[2024] 10 S.C.R. 2227 : 2024 INSC 801

Ratilal Jhaverbhai Parmar and Ors.
v.
State of Gujarat and Ors.

Civil Appeal No. 11000 of 2024

21 October 2024

[Dipankar Datta* and Prashant Kumar Mishra, JJ.]

Issue for Consideration

Whether the delay of more than one year in issuing a reasoned order after oral dismissal in open court proceedings as ante-dated by the High Court constitutes a breach of the principles of fairness, propriety, and discipline required to be followed by the judiciary in the administration of justice?

Headnotes†

Appellant filed a civil application u/Art.227 of the Constitution before the High Court – Dismissed on 01.03.2023 in open Court without saying "reasons would follow" – Appellant pleaded that he was under the impression that the High Court had only reserved the order on 01.03.2023 in the proceeding – Reasoned order was uploaded on High Court website on 30.04.2024 and ante-dated the same to 01.03.2023 – Report of Registrar General of High Court was called which established the Appellant's allegations as being substantially correct:

Held: Breach of norms of ethics – The concerned judge did not even express that *"reasons would follow"* for dismissal of the petition and hence the concerned judge ceased to retain jurisdiction over the petition and foreclosed assignment of reasons for the dismissal later in time – Even if the concerned judge were to express that reasons for the dismissal would follow, no valid reason to pass detailed reasoned order after lapse of one year rather the correct approach would have been to bring matter on board again, recall the verbal order of dismissal and place before the Hon'ble Chief Justice of High Court to reassign the matter to another bench for fresh consideration. [Paras 12-15, 17]

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Justice must not only be done, but must also be seen to be done – Guidelines issued to High Courts for timely pronouncement of judgments – Principles enshrined in Order XX of Code of Civil Procedure, 1908 discussed:

Held: Practice of High Courts of pronouncing operative parts without timely passing reasoned order/judgment criticised – Reliance placed on observations made in ***Balaji Baliram Mupade vs State of Maharashtra*** (2021) 12 SCC 603 that judicial discipline demands promptness in judgment delivery as knowing result without reasons brings aggrieved party to a standstill and violates their right u/Art.21 of the Constitution. [Para 5]

Order XX CPC governs *"pronouncements of judgments"* – As a matter of practice, the learned judge dictates judgment in open court immediately after the hearing is over which, in their assessment, may not consume more than 15/20 minutes however if a judgment, in their assessment, is likely to take more than 20/25 minutes, the learned judge tends to pronounce operative part together with the outcome while expressing "reasons to/would follow" to make optimum use judicial time and hear more cases that are on board – However, the said practice is seemingly turning into a counterproductive exercise and is rather delaying justice delivery. [Para 19]

It would be prudent to leave to it to learned Judges to pick any of three options: (i) dictation of the judgment in open court, (ii) reserving the judgment and pronouncing it on a future day, or (iii) pronouncing the operative part and the outcome, i.e., "dismissed" or "allowed" or "disposed of", while simultaneously expressing that reasons would follow in a detailed final judgment supporting such outcome – In case third option is chosen, it would be in interest of justice to make reasons available in public domain within a time frame work of 2-5 days – In case the suggested timeframe cannot be followed owing to workload, it would be a better option to reserve the judgment. [Para 19]

Case Law Cited

Anil Rai v. State of Bihar **(2001) 7 SCC 318;** *Vinod Kumar Singh v. Banaras Hindu University* **(1988) 1 SCC 80;** *Tirupati Balaji Developers (P) Ltd. v. State of Bihar* **(2004) 5 SCC 1;** *Balaji Baliram Mupade v. State of Maharashtra* **(2021) 12 SCC 603;** *R. v. Sussex JJ., ex p McCarthy* **(1924) 1 KB 256 – relied on.**

List of Acts

Constitution of India, Code of Civil Procedure, 1908.

List of Keywords

Judicial discipline; Pronouncement of judgments; Delay in reasoned order; Reserving of orders; Workload; Public trust; Judicial integrity; Article 21 of Constitution of India; Order XX of Code of Civil Procedure.

Case Arising From

CIVIL APPELLATE JURISDICTION: Civil Appeal No. 11000 of 2024

From the Judgment and Order dated 01.03.2023 of the High Court of Gujarat at Ahmedabad in SCA No. 10912 of 2015

Appearances for Parties

Ms. Anushree Prashit Kapadia, Dr. Shailesh R. Patel, Ganesh Khemka, Ms. Ekta Kundu, Advs. for the Appellants.

