2026:AHC:129817-DB

Reserved on: 29.04.2026
Delivered on: 01.07.2026

A.F.R.

HIGH COURT OF JUDICATURE AT ALLAHABAD

SPECIAL APPEAL No. - 400 of 2026

Sanjay Agrawal

…..Appellant(s)

Versus

State of U.P. and 4 others

…..Respondent(s)

Counsel for Appellant(s)	:	Aklank Kumar Jain
Counsel for Respondent(s)	:	J.P. Singh, Ratnesh Pratap Singh

Chief Justice's Court

HON'BLE ARUN BHANSALI, CHIEF JUSTICE
HON'BLE KSHITIJ SHAILENDRA, J.

(Per: Arun Bhansali, CJ)

1. This appeal is directed against order dated 24.02.2026 passed by learned Single Judge in Writ-C No. 140 of 2026, whereby the learned Single Judge, on finding that the appellate authority did not consider the position of law correctly, set aside the orders dated 18.09.2025 and 09.10.2025 passed by Commissioner, Agra Division, Agra and remitted the matter back to the appellate authority to decide afresh.

2. The writ petition was filed by the respondent-Committee of Management through its President Shri Niwas questioning the validity of

the order dated 12.03.2019 passed by Deputy Registrar, Agra and orders dated 18.09.2025 and 09.10.2025 passed by the Commissioner, Agra Division, Agra. By order dated 12.03.2019, the Deputy Registrar has passed the order cancelling the registration of the Society under Section 12-D(1)(c) of the Societies Registration Act, 1860, the appellate authority, by order dated 18.09.2025, dismissed the appeal and by order dated 09.10.2025, it dismissed the review application.

3. When the matter came up before the learned Single Judge, after hearing the counsel for the respondent-Committee of Management through its President as well as the appellant herein, the learned Single Judge came to the conclusion that position of law as laid down in **Laljimal Dharamshala Society and another Vs. The Commissioner Agra Division Agra and others: 2020:AHC:12586** was not considered correctly by the appellate authority and consequently, passed the order impugned setting aside the order passed on appeal as well as review petition and remitted the matter back to the appellate authority to decide afresh. Feeling aggrieved, the present appeal has been filed.

4. At the outset, counsel for the respondent raised preliminary objection that the appeal is not maintainable under Chapter VIII Rule 5 of the Allahabad High Court Rules, 1952 (‘Rules, 1952’) inasmuch as the writ petition was filed against the order passed by the appellate authority and provisions of Rule 5 clearly bar special appeal against orders passed by learned Single Judge in such matters and therefore, the appeal deserves to be dismissed. Reliance was placed on judgement in **Vajara Yojna Seed Farm, Kalyanpur (M/s.) and others Vs. Presiding**

Officer, Labour Court II, U.P., Kanpur and another : (2003) 1 UPLBEC 496, **Committee of Management and another Vs. State of U.P. and others : 2025 (10) ADJ 218 (DB)** and **Subhanti Rai and 5 others Vs. Committee of Management of Van Awadh Gram Shiksha Mandal District Mau and 19 others : 2025:AHC:29061-DB**.

5. Counsel for the appellant made vehement submissions that a bare look at the order impugned would reveal that learned Single Judge has failed to record any reasons for setting aside the orders impugned in the writ petition and even the fact as to whether the petition has been allowed or disposed of, has not been indicated and therefore, to contend that against order of present nature, special appeal would not be maintainable, is wholly unjustified. Attempts were made to make submissions with reference to the facts of the case by contending that the orders passed by the appellate authority on appeal as well as review petition were justified and that the judgement in the case of **Laljimal (supra)** relied on by learned Single Judge had no application to the facts of the case. Strong reliance was placed on Supreme Court judgement in **Abhishek Gupta Vs. Dinesh Kumar and others : 2025 INSC 1406**.

