

GOVERNMENT OF KARNATAKA

NO.RD 231 LRM 76

Karnataka Government Secretariat,
Vidhana Soudha,
Bangalore, dated:23rd March 1976

CIRCULAR

-Sub:- Instructions regarding procedure
to be followed while passing orders
- By Tribunals.

It has come to the notice of Government that the orders passed by many of the Tribunals are extremely perfunctory, and the decisions arrived at are not based upon the presentation of facts. The views of different parties and the reasons for coming to the conclusions are not set forth therein. Such perfunctory orders inevitably lead to a number of petitions before the High Court against such orders.

Circular No.RD 27 LRM 75, dated 30th January 1975 contains detailed instructions as to the powers of the Tribunal and the procedure followed by the Tribunals. In this Circular, it is stressed that, while the Tribunal is not bound to follow strict rules of evidence or the detailed procedure laid down in the Code of Civil Procedure regarding evidence, summoning witness, holding enquiries, etc. the Tribunal, should nevertheless conform fully to the principles of natural justice enumerated below:-

" (i) No decision affecting the rights of a person should be taken without giving him an adequate opportunity to make such representations as he may have against such decision ;

(ii) No member of the Tribunal can participate in the deliberations or decision in a case in which he is personally interested or which involves his close relatives or in which he has appeared previously as a Legal Practitioner for either of the parties ;

(iii) The decisions of the Tribunal should be recorded in the presence of the parties concerned immediately after the close of the proceedings in the particular case and the substance intimated to the parties who are present. If the Tribunal considers that the case is too complicated to pronounce its decision forthwith, then it should fix a date for announcing its decision and inform all the parties concerned. The decision should be announced on such date previously fixed in the presence of such of the parties as may be present".

The attention of the Tribunals was also invited to the following points:-

"I. Record of proceedings to be maintained etc.,:-
A record should be maintained of all proceedings. The date, time and place of hearing should be notified to the parties concerned and signatures of parties taken to the proceedings recorded.

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II. Evidence:- (a) A record should be kept of the names and addresses of the witnesses examined, the details of the documents produced in support of the respective contentions.

(b) A brief summary of the evidence given by each witness should be recorded.

(c) The opposite party should be allowed to cross-examine the witnesses.

(d) While it is the primary duty of the parties to produce their witnesses they desire to examine, the Tribunal may render such assistance as it deems fit for securing the presence of witnesses".

Again, in Circular No. RD 305 LRW 75, dated 10th November 1975, the observations of the High Court in W.P.No.13884/75, regarding the principles of natural justice to be followed by the Tribunals in their proceedings were communicated to all the Assistant Commissioners and Special Assistant Commissioners, Tahsildars and Special Tahsildars for Land Reforms.

In spite of these clear instructions, there have been instances where the orders have been perfunctory and are not based on the evidence. There have also been cases where reliance is placed on the personal knowledge of the Members.

Government desire that the Tribunals should follow strictly the procedure communicated in the circulars dated 30th January 1975 and 10th November 1975 and write speaking orders in every case setting forth the contentions of the various parties, the evidence - oral as well as documentary - produced by the parties in support of their respective claims, the Tribunals' own appreciation of such evidence and the final decision.



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