3 months, from the date of your acceptance of this request, for producing the buses for your inspection."

**B) Letter dated 27.12.2022 issued by the 3<sup>rd</sup> Respondent to the petitioner, reads as under :**

"To

B. Uma Hymavathi,  
Plot No. HIG 389 & 390,  
Flat No.303, Prashantha Residency, KPHB Colony, 6th Phase,  
Hyderabad-500085,  
Ph.9949890088.

Madam,

Sub: - HIRING-Hiring of High end type buses-August-  
2022 Tender Notification Dated24.08.2022-Certain  
Modifications on allotment of ClusterNo.7-Reg.

Ref: - 1. Allotment Lr.No. Even, Dated 16.09.2022.  
2. Your representation Dated21.10.2022.  
3. CTM/HO Lr No. P9/359(79)/2022-OPD(P),  
Dated22.12.2022.

\* \* \*

With reference to the subject cited, Cluster No. 7 was allotted to you vide reference 1 cited.

Your representation vide reference 2<sup>nd</sup> cited has been examined and you are hereby informed as per approval accorded by the Competent Authority vide reference 3<sup>rd</sup> cited that:

1. You are permitted to produce 5 buses for operation on routes Hyderabad Tadipathri (2) and Hyderabad - Kadapa (3) terms and conditions stipulated vide reference 1<sup>st</sup> cited.
2. Your request for exclusion of buses allotted for the routes Hyderabad- Madanapally (2) and Hyderabad-Palamaneru (2) is considered.
3. Your Caution Deposit of Rs.2,40,000-00 is forfeited (Rs.60,000-00 x 4) due to your inability to produce 4 buses on routes Hyderabad-Madanapally (2) and Hyderabad-

Palamaneru (2) of Cluster No.7 for operation even after accepting the allotment letter.

Please acknowledge the receipt."

**C) The Order impugned dated 12.06.2023 of the 3<sup>rd</sup>**

**Respondent reads as under :**

"TELANGARA STATE ROAD TRANSPORT CORPORATION

No. P1/359(23)/2022-RR O/o. The Regional Manager,  
RR, MGBS, Hyd. Dated 12.06.2023.

To

The Depot Manager,  
TSRTC, MYP-1 Depot.

Sub: -HIRING - Representation of Smt. Uma Hymavati to reckon 90 days time for production of PHBs of Augu-2022 notification from the date considering the representation Dated 18.10.2022 – Penalty to recover – Intimation – Reg.

Ref:- ED(O) & Secy. to Corp. Lr.No.P9/359(79)/2022-OPD(P), Dated 29.05.2023.

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With reference to the subject cited the Competent Authority with the concurrence of CM(F&A) has accorded approval for the following:

1. To levy penalty @Rs.1000/- per bus per day beyond the specified 120<sup>th</sup> day towards late supply of E.5 PHBs of August-2022 tender notification after the allowed no. of days as per clause no.11 of tender schedule and penalty days calculated are subject to pre-audit.

2. To collect the arrived penalty amount towards late supply in three (03) equal installments duly allowing operation of the PHBs with immediate effect.

Accordingly, the AO/RR pre-audited and certified an amount of Rs.6,05,000/- (Rs.1,21,000/- x 5) towards penalty for late supply of 5 PHBs of Smt.B.Uma Hymavathi on route HYD-TADIPATRI (2 PHBs) & HYD-KADAPA (3 PHBs) of MYP-1 Depot.

Therefore, the DM/MYP-1 Depot is requested to arrange to recover an amount of Rs.6,05,000/- (Rupees six lakhs and five thousand only) from the hire bills of Smt. Uma Hymavathi in three installments and submit recovery particulars to this office.

PERSONNEL OFFICER  
RANGAREDDY REGION

Copy submitted to RM/RR for favour of information please.

Copy to AO/RR for information & n/a.

Copy to Smt. B.Uma Hymavathi, Owner of 05 PHBs of MYP-1 Depot."