Ms. Deepanwita Priyanka, Adv. for the Respondents.

Judgment / Order of the Supreme Court

Judgment

Dipankar Datta, J.

1. In recent times, on more occasions than one, this Court has *suo motu* initiated proceedings having noticed attitudinal and thought patterns of learned Judges of various high courts across the country which tended to lower the image of the judiciary in general and the high courts in particular. While some of the proceedings are still pending, one such proceeding has been disposed of recently emphasising the need for learned Judges to exercise restraint while expressing one's views in open court.

2. Yet again, a fortnight back, this Court set aside a judgment of a high court on the ground that such judgment had been signed by the learned Judge after demitting office.

3. These are distressing trends indeed.

4. As if there is no end to it, the present case unfolds facts which are equally disturbing and meets with our disapproval.

5. However, before we refer to the factual matrix giving rise to this civil appeal, noticing a decision of fairly recent origin of this Court in ***Balaji Baliram Mupade vs State of Maharashtra***[1] is considered imperative. Relevant excerpts from such decision read as follows:

> *"1. … Judicial discipline requires promptness in delivery of judgments—an aspect repeatedly emphasised by this Court. The problem is compounded where the result is known but not the reasons. This deprives any aggrieved party of the opportunity to seek further judicial redressal in the next tier of judicial scrutiny.*
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> *10. We must note with regret that the counsel extended through various judicial pronouncements including the one referred to aforesaid appear to have been ignored, more importantly where oral orders are pronounced. In case of such orders, it is expected that they are either dictated in the court or at least must follow immediately thereafter, to facilitate any aggrieved party to seek redressal from the higher court. The delay in delivery of judgments has been observed to be a violation of Article 21 of the Constitution of India in Anil Rai case [(2001) 7 SCC 318] and as stated aforesaid, the problem gets aggravated when the operative portion is made available early and the reasons follow much later.*
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> *11. It cannot be countenanced that between the date of the operative portion of the order and the reasons disclosed, there is a hiatus period of nine months! This is much more than what has been observed to be the maximum time period for even pronouncement of reserved judgment as per Anil Rai case.*
>
> *12. The appellant undoubtedly being the aggrieved party and prejudiced by the impugned order is unable to avail of*

1 (2021) 12 SCC 603

> *the legal remedy of approaching this Court where reasons can be scrutinised. It really amounts to defeating the rights of the appellant to challenge the impugned order on merits and even the succeeding party is unable to obtain the fruits of success of the litigation.*
>
> *13. We are constrained to pen down a more detailed order and refer to the earlier view on account of the fact that recently a number of such orders have come to our notice and we thought it is time to send a reminder to the High Courts."*

6. We are surprised, not a little, that the strong reminders issued by this Court from time to time have had little effect on the high courts in the country and that decisions, binding under Article 141 of the Constitution, are being persistently ignored. It has been stressed time and again over the years and we feel pained to observe, once more, that neglect/omission/refusal to abide by binding precedents augurs ill for the health of the system. Not only does it tantamount to disservice to the institution of the judiciary but also affects the administration of justice. For a learned Judge to deviate from the laid down standards would be to betray the trust reposed in him by the nation. We sincerely hope that learned Judges of the high courts while being careful and cautious will remain committed to the service of the litigants, for whom only they exist, as well as the oath of office that they have taken so that, in future, we are not presented with another case of similar nature to deal with.

7. In this case, which is a civil appeal arising from a judgment and order bearing the date 1st March, 2023, we find the High Court of Gujarat at Ahmedabad[2] to have egregiously breached the law.

8. The bare facts necessary for decision, without any reference to the facts and law involved in the case before the High Court, culled out from the pleadings before us are these.

9. R/Special Civil Application No. 10912 of 2015[3], being a petition under Article 227 of the Constitution of India, was filed by the appellant before the High Court challenging an order dated 16th June, 2015

2 High Court, hereafter

3 petition, hereafter

passed by the Deputy Collector, Kamrej Prant, District Surat. The Deputy Collector, by such order, had confirmed the order dated 23rd February, 2015 of the Mamlatdar, Kamrej. The petition came up for consideration on 1st March, 2023 before a learned Judge, having been listed in the cause-list as Item No.17. According to the appellant, he was represented before the learned Judge by his counsel. Hearing having concluded on 1st March, 2023, *"he was under the belief that the detailed order is reserved in the proceeding. However, even an order recording the reserving of orders has not been passed or made available on the official website of the Hon'ble High Court till date"*. Since the detailed order was not pronounced, the appellant's counsel did not also apply for the certified copy. In the process, more than a year passed by. On 30th April, 2024, the appellant's counsel received from the IT Cell of the High Court soft copy of a reasoned order dated 1st March, 2023 containing the reasons for dismissal of the petition.

