

GAHC010051072024



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : Review.Pet./72/2024

M/S SRI SHYAM COLD STORAGE
A PARTNERSHIP FIRM REP. BY ITS PARTNER, SRI RAJAT SETHIA AND
HAVING ITS REGISTERED OFFICE AT ROOM NO. 306, BAROOAH ROAD,
T.R. PHOOKAN ROAD, GUWAHATI- 781001, ASSAM AND ITS UNIT AT
PALASHBARI ROAD, VILL- SOLAPARA MOUZA- CHAYANI PALASHBARI,
DIST. KAMRUP, ASSAM.

VERSUS

THE UNION OF INDIA AND 4 ORS
REP. BY THE PRINCIPAL SECRETARY, DEPARTMENT OF AGRICULTURE,
NEW DELHI.

2:THE NATIONAL HORTICULTURE BOARD

MINISTRY OF AGRICULTURE
GOVT. OF INDIA
REP. BY ITS MANAGING DIRECTOR

PLOT NO. 85
SECTOR- 18
INDUSTRIAL AREA
GURGAON- 122015
HARYANA.

3:THE MANAGING DIRECTOR

NATIONAL HORTICULTURE BOARD
PLOT NO. 85
SECTOR 18

INDUSTRIAL AREA

GURGAON
- 122015

HARYANA.

4:THE DEPUTY DIRECTOR

NATIONAL HORTICULTURE BOARD

PLOT NO. 85
SECTOR 18

INDUSTRIAL AREA

GURGAON - 122015

HARYANA.

5:THE JOINT DIRECTOR

NATIONAL HORTICULTURE BOARD
CHHIBBER HOUSE

4TH FLOOR
G.S. ROAD

P.O. DISPUR
GUWAHATI
ASSAM

Advocate for the Petitioner : MR H BETALA, MR C KUMAR

Advocate for the Respondent : DY.S.G.I., MR. K KAKOTI(R-2 TO 5),MR N PATIRI(R-2 TO 5),R
SARMAH(R-2 TO 5),MR J BORAH (R-2 TO 5)

Linked Case : WP(C)/7564/2018

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A PARTNERSHIP FIRM REP. BY ITS PARTNER
SRI RAJAT SETHIA AND HAVING ITS REGISTERED OFFICE AT ROOM NO.
306
BAROOAH ROAD

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ASSAM.

B E F O R E
HON'BLE MR. JUSTICE DEVASHIS BARUAH

Advocates for the petitioner(s) : Mr. DK Mishra
Mr. H Betala

Advocates for the respondent(s) : Mr. R Sarmah,
For respondent Nos.2 to 5

Date on which Judgment is reserved : NA

Date of Pronouncement of Judgment : **23.04.2026**

Whether the Pronouncement is of the : NA

Operative Part of the Judgment

Whether the Full Judgment has been : Yes
Pronounced

JUDGMENT & ORDER(ORAL)

Heard Mr. DK Mishra, the learned Senior Counsel, assisted by Mr. H Betala, the learned counsel appearing on behalf of the review petitioner. Also heard Mr. R Sarmah, the learned counsel, who appears on behalf of respondent Nos.2 to 5. None has appeared on behalf of the Union of India on call.

2. This review petition has been filed seeking review of the judgment and order dated 06.02.2024 passed in WP(C)No.7564/2018.

3. Vide an order dated 18.06.2024, this Court had issued notice and in pursuance thereto, the respondent Nos.2 to 5 are duly represented. The respondent Nos.2 to 5 have also filed an affidavit-in-opposition contesting the review application and a reply thereto has been filed by the petitioner.

4. The question arises in the instant proceedings as to whether exercise of review jurisdiction is required in respect to the judgment and order dated 06.02.2024 passed in WP(C)No.7564/2018. It is well settled that the review jurisdiction can be exercised when either of the three conditions are met, i.e. (i). when there is an error apparent on the face of the record; (ii). discovery of new and important materials which after due exercise of diligence was not within the knowledge of

the review applicant; (iii) or for any other sufficient reasons. The question, therefore, arises in the instant proceedings as to whether any of the three conditions mentioned above is satisfied.

5. Mr. DK Mishra, the learned Senior Counsel appearing on behalf of the petitioner submitted that the National Horticulture Board had proposed various schemes for providing subsidy, including the scheme for providing subsidy upon setting up of cold storage. The petitioner upon being encouraged by the subsidy provided by the National Horticulture Board decided to open up cold storage with a storage capacity of 11,000 metric tons for storage of vegetables and fruits at Palashbari Road. In that regard, the petitioner sought for term loan from the Punjab National Bank. Such loan was sanctioned on 09.03.2017 of an amount of Rupees 600.00 lakhs. The petitioner, thereafter, applied for a *Letter of Intent* as per the operational guidelines then existing on 30.03.2017. However, that said application seeking *Letter of Intent* was returned on 03.04.2017, without taking into consideration that the petitioner's application was for setting up of a cold storage and not for expansion of the cold storage. The petitioner, thereupon again applied on 24.01.2018 online. However, the same was rejected vide the order dated 02.05.2018.

6. The learned Senior Counsel submitted that while passing the impugned judgment and order, an error apparent on the face of the record had crept in, *inasmuch as*, this Court failed to take into

consideration the notices which were issued on 15.08.2017 and 04.09.2017, in the proper perspective. Elaborating further, Mr. DK Mishra, the learned Senior Counsel for the petitioner submitted that the public notice dated 15.08.2017, related to those applicants who had obtained the term loan on or after 01.04.2017 and the public notice dated 04.09.2017 was in respect to those applicants, who had obtained the term loan on or before 30.04.2016. The learned Senior Counsel submitted that these schemes which were announced were never withdrawn. However, the applicant, like the petitioner who had got the term loan sanctioned on and from 01.05.2016 to 31.03.2017, either were deprived of the benefits of the scheme which was holding the field or the rejection could not have been possible as there was no fixed time limit for making such application and this very aspect ought to have been taken into consideration by this Court, while passing the judgment and order dated 06.02.2024, which is sought to be reviewed. The learned Senior Counsel submitted that the question of the petitioner's rights accruing on the basis of the doctrine of promissory estoppel as well as the principles of legitimate expectation were not taken into consideration, while passing the impugned judgment and order dated 06.02.2024, and as such, an error apparent on the face of the record had crept in.

7. This Court has given an anxious consideration to the aforesaid aspect and has perused the materials on record, including the

judgment and order dated 06.02.2024.

8. The issues which are now being urged before this Court are issues which were neither pleaded nor urged in WP(C)No. 7564/2018. For the first time, these issues have been urged. Under such circumstances, it is the opinion of this Court that on the basis of these issues, which are now being urged, the review jurisdiction of this Court cannot be exercised as the same would not come within the scope of error apparent on the face of the record.

9. Accordingly, this Court is not inclined to entertain the instant review petition, for which, the same stands rejected. However, the rejection of the review petition would not prejudice the petitioner in respect to the contentions urged herein in future proceedings.

JUDGE

Shivani Gautam Digitally signed by Shivani Gautam
Date: 2026.04.24 08:26:20 +05'30'
Comparing Assistant