



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

REVIEW PETITION (CIVIL) NO. 197 OF 2025
IN
WRIT PETITION NO. 8727 OF 2021

Satyawan Vitthal Khandekar ... Petitioner
Versus
The State of Maharashtra & Ors. ... Respondents

Ms. A. N. Ansari (through V.C.) for the Petitioner.
Mr. V. M. Kagne, AGP (through V.C.) for Respondent No.1-State.
Mr. Chandrakant K. Shinde (through V.C.) for Respondent Nos.2
and 3.

CORAM : MANISH PITALE AND
Y. G. KHOBRAGADE, JJ.
(through Video Conferencing)

DATE : 3rd SEPTEMBER 2026

P.C. :

1. Heard learned counsel for the parties.
2. The present review petition has been filed, seeking review of judgment and order dated 22nd August 2025 passed by this Court, whereby Writ Petition No.8727 of 2021 filed by the petitioner was dismissed. The consequence of the dismissal was confirmation of an order of removal from service dated 11th May 2012, passed against the petitioner.
3. Shorn of unnecessary details, the short issue that arises for consideration is as to whether an error apparent on the face of the

record crept in the aforesaid judgment and order dated 22nd August 2025 passed by this Court, while dismissing the writ petition.

4. The learned counsel for the petitioner submitted that the question framed in the said judgment and order in paragraph 3 was based on the premise that the conviction of the petitioner under Section 309 of the Indian Penal Code, 1860 (IPC) was in vogue, at the point in time, when the writ petition was taken up for consideration. It was further submitted that in the said judgment, it was recorded as a fact that the petitioner never challenged the judgment and order dated 29th February 2012 passed by the Judicial Magistrate First Class, Nanded, whereby he was found guilty of offence punishable under Section 309 of the IPC, although he was given the benefit of the Prohibition of Offenders Act, 1958. It was emphasized that, as a matter of fact, the petitioner had filed an appeal to challenge the said conviction and that when the writ petition was filed, the appeal was still pending. The details of the filing of the appeal were stated in the writ petition.

5. It was further emphasized on behalf of the petitioner that although the fact that the appeal filed by the petitioner was allowed by judgment and order dated 14th August 2024 passed by the Court of Additional Sessions Court-I, Nanded in Criminal Appeal No. 32 of 2021 was not specifically placed on record, by way of amending the writ petition and raising an additional

ground, but the respondents in their reply affidavit had conceded to the fact that the appeal was allowed and the conviction of the petitioner was set aside. In that regard, reference was made to the reply affidavit in the writ petition. It was submitted that the appeal of the petitioner being allowed, during the pendency of the writ petition was a factor that could have been taken into consideration when the writ petition was disposed of. It was submitted that even though the petitioner could be said to be at fault in not having amended the writ petition to raise a specific ground in that regard, the said error on the part of the petitioner ought not to deprive him of an opportunity of consideration of the effect of the appeal being allowed on the prayer made in the writ petition.

6. On the other hand, Mr. Shinde, learned counsel appearing on behalf of the respondents submitted that the fact that the writ petition was not amended and a specific ground was never raised in the writ petition, on the basis of the said appeal being allowed and the conviction being set aside, is a factor that ought to be taken into consideration. It is submitted that the said aspect of the matter was not even properly placed before the Court, at the time when the petition was heard and finally disposed of on 22nd August 2025.

7. It was submitted that in such a situation, it cannot be said that there is an error apparent on the face of the record in the judgment and order dated 22nd August 2025 passed by this Court in Writ Petition No. 8727 of 2021. On this basis, it was submitted

that the review petition deserved to be dismissed.

8. We have considered the rival submissions. There can be no doubt that review jurisdiction can be exercised only in the event an error apparent on the face of the record is demonstrated. According to us, it is immaterial as to who can be said to be at fault, as a result of which, such an error apparent on the face of the record may have crept in the order of which review is sought.

9. The documents on record clearly show that when the writ petition was taken up for hearing, the judgment and order dated 14th August 2024 passed by the said Court, allowing the appeal of the petitioner, was not placed on record. It is also an admitted position on record that the writ petition was not amended and no specific ground was added by way of amendment by the petitioner, to claim benefit of the appeal being allowed and the conviction under Section 309 of the IPC being set aside.

