

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Review No.340 of 2014

In

Civil Writ Jurisdiction Case No. 23729 of 2012

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Anju Devi Wife of Shambhu Yadav Resident of Mohania Bazar, P.O.-
Mohania, Chakla, P.S.- Banmanki , District – Purnea. Petitioner/s

Versus

1. The State of Bihar
2. The Principal Secretary, Department of Social Welfare, Govt. of Bihar,
Old Secretariat, Patna
3. The Director Integrated Child Development Programme Indra Bhawan,
Boring Canal Road, Patna
4. The Divisional Commissioner, Purnea Division, Purnea
5. The District Magistrate, Purnia
6. The Child Development Project Officer, Banmanki, Purnea
7. Smt. Sairun Nisha Wife of Md. Mukhtar Alam Resident of Village -
Mohania Bazar, Banmanki, District- Purnea. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Satish Kumar Singh

For the Respondent/s : Mr. S.A. Alam

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CORAM: HONOURABLE MR. JUSTICE V. NATH

ORAL ORDER

6 05-08-2015 Heard Mr. Shrawan Kumar Singh, the learned senior

counsel appearing on behalf of the review petitioner and Mr.

Sivendra Kumar Sinha, the learned counsel appearing on behalf

of the opposite party no. 7.

By the judgment and order under review, the writ
application filed by the review-petitioner for quashing the order
dated 07.11.2012 of the respondent-Divisional Commissioner
and for direction to the respondent-authorities to allow the

petitioner to perform her duty as Anganwari Sevika was dismissed.

The review-petitioner had preferred L.P.A. No. 1229 of 2014 but from the order dated 15.09.2014 (Annexure-1), it transpires that the learned counsel for the appellant, after some argument, sought permission to withdraw the said appeal with liberty to file appropriate application in C.W.J.C. No. 23729 of 2012 and consequently the said appeal was disposed of as withdrawn with liberty, as prayed.

The learned senior counsel