**D) Para 6 and 7 of the Counter affidavit filed on behalf of Respondents No.1 to 3, read as under:**

"6. I respectfully state that as per allotment letter dated 16.09.2022, the Petitioner has to produce the buses within 90 days from the date of allotment letter. In the present case, the Petitioner failed to produce the buses as per allotment letters for the Petitioner agreed routes. Further condition No. 11 of the tender conditions speaks as under:

*"The Chassis shall be purchased after the date of allotment letter. The Buses shall be built as per prescribed specifications at approved bus body fabricators and the buses in a cluster shall be produced at a time for inspection within 90 days from the date of allotment letter. If proof of chassis are given, but buses are not produced, a penalty @Rs. 1,000/- per day per bus from 91<sup>st</sup> to 120<sup>th</sup> day. If the entrepreneur fails to produce the buses for inspection, the cluster allotment is liable to be cancelled duly forfeiting the caution deposit for the cluster. However, the Corporation reserves the right to condone the delay in production of the buses as cluster subject to imposition of penalty as decided by the Corporation".*

In the present case, the petitioner has failed to produce the buses as per tender conditions and letter of allotment. As such the Corporation has imposed the penalty for late supply of buses to a tune of Rs. 6,05,000/-. The calculation of penalty is as under:

1	Date of Allotment letter	16.09.2022
2	Date of receipt of Allotment letter	21.09.2022
3	Date of 90 days stipulated period completed	19.12.2022
4	Penalty for 91 <sup>st</sup> day to 120 <sup>th</sup> day (as per Tender Schedule)	30 x Rs.1000/- Rs.30,000/-
5	As per instructions completed date 120 <sup>th</sup> day	18.01.2023
6	No. of days late supply of PHBs (from 19.01.2023 to 19.04.2023)	91 days



7	Amount for 91 days @ Rs.1000/- per bus	91x1000=Rs.91,000/-
8	Total Amount per bus (4+7)	Rs.1,21,000/-
9	Total amount for 5 buses @Rs.1,21,000/-per bus (1,21,000x5)	Rs.6,05,000/-

7. I respectfully state that the Petitioner is well aware of the tender schedule and the terms and conditions of the tenders. Petitioner having read and understood the terms and conditions, has participated in the tenders cannot/open to say that she made a representation for extension of time. The tender conditions will equally apply to all the participants. The 3<sup>rd</sup> Respondent in his letter dated 27.12.2022, clearly mentioned that "you are permitted to produce 5 buses for operation of routes Hyderabad- Tadiparthri 92) and Hyderabad - Kadapa (30 terms and conditions stipulated in allotment letter dated 16.09.2022. Thus, the 3<sup>rd</sup> Respondent refused to accept the extension of time as requested by the Petitioner. With regard to the exclusion of other buses are concerned, the same was considered. I respectfully state that the said letter dated 27.12.2022 attained finality and Petitioner accepted the same."

4. **The case of the Petitioner in brief as per the averments in the affidavit filed by the Petitioner in support of the present writ petition, is as under :**

The Respondent Corporation had issued a tender notification on 21.08.2022 for inviting applications from the prospective entrepreneurs for supply of 108 buses of 2022 model Bharat Stage – VI or later model make new buses of Non-AC Sleeper and Hybrid Non-AC-AC Sleeper (Sleeper-cum-Seater) type in Hyderabad and Ranga Reddy Region under Hire Scheme. The Petitioner submitted the tender in response to the said notification and the 2<sup>nd</sup> Respondent Corporation had issued the allotment letter in Petitioner's favour vide Proceedings No. E4/359(1)/2022-GHZ, dated 16.09.2022 and Cluster No.7 was allotted to the Petitioner. Petitioner vide representation dated 18.10.2022 addressed to the Chairman Entrepreneurs Selection Committee, TSRTC, Musheerabad, Hyderabad, referring to the allotment letter dated 16.09.2022 issued to the Petitioner requested for amendment of the said allotment letter by removing the Hyderabad-Madanpally and Hyderabad-Palamaneru routes from Cluster No.7 and also requested to grant Petitioner 3 months period from the date of their acceptance of the said request, for producing the buses for their inspection. The Petitioner vide the said representation dated 18.10.2022 further specifically requested for return of the caution

deposit of Rs.60,000/- per bus for 4 buses under the removed two routes paid by the petitioner along with the tender application on compassionate basis. But to the shock of the Petitioner the order impugned dated 12.06.2023 had been passed by the 3<sup>rd</sup> Respondent. Aggrieved by the same Petitioner filed the present writ petition.