10. Nonetheless, the fact that the appeal was indeed allowed and the conviction of the petitioner was set aside, cannot be denied. The respondents in their reply affidavit in the writ petition had alluded to the said fact, although copy of the judgment and order was not placed on record. It is also to be noted that in the writ petition it was indeed pleaded that at the time of filing of the writ petition, appeal against the order of conviction under Section 309 of the IPC was preferred by the petitioner.

11. In this backdrop, when we peruse the judgment and order

dated 22nd August 2025, we find that the question specifically framed in paragraph 3 of the said judgment, was based on a conclusion that the petitioner was convicted and found guilty of offence under Section 309 of the IPC and whether the fact that he was granted benefit of the Prohibition of Offenders Act, in itself could be a factor to interfere with the penalty of removal from service. Paragraph 3 of the judgment and order dated 22nd August 2025 passed in Writ Petition No. 8727 of 2021, of which review is sought, reads as follows :

“3. After hearing both sides, a very short legal question that falls for our consideration is whether a petitioner, who has been held guilty by a Competent Court for the offence under Section 309 of IPC, but he was granted the benefit of probation under the Probation of Offenders Act instead of being sentenced, can be awarded the punishment of removal from service without disqualification from future government employment under Rule 13(i) of the Maharashtra Civil Services (Discipline and Appeal) Rules, 1979.”

12. We also find that in paragraph 16 of the judgment and order, the following observations were made :

“16. However, on 08.04.2010, F.I.R. No.87 of 2010 was registered against the petitioner for the offence under Sections 309 of IPC. It is a matter of record that, after conclusion of the trial in Summary Criminal Case, the learned Judicial Magistrate First Class, Nanded, by Judgment and order dated 29.02.2012, found the petitioner guilty for the offence punishable under Section 309 of IPC. However, he was granted the benefit of the probation of Offenders Act, 1958, upon execution of a bond for one year, instead of being sentenced to imprisonment. The petitioner never challenged the order of conviction; therefore, the conviction continues to remain in force.”

13. The observation in the above quoted portion to the effect

that the petitioner never challenged the order of the conviction and therefore, conviction continues to remain in force is obviously factually incorrect, as the petitioner had not only filed an appeal, but by the said judgment and order dated 14th August 2024 passed by the Appellate Court, during the pendency of the writ petition, the appeal was allowed and the conviction was set aside.

14. As a matter of fact, if this event was brought to the notice of this Court, the legal question framed in paragraph 3 of the said judgment and order of this Court, perhaps would not have arisen for consideration at all.

15. As noted hereinabove, it is immaterial as to whether the petitioner is to be blamed for the recording of the aforesaid facts in our judgment and order. When it is brought to our notice that, as a matter of fact, the conviction suffered by the petitioner for offence under Section 309 of the IPC no longer continued to remain in force, it cannot be denied that the factual observation/finding in the above quoted paragraph 16 of our judgment and order, is rendered incorrect. This situation would qualify as an error apparent on the face of the record.

16. We are of the opinion that when the writ petition was argued, the aforementioned sequence of events culminating in the appeal of the petitioner being allowed by the judgment and order dated 14th August 2024, was not properly placed before this Court. Although, in the reply affidavit filed on behalf of the respondents, the said fact was mentioned, neither the petitioner

nor the respondents placed copy of the aforesaid judgment and order dated 14th August 2024 of the Appellate Court on the record of the writ petition. This eventually led to the writ petition being decided on the basis that the aforesaid conviction continued to operate. We are of the opinion that in such circumstances, error apparent on the face of the record of the said judgment and order, is made out and hence, the review petition deserves to be allowed. Consequently, the judgment and order dated 22nd August 2026 passed in Writ Petition No. 8727 of 2021 is reviewed and recalled.

17. The review petition is allowed in the above terms. Pending applications, if any, also stand disposed of. As a consequence, Writ Petition No. 8727 of 2021 stands restored.

18. The Registry shall place the said writ petition for hearing before the appropriate Bench, as per the extant assignment.

(Y. G. KHOBRAGADE, J.)

(MANISH PITALE, J.)