10. The impugned order is part of the records. At the beginning of the said order, "ORAL ORDER" is printed in bold font, i.e., it is supposed to be an order which has been dictated in open court. However, the appellant has alleged something rather serious : that the learned Judge had passed the reasoned order more than a year after 1st March, 2023 and ante-dated the same to project that the reasoned order was passed on 1st March, 2023.

11. Such allegation prompted us to seek, by an order dated 12th August, 2024, a report[4] from the Registrar General of the High Court as to whether the allegation of the appellant that the reasoned order bearing the date 1st March, 2023 was communicated to him for the first time on 30th April, 2024 is correct or not. A report has since been filed by the Registrar General and on perusal thereof, we have found the allegation of the appellant to be substantially correct. It is revealed that the learned Judge dictated the reasoned order on 12th April, 2024 to His Lordship's personal secretary, whereafter such order was uploaded on the website of the High Court on 30th April, 2024 as well as communicated to the appellant's counsel by the IT Cell.

12. Having regard to the nature of controversy raised by the appellant, we also had the occasion to witness (on the virtual platform) the

4 the report, hereafter

recorded version of the proceedings dated 1st March, 2023 before the learned Judge of the High Court. After briefly hearing counsel for the appellant and his adversary, the learned Judge was heard to say, *"I will dismiss"* and a few seconds thereafter, pronounced the outcome of the petition as *"dismissed"*. Counsel representing the appellant before the High Court being present could hear what the learned Judge said while his adversary acknowledged that he was "grateful". Immediately thereafter, the next item on the board was called. This is precisely what happened on 1st March, 2023, while dealing with the petition.

13. There can be no two opinions that if not the appellant, but his counsel certainly did have knowledge of dismissal of the petition by the learned Judge; also, we have no doubt that the appellant feigned complete ignorance and deliberately did not plead that his counsel was well and truly aware of the outcome of the petition moments after hearing stood concluded before the learned Judge.

14. At the same time, from the proceedings of the court of the learned Judge available on the virtual platform, it is patently clear that His Lordship did not even express that the 'reasons would follow' for the dismissal of the petition. Not having so expressed, His Lordship practically rendered the court *functus officio*. We say so because it is not too clear as to whether any order of dismissal was signed by His Lordship on 1st March, 2023, or at any point of time immediately thereafter, although we have noted from the report that the Disposal Log Report of 1st March, 2023 of His Lordship's court duly recorded that the petition stood disposed of. In ***Vinod Kumar Singh v. Banaras Hindu University***,[5] this Court held that when a judgment is pronounced in open court, parties act on the basis that it is the operative judgment and that signing is a mere formality; however, in exceptional circumstances, an order pronounced in open court can be amended or even altered before the same has been authenticated by the Judge by signing the order but such a course ought to be adopted judicially, sparingly and for adequate reasons and upon putting the parties to notice. Such is not the case here. We are inclined to the view that the learned Judge not having expressed that reasons for the dismissal would follow, His Lordship ceased

5 (1988) 1 SCC 80

to retain jurisdiction over the petition and foreclosed assignment of reasons for the dismissal.

15. Assuming that His Lordship were to express that reasons for the dismissal would follow, still there could be no valid reason to write a detailed reasoned order after lapse of a year having expressed "dismissed" and upload such order on the website. No doubt, as per the good practice prevailing in the High Court, the order was communicated to the appellant's counsel by the IT Cell but that is little consolation in a case of the present nature.

16. Having said thus, and bearing in mind the onerous responsibilities that learned Judges of the high courts across the country have to shoulder on a daily basis, we are persuaded to think that the duty and responsibility of assigning reasons for dismissal of the petition completely escaped the mind of the learned Judge. Perhaps, there is hardly any individual including any Judge who can truly claim to have committed no mistake in his life. It is a feature of human fallibility that people are prone to commit mistakes. It is how lessons that individuals learn from mistakes which facilitate in putting the past behind for moving forward.