6. The parties were heard on the maintainability of the appeal. It would be appropriate to quote the order passed by learned Single Judge, which reads as under:-

> "1. Heard Sri J.P. Singh, learned counsel for petitioners and Sri V. Singh, Advocate for Respondent-4.
>
> 2. At this stage, I find that Appellate Authority has not considered the position of law correctly while deciding appeal of petitioners (See, **Laljimal Dharamshala Society and another vs. The Commissioner Agra Division Agra and others, 2020:AHC:12586**).
>
> 3. Therefore, orders dated 18.09.2025 and 09.10.2025 passed by Commissioner, Agra Division, Agra are hereby set aside and the matter is

> remitted back to Appellate Authority to decide afresh. Petitioners are granted liberty to raise supplementary grounds on fact as well as on law so that Appellate Authority may decide appeal afresh expeditiously."

7. A perusal of the order passed by learned Single Judge reveals that not a word has been indicated regarding the facts of the case, the orders impugned before the learned Single Judge and as to what law had been laid down in the case of **Laljimal (supra)** and how the orders passed by the appellate authority on appeal and review petition were contrary to the said judgement. Further, as to whether the petition has been allowed or disposed of, has not even been indicated. The only indication made is that the orders dated 18.09.2025 and 09.10.2025 passed by the Commissioner, Agra Division, Agra are set aside and the matter is remitted back to the appellate authority to decide afresh.

8. Rule 5 of Chapter VIII of the Rules, 1952 reads as under:-

> **"5. Special appeal :-** An appeal shall lie to the Court from a judgment (not being a judgment passed in the exercise of appellate jurisdiction) in respect of a decree or order made by a Court subject to the superintendence of the Court and not being an order made in the exercise of revisional jurisdiction or in the exercise of its power of superintendence or in the exercise of criminal jurisdiction or in the exercise of the jurisdiction conferred by Article 226 or Article 227 of the Constitution in respect of any judgment, order or award (a) of a tribunal, Court or statutory arbitrator made or purported to be made in the exercise or purported exercise of jurisdiction under any Uttar Pradesh Act or under any Central Act, with respect to any of the matters enumerated in the State List or the Concurrent List in the Seventh Schedule to the Constitution, or (b) of the Government or any officer or authority, made or purported to be made in the exercise or purported exercise of appellate or revisional jurisdiction under any such Act of one Judge."

9. On a first blush and settled legal position as reflected in judgements in the case of **Vajara Yojna Seed Farm (supra)** and **Sheet Gupta Vs. State of U.P. and others : AIR 2010 All. 46 (FB)** and plain reading of the provisions, the appeal having been filed against the order passed by learned Single Judge in the exercise of jurisdiction conferred

by Article 226 or 227 of the Constitution of India in respect of judgement of the authority made in exercise of appellate jurisdiction under any State Act, the same would be barred.

10. However, Supreme Court in the case of **Abhishek Gupta (Supra)**, after taking into consideration the provisions of Chapter VIII Rule 5 of the Rules, 1952 and Full Bench judgement in the case of **Sheet Gupta (supra)**, *inter alia*, came to the following conclusion:-

> "15. Although Rule 5, *inter alia*, ordains that no Special Appeal shall lie from an order passed by a Single Judge of the High Court in writ proceedings under Article 226 of the Constitution where an appellate/revisional order of the Government or any officer or authority under any of the specified enactments is under challenge, in our considered opinion, Rule 5 has to be read and understood in a manner that advances the cause of "access to justice" and not thwart it. The object and purpose behind enactment of Rule 5 have to be borne in mind while embarking on its interpretation. The object seems to be that when two tiers of adjudication – quasi-judicial and judicial - are available, i.e., (i) a determination by the appellate/ revisional forum under a specified Central/State legislation on a particular *lis* raised by a party and defended by the adversary at the first instance, is (ii) followed by an adjudication by a Single Judge on a writ petition under Article 226 of the Constitution as to whether such appellate/revisional order is legal, valid or proper, a third tier for ruling on the same *lis* in the shape of a special appeal before the Division Bench ought not to be made available to the aggrieved party. The purpose is clear: to achieve a sort of finality at the level of the High Court and not to add to the agony of the concerned litigant. The unwritten rule is that any party aggrieved by the adjudication made by the Single Judge will have to seek remedy under Article 136 of the Constitution before this Court or seek a review under the High Court's inherent jurisdiction.
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> 16. In the circumstances before us, the bar created by Rule 5 must yield to the foundational principles of natural justice, namely, the right to be heard and the right to a fair hearing. It is trite law that the principle of non-joinder, though originating from the Code of Civil Procedure, 1908, applies with equal force to writ proceedings. An order passed in writ jurisdiction without impleading an affected or necessary party is liable to be invalidated on that ground alone. Since the courts exist to administer justice, the rigours of Rule 5 would not apply and stand relaxed in a case of the present nature where the order under challenge is one, passed by a Single Judge on a petition under Article 226 of the Constitution, adversely affecting the rights of a party who was not a party-respondent before the Single Judge."
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> (emphasis supplied)