**5. The learned counsel appearing on behalf of the Petitioner mainly puts-forth the following submissions :**

a) The representation of the Petitioner dated 18.10.2022 had not been considered by 3<sup>rd</sup> Respondent on compassionate basis.

b) The impugned proceedings of the 3<sup>rd</sup> Respondent dated 12.06.2023 directing the 4<sup>th</sup> Respondent to arrange recovery of Rs.6,05,000/- from the hire bills in 3 installments is untenable and against principles of natural justice.

c) The request of the Petitioner not to levy the penalty from the date of allotment letter was not at all considered by the 3<sup>rd</sup> Respondent and the 3<sup>rd</sup> Respondent calculated the penalty upto 20th April, 2023 without considering the Petitioner's specific

request to consider the cut-off date as 27.03.2023 to produce the buses for inspection and then calculate the penalty from 28.03.2023 till 20.04.2023 since the Petitioner produced the buses on 21.04.2023.

d) The Petitioner's representation on 04.05.2023 specifically bringing it to the notice of the 3<sup>rd</sup> Respondent that the Petitioner approached the 2<sup>nd</sup> Respondent on 03.05.2023 and made an earnest request on the aspect of penalty, however, the same had not been considered.

e) **In view of the fact that the earlier allotment letter dated 16.09.2022 had been revised by the subsequent letter dated 27.12.2022 issued by the 3<sup>rd</sup> Respondent, the Petitioner's representation dated 04.05.2023 to revise the penalty needs to be considered by the Respondents No.2 and 3 and the Petitioner's earlier representation dated 18.10.2022 needs to be reconsidered.**

**Basing on the aforesaid submissions the learned counsel appearing on behalf of the Petitioner contends that writ petition needs to be allowed as prayed for.**

**6. The learned standing counsel placing reliance on the averments made in the counter affidavit mainly puts-forth the following submissions :**

a) Petitioner being aware of the tender schedule and the terms and conditions of the tenders and having participated in the tenders fully understanding the same cannot seek extension of time through representation.

b) The Corporation accorded approval to levy the penalty @ Rs.1,000/- per day beyond 90 days towards late supply of 5 buses as per the Clause No.11 of tender schedule. Accordingly Rs.1,21,000/- penalty was levied on each bus from 91 day to 120 days, thus an amount of Rs.1,21,000/- x 5 = Rs.6,05,000/- penalty was levied on the Petitioner recoverable in 3 equal installments duly allowing operation of buses and hence there is no illegality in the order impugned passed by the 3<sup>rd</sup> Respondent dated 12.06.2023.

c) The request of the Petitioner to consider the cut-off date as 27.03.2023 to produce buses and calculate penalty from 28.03.2023 till production of buses i.e., 21.04.2023 is not

permissible since the same will amount to violation of terms and conditions of the tender notification and allotment letter.

## **DISCUSSION AND CONCLUSION:**

### **DISCUSSION:**

7. Clause 11 of the tender schedule for hiring of private buses under hire scheme issued by the Telangana State Road Transport Corporation dated 21.08.2022, P9/359(40)/2022-OPD(P), is extracted hereunder :

“The chassis shall be purchased after the date of allotment letter. The buses shall be built as per the prescribed specifications at approved bus body fabricators and the buses in a cluster shall be produced at a time for inspection within 90 days from the date of allotment letter. If proof of chassis are given, but buses are not produced, a penalty @ Rs.1,000/- per day per bus from 91<sup>st</sup> to 120<sup>th</sup> day will be imposed for non-production of buses. On completion of 120<sup>th</sup> day, if the entrepreneur fails to produce the buses for inspection, the cluster allotment is liable to be cancelled duly forfeiting the Caution Deposit for the cluster. **However, the corporation reserves the right to condone the delay in**