17. Nonetheless, we regret to observe that the learned Judge having realised in April, 2024 of having omitted to assign reasons for dismissal of the petition although His Lordship had pronounced "dismissed" in open court proceedings on 1st March, 2023, could have avoided committing an act of indiscretion, by breaching all norms of ethics, in proceeding to assign reasons more than a year later. In accordance with the highest standards of fairness, propriety and discipline, the need of the hour required the learned Judge to bring the matter back on board once again, recall the verbal order of dismissal and place it before the Hon'ble the Chief Justice of the High Court for assigning it to some other Bench for fresh consideration.

18. It cannot be gainsaid that in today's world, particularly when more and more people are showing interest in court proceedings and there is wide coverage thereof on social media platforms, the presiding officers of courts are equally at the centre of attention as the controversy that is involved and the manner of its resolution. The society expects every Judge of a high court, so to say, to be a model of rectitude, an epitome of unimpeachable integrity and unwavering principles, a champion of moral excellence, and an embodiment of

professionalism, who can consistently deliver work of high-quality guaranteeing justice. Although, on the whole, the weight of work on learned Judges of the high courts across the country is immense and the Judges have also been performing commendably despite various odds, instances such as the one under consideration, which we view as nothing more than an aberration, bring disrepute to the judicial system of the country and show the entire judiciary in poor light. This, in our opinion, could have well been avoided with a little bit of care and caution, and deference to the decisions on the point by this Court.

19. The situation presents us with an opportunity where we feel it expedient to share our thoughts only for the purpose of future guidance to overcome adversity. Having regard to the demands of changing times, one of the significant aspects of judging that has been at the forefront of discussion in many a conference/conclave or legal circle is the need for prompt 'pronouncement of judgments'. Order XX of the Code of Civil Procedure, 1908 ordains that a judgment can be pronounced, in an open court, either at once or as soon thereafter as may be practicable on a future day. Guided by the principles enshrined in Order XX, number of learned Judges scrupulously follow the same. Learned Judges do come across cases requiring short orders which, in their assessment, may not consume more than 15/20 minutes. These orders are generally dictated in open court immediately after a hearing is over. On the other hand, if in any given case the judgment could justifiably be reserved after hearing of extensive arguments, it would not be proper to criticize a learned Judge if he dictates the judgment in open court notwithstanding the length of time to be taken therefor. As per the ordainment of Order XX, the learned Judge would be perfectly justified in doing so. In such cases, it could roughly take any time between 20 minutes to a couple of/few hours or even more spilling over to the next day (in rare cases) to accomplish the task. This approach could result in the board (if it is heavy) getting choked and the remaining cases on the board having slim chances of being considered. As the saying goes, necessity is the mother of invention. The necessity to strike a balance, in turn, has led to an innovative approach (many a times followed even by this Court) which, though not strictly in tune with Order XX, has transitioned into a regular practice by passage of time. This contemplates a rough

assessment made by a learned Judge of the time to be taken for dictating a judgment after hearing in a matter is concluded and if, in such assessment, it is likely to take more than 20/25 minutes, the learned Judge proceeds to pronounce the operative part together with the outcome while expressing "reasons to/would follow" and then concludes the exercise of pronouncing the final judgment by providing the reasons as soon as possible thereafter. Having regard to the exploding docket of a majority of the high courts, learned Judges consider it wise and prudent to make optimum use of judicial time by not dictating lengthy judgments in court. This practice, no doubt, seeks to serve a salutary purpose. People unversed with the functioning of the judicial system are perhaps unaware as to how development of this practice has contributed to saving of precious judicial time, which the learned Judges invariably devote and utilize for hearing more cases that are on board in the anxiety to consider and decide as many cases as are possible during the scheduled working orders. Burdened though with immense pressure of work and brushing aside fatigue, which is quite likely to develop, the learned Judges after retiring for the day dictate the judgment in their court chambers or in their residential offices either on the same day or within a few days thereafter. The hearing having concluded not too long back, the arguments remain fresh in the mind of the learned Judges and it becomes all the more easy to dictate the judgment. While this approach without a doubt has its own benefits, recent happenings leave us to lament that reasons for the conclusion reached are being placed in the public domain much too late, as in the case of ***Balaji Baliram Mupade*** (supra) as well as this case. In an attempt to save time to attend to as many cases as possible, certain learned Judges unwittingly are contributing to justice being delayed in given cases which, concomitantly, have been giving rise to criticism of unpleasant flavours. Critics of such practice (to pronounce the operative part with the outcome and to provide the reasons later in detailed final judgments) could and do legitimately argue in favour of reserving judgments as required by the procedural laws if the particular case so demands but as Judges, we know, reserving too many judgments has its own pitfalls. Once the files pile up, it becomes increasingly difficult to remember the minute details of the case and the arguments advanced by the parties in support of their respective cases which leads to a shift to rely

