

Court No. - 1

Case :- CIVIL MISC REVIEW APPLICATION DEFECTIVE No. - 45 of 2024

Applicant :- State Of U.P. Thru. Prin. Secy. Minorities Welfare And Waqf Deptt. Lko. And 2 Others

Opposite Party :- C/M Madarsa Faizanul Uloom Thru. Its Manager Shri Mohammad Ali Akhtar

Counsel for Applicant :- C.S.C.

Hon'ble Attau Rahman Masoodi,J.

Hon'ble Brij Raj Singh,J.

Order on C.M. Application No. 1 of 2024

1. Vakalatnama filed by Sri Syed Husian, learned counsel on behalf of the sole respondent is taken on record.
2. Heard Sri Ashok Shukla, learned Additional Advocate General assisted by Sri Sanjeev Kumar Singh, learned counsel for the review-applicants and Sri Syed Husian learned counsel who has put in appearance on behalf of the sole respondent.
3. An application for condonation of delay duly supported with an affidavit has been filed along-with the review application.
4. Reasons in detail have been spelt out in the affidavit filed in support of delay condonation application, to which, there is no objection
5. In absence of any objection and the cause shown being sufficient, the application is allowed and the delay in filing the review application is condoned.

Order on Review Application

6. The review application filed by the review-applicants is

directed against the judgment/order dated 5.2.2024 rendered by this Court in Special Appeal No. 316 of 2020.

7. The sole premise on which the review application rests is discovery of the policy decision dated 30.5.2022 on the basis of which it is argued that the same could not be placed before this Court at the time when the Special Appeal was decided, therefore, non-consideration of such a policy decision has resulted into miscarriage of justice.

8. It is to be noted that the petitioners feeling aggrieved had approached this Court way back in the year 2015. On exchange of the pleadings between the parties, the writ petition itself was decided vide judgment/order dated 5.2.2020. It was against this judgment/order rendered by the writ court that the aforementioned Special Appeal was filed at the instance of the State. At the time of hearing of the matter both the parties conceded that in case the respondents restrict the benefit of the judgment passed by the Writ Court from the date of Writ Court judgment, the State shall proceed to comply with the same.

9. The decision rendered by this Court is essentially in the nature of consensual decision not opposed to law. A review application has come to be filed now on the strength of the policy decision taken by the State in the year 2022. The new material which is said to have been discovered is the material which as a matter of fact was not in existence when the impugned judgment challenged in the Special Appeal was rendered.

10. Once the judgment rendered in writ petition on 5.2.2020 has come to be passed prior to the prospective

policy decision, the ground urged before us that some material has been discovered by the applicants is clearly misconceived as the said material was not in existence at all on the date of judgment under challenge in the appeal.

11. That being so, we are not impressed by the argument put-forth by the review-applicants, more particularly when the rights which had matured as per the policy then applicable stood crystallized in the writ court's order as upheld by this Court in the intra court appeal.

12. The review application being devoid of merit is accordingly dismissed.

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(Brij Raj Singh, J.) (Attau Rahman Masoodi, J.)

Order Date :- 19.12.2024

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