**production of the buses as cluster subject to imposition of penalty as decided by the Corporation”.**

8. A bare perusal of the record clearly indicates that the initial allotment letter issued to the Petitioner is dated 16.09.2022, but however, in response to Petitioner's representation dated 18.10.2022 to amend the allotment letter by removing the Hyderabad-Madanapally and Hyderabad-Palamaneru routes from cluster No.7 and to grant 3 months period to the Petitioner from the date of acceptance of the said request for producing the buses for inspection by the Respondent authority, the 3<sup>rd</sup> Respondent considered the request of the Petitioner and issued a revised allotment order dated 27.12.2022 with certain modifications on allotment of cluster No.7. It is the specific plea of the Petitioner not to levy the penalty from the date of allotment letter issued initially to the Petitioner on 16.09.2022, in view of the subsequent letter dated 27.12.2022 issued to the Petitioner by the 3<sup>rd</sup> Respondent modifying the initial allotment letter dated 16.09.2022 and to calculate the time period for production of buses from the date of revised letter.

9. A bare perusal of the averments made in the counter affidavit at para 6 (in particular the tabular statement) very clearly indicate that the Respondent No.3 proceeded and calculated the penalty from the date of allotment letter issued initially to the Petitioner dated 16.09.2022.

10. A bare perusal of the order impugned dated 12.06.2023 clearly indicates a reference in the subject to the Petitioner's representation dated 18.10.2022 but however, the contents of the order impugned No.P1/359(23)/2022-RR, dated 12.06.2023 issued by the 3<sup>rd</sup> Respondent does not indicate any consideration of the specific pleas put-forth by the petitioner in the said representation dated 18.10.2022 by the 3<sup>rd</sup> respondent herein and unilaterally the order impugned had been passed communicating the decision without issuing notice to the petitioner in clear violation of principles of natural justice and without assigning any reasons in rejecting the pleas put-forth by the petitioner in petitioner's representation dated 18.10.2022 addressed to the Respondent Authority.

11. **Few Judgments of the Apex Court on the point of recording of reasons and *audi alteram partem*:**



a. **The Apex Court in the judgment reported in (2001) 5 SCC 664 in Tandon Brothers Vs. State of West Bengal & Others at para 34 observed as under :**

“Governmental action must be based on utmost good faith, belief and ought to be supported with reason on the basis of the State of Law – if the action is otherwise or runs counter to the same the action cannot be ascribed to be malafide and it would be a plain exercise of judicial power to countenance such action and set the same aside for the purpose of equity, good conscience and justice. Justice of the situation demands action clothed with bonafide reason and necessities of the situation in accordance with the law.”

b. **The Apex Court in the judgment reported in (2010) 9 SCC 496 in Kranti Associates Private Limited & Another v. Masood Ahmed Khan & Others at para 47 observed as under :**

Para 47 : *Summarising 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 lifeblood 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.*

*(n) Since the requirement to record reasons emanates from the broad doctrine of fairness in decision-making,*

*(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".*

**c. The Supreme Court in case of Commissioner of Police, Bombay Vs. Gordhandas Bhanji reported in (1951) SCC 1088 observed as under :**

"We are clear that the public orders, publicly made, in exercise of a statutory authority cannot be construed in the light of explanations subsequently given by the Officer making the order of what he meant, or of what was in his mind, or what he intended to

do. Public orders made by public authorities are meant to have public effect and are intended to effect the acting's and conduct of those to whom they are addressed and must be construed objectively with reference to the language used in the order itself.