11. Supreme Court observed that the bar created by Rule 5 must yield to the foundational principles of “natural justice”, namely the right to be heard and right to a fair hearing and that Rule 5 has to be read and understood in a manner that advances the cause of “access to justice” and not thwart it.

12. As noticed herein before, the order passed by learned Single Judge is *ex facie* non-speaking, inasmuch as there is absolutely no discussion worth the name either on the facts or orders impugned or the judgement relied upon or as to how the impugned orders were contrary to the judgement cited and even the aspect as to whether the writ petition has been allowed or disposed of, has not been indicated.

13. Passing of a speaking order or the necessity to record reasons has been held to be a facet of natural justice. Hon’ble Supreme Court in **Kranti Associates Private Limited and another Vs. Masood Ahmed Khan and others : (2010) 9 SCC 496** has laid down the parameters with regard to the requirement of a reasoned or speaking judicial, quasi judicial or even administrative order, which read as under:-

> “**47.** Summarizing 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 life blood 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. (See David Shapiro in *Defence of Judicial Candor* (1987) 100 Harward Law Review 731-737).

(n) Since the requirement to record reasons emanates from the broad doctrine of fairness in decision-making, the said requirement is now virtually a component of human rights and was considered part of Strasbourg Jurisprudence. See Ruiz Torija Vs. Spain (1994) 19 EHRR 553, at 562 para 29 and Anya vs. University of Oxford, 2001 EWCA Civ 405, wherein the Court referred to Article 6 of European Convention of Human Rights which requires, "adequate and intelligent reasons must be given for judicial decisions".

(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".”

(emphasis supplied)

14. As noticed herein before, Supreme Court in the case of **Abhishek Gupta (supra)** has laid down that the bar created by ‘Rule 5 of the Rules, 1952 must yield to the foundational principles of natural justice’, the very fact that the order impugned is non-speaking and does not contain any reasons, in the light of the observations made by Supreme Court, the present appeal against such an order would be maintainable and the preliminary objection raised in this regard cannot be sustained.

15. So far as the judgements in the case of **Vajara Yojna Seed Farm (supra)**, **Committee of Management (supra)** and **Subhanti Rai (supra)** cited by counsel for the respondent are concerned, the said judgements did not deal with the aspect of a non-speaking order passed by learned Single Judge and as Supreme Court in the case of **Abhishek Gupta (supra)** has taken into consideration the Full Bench judgement in the case of **Sheet Gupta (supra)**, and has categorically carved out an exception despite plain reading of the provisions of Rule 5 of Chapter VIII of the Rules, 1952, the said judgements would have no application to the facts of the present case.

16. Once it is found that the order is non-speaking and the necessity for a speaking order by learned Single Judge cannot be over emphasised in terms of what has been laid down by Supreme Court in the case of **Kranti Associates (supra)**, the order passed by learned Single Judge cannot be sustained.

17. Consequently, the appeal is **allowed**. The order dated 24.02.2026 passed by learned Single Judge in Writ-C No. 140 of 2026 is set aside. The writ petition is restored to its original file and number, the same shall now be heard and decided by learned Single Judge in accordance with law.

18. Accordingly, Writ-C No.140 of 2026 shall be listed before the appropriate Bench on 14.07.2026 as a fresh case.

(Kshitij Shailendra,J.) (Arun Bhansali,CJ.)

July 01, 2026
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