on the written notes of arguments. However, if only written notes were enough, there would be no need of oral hearing in court. Additionally, drawing from our experience on the bench, we can safely say that inclination of learned Judges to reserve judgments is invariably the course adopted where cases involving complex and intricate points of law do call upon learned Judges to craft well-researched and well-reasoned judgments. That apart, there are cases arising from recent enactments involving questions of law not having arisen hitherto and consequently such questions have never been answered. Such categories of cases demand the high courts to lay down the law in clear terms for comprehension of all concerned. Obviously, this process is time consuming and the time limit for delivering judgments by the high courts as laid down in ***Anil Rai vs State of Bihar***,[6] at times, is breached. We have full trust and confidence in the learned Judges of the high courts since they are well-equipped to tackle any kind of pressure situation. However, while it would be prudent to leave it to the learned Judges to pick any one of the three options [(i) dictation of the judgment in open court, (ii) reserving the judgment and pronouncing it on a future day, or (iii) pronouncing the operative part and the outcome, i.e., "dismissed" or "allowed" or "disposed of", while simultaneously expressing that reasons would follow in a detailed final judgment supporting such outcome], it would be in the interest of justice if any learned Judge, who prefers the third option (supra), makes the reasons available in the public domain, preferably within 2 (two) days thereof but, in any case, not beyond 5 (five) days to eliminate any kind of suspicion in the mind of the party losing the legal battle. If the pressure of work is such that in the assessment of the learned Judge the reasons in support of the final judgment cannot be made available, without fail, in 5 (five) days, it would be a better option to reserve the judgment. Also, if the ultimate order would have the effect of changing the status of the parties or the subject matter of the lis, it would always be advisable to stick to the course envisaged in Order XX. Since, the fraternity of learned Judges of all the courts are interested to preserve the dignity of the respective judicial institutions with which they are associated,

6 (2001) 7 SCC 318

all learned Judges must be mindful of the impact of their actions on the society at large. Dealing with lakhs of litigation is no mean task, but at the same time we must realize that instances do emerge leaving absolutely no margin for error. It is our duty as Judges to stand tall and rise to the challenge.

20. While concluding, we are reminded of the universal truth "to err is human, to forgive is divine" emphasizing the human tendency of committing mistakes and the importance of forgiving a human error.

21. Conscious that we are of learned Judges of the high courts working overtime to render justice to the litigants by conducting judicial proceedings, at times, by sitting in excess of normal working hours, discharging administrative duties in addition to judicial work, etc, and in the process overlooking health issues and sacrificing all pleasures of social life, we need to look at the issue wearing glasses of grace and compassion. As has been held by this Court in ***Tirupati Balaji Developers (P) Ltd. vs State of Bihar***,[7] in the unified hierarchical judicial structure that we have under the Constitution, vertically the Supreme Court is placed over the high courts; but if the Supreme Court and the high courts were thought of as brothers, we as Judges of the apex court in the country remain as the elder brother only to the extent of exercise of appellate jurisdiction. Promoting empathy and understanding by encouraging forgiveness, which is a divine quality transcending human limitation, should be preferred to anything else in the given circumstances, particularly when the learned Judge has not been put on notice and is unable to place His Lordship's version. This approach is considered to be a better option rather than remarking adversely or giving unsolicited advice.

22. We, thus, allow the controversy to rest here.

23. It is now time for us to give our decision. Notwithstanding that the appellant has not been entirely clean in his approach but having regard to the famous words of Lord Hewart, the Lord Chief Justice of England in ***R. vs Sussex JJ., ex p McCarthy***[8] that "justice must not only be done, but must also be seen to be done", meaning thereby that the outcome of proceedings should be visibly just, the

7 (2004) 5 SCC 1

8 (1924) 1 KB 256

impugned order bearing the date 1st March, 2023 has to be set aside which we do hereby order. This would result in revival of the petition of the appellant and it shall stand restored on the file of the High Court. The Hon'ble the Chief Justice of the High Court is requested to place the petition before the learned Judge currently having the assignment to hear the same.

24. Needless to observe, the petition shall be considered and decided by the High Court uninfluenced by any observation made in the order bearing the date 1st March, 2023.

25. The appeal stands allowed on the aforesaid terms.

26. We make it clear that we have not examined the rival claims on merits.

Result of the case: Appeal allowed.

†*Headnotes prepared by:* Niti Richariya, Hony. Associate Editor
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