**d. Former Chief Justice of India, Late Justice Y.V. Chandrachud in judgment reported in (1978) 1 SCC 248 in Maneka Gandhi Vs. Union of India held that law cannot permit any exercise of power by an executive to keep the reasons undisclosed if the only motive for doing so is to keep the reasons away from judicial scrutiny.**

**e. The Apex Court in case of Steel Authority of India Limited Vs. Sales Tax Officer, Rourkela-I Circle, AIR 2009 Supplement SC 561 observed as under :**

“Reason is the heart beat of every conclusion. It introduces clarity in an order and without the same it becomes lifeless”.

**f. In Alexander Machinery (Dudley Limited) Vs. Crabtree reported in (1974) ICR 120 (NIRC) it was observed:**

“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. Reasons substitute subjectivity by objectivity. The emphasis on recording reasons is that if the decision reveals the “Inscrutable face of the sphinx” it can,

**by its silence, render it virtually impossible for the Courts to perform their Appellate function or exercise the power of judicial review in adjudging the validity of the decision."**

**g. In a decision of a three-Judge Bench of Apex Court reported in (1981) 1 Supreme Court Cases 664 in "SWADESHI COTTON MILLS v. UNION OF INDIA",** the issue was whether the Central Government was required to comply with the requirements of *audi alteram partem* before it took over the management of an industrial undertaking under Section 18-AA(1)(a) of the Industries (Development and Regulation) Act, 1951. R.S. Sarkaria, J. speaking for the majority consisting of himself and D.A. Desai, J. laid down the following principles of law: (SCC p. 689, para 44) observed as under:

"44. In short, the general principle - as distinguished from an absolute rule of uniform application seems to be that where a statute does not, in terms, exclude this rule of prior hearing but contemplates a post- decisional hearing amounting to a full review of the original order on merits, then such a statute would be construed as excluding the audi alteram partem rule at the pre-decisional stage. Conversely, if the statute conferring the power is silent with regard to the giving of a pre-decisional hearing to the person affected and the administrative decision taken by the authority involves civil consequences of a grave nature, and no full review or appeal on merits against that decision is provided, courts will be extremely reluctant to construe such a statute as

excluding the duty of affording even a minimal hearing shorn of all its formal trappings and dilatory features at the pre-decisional stage, unless, viewed pragmatically, it would paralyse the administrative progress or frustrate the need for utmost promptitude. In short, this rule of fair play 'must not be jettisoned save in very exceptional circumstances where compulsive necessity so demands'. The court must make every effort to salvage this cardinal rule to the maximum extent possible, with situational modifications. But, to recall the words of Bhagwati, J., the core of it must, however, remain, namely, that the person affected must have reasonable opportunity of being heard and the hearing must be a genuine hearing and not an empty public relations exercise."

**h. The Apex Court in the judgment reported in (2009) 12 SCC 40 in Umanath Pandey & Others vs. State of Uttar Pradesh & Another at paras 10 & 11 observed as under:**

Para 10 : The adherence to principles of natural justice as recognized by all civilized States is of supreme importance when a quasi-judicial body embarks on determining disputes between the parties, or any administrative action involving civil consequences is in issue. These principles are well settled. The first and foremost principle is what is commonly known as *audi alteram partem* rule. It says that no one should be condemned unheard. Notice is the best limb of this principle. It must be precise and unambiguous. It should apprise the party determinatively of the case he has to meet. Time given for the purpose should be adequate so as to enable him to make his

representation. In the absence of a notice of the kind and such reasonable opportunity, the order passed becomes wholly vitiated. Thus, it is but essential that a party should be put on notice of the case before any adverse order is passed against him. This is one of the most important principles of natural justice. It is after all an approved rule of fair play. The concept has gained significance and shades with time. When the historic document was made at Runnymede in 1215, the first statutory recognition of this principle found its way into the "Magna Carta". The classic exposition of Sir Edward Coke of natural justice requires to "vacate, interrogate and adjudicate". In the celebrated case of Cooper v. Wandsworth Board of Works the principle was thus stated: (ER p. 420). "Even God himself did not pass sentence upon Adam before he was called upon to make his defence. 'Adam' (says God), 'where art thou? Hast thou not eaten of the tree whereof I commanded thee that thou shouldest not eat?' Since then the principle has been chiselled, honed and refined, enriching its content. Judicial treatment has added light and luminosity to the concept, like polishing of a diamond.

Para 11 : "Principles of natural justice are those rules which have been laid down by the courts as being the minimum protection of the rights of the individual against the arbitrary procedure that may be adopted by a judicial, quasi-judicial and administrative authority while making an order affecting those rights. These rules are intended to prevent such authority from doing injustice".

**i. The Apex Court in the judgment reported in**

**(2023) 6 Supreme Court Cases 1 in "STATE BANK OF INDIA**

**AND OTHERS v. RAJESH AGARWAL AND OTHERS” at para 85**

**observed as under :**

“85. Fairness in action requires that procedures which permit impairment of fundamental rights ought to be just, fair, and reasonable. The principles of natural justice have a universal application and constitute an important facet of procedural propriety envisaged under Article 14. The rule of *audi alteram partem* is recognised as being a part of the guarantee contained in Article 14.

A Constitution Bench of this Court in *Tulsiram Patel* has categorically held that violation of the principles of natural justice is a violation of Article 14.

The Court held that any State action in breach of natural justice implicates a violation of Article 14: (SCC p. 476, para 95)

“95. The principles of natural justice have thus come to be recognised as being a part of the guarantee contained in Article 14 because of the new and dynamic interpretation given by this Court to the concept of equality which is the subject-matter of that article. Shortly put, the syllogism runs thus: violation of a rule of natural justice results in arbitrariness which is the same as discrimination; where discrimination is the result of State action, it is a violation of Article 14: *therefore, a violation of a principle of natural justice by a State action is a violation of Article 14. Article 14, however, is not the sole repository of the principles of natural justice.*

*What it does is to guarantee that any law or State action violating them will be struck down. The principles of natural justice, however, apply not only to*



*legislation and State action but also where any tribunal, authority or body of men, not coming within the definition of "State" in Article 12, is charged with the duty of deciding a matter. In such a case, the principles of natural justice require that it must decide such matter fairly and impartially."*

**This Court opines that the principle that justice must not only be done but it must eminently appear to be done as well is equally applicable to quasi-judicial proceeding if such a proceeding has to inspire confidence in the mind of those who are subject to it."**

**CONCLUSION :**

**12. Taking into consideration the aforesaid facts and circumstances of the case:**

a) Duly considering the averments made in the counter affidavit filed on behalf of the Respondent Nos.1 to 3, at para 6 and 7 (referred to and extracted above),

b) Duly taking note of the fact as borne on record that the allotment letter issued to the petitioner initially by the 3<sup>rd</sup> Respondent dated 16.09.2022 had been modified vide letter dated 27.12.2022 of the 3<sup>rd</sup> Respondent herein,

c) Duly considering that the order impugned dated 12.06.2023 does not indicate any consideration of Petitioner's representation dated 18.10.2022 and the same is a decision arrived at by the 3<sup>rd</sup> Respondent without assigning any reasons, without issuing notice to the Petitioner in clear violation of principles of natural justice.

d) Duly considering the observations of the Apex Court in the judgment referred to and extracted above.

In the light of the discussion and conclusion as arrived at as above, this Court opines that the issue needs reconsideration by the 3<sup>rd</sup> Respondent herein and accordingly the writ petition is allowed, the impugned proceedings No.P1/359(23)/2022-RR, dated 12.06.2023 of the 3<sup>rd</sup> Respondent is set aside and the 3<sup>rd</sup> Respondent is directed to reconsider the Petitioner's representations dated 18.10.2022 and 04.05.2023 in accordance to law, in conformity with principles of natural justice within a period of 4 weeks from the date of receipt of the copy of the order and communicate the decision to the Petitioner. However there shall be no order as to costs.

Miscellaneous petitions, if any, pending in this Writ Petition,  
shall stand closed.

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**SUREPALLI NANDA, J**

Date: 03.06.2024

**Note** : L.R. Copy to be marked.  
B/o. *Yvkr/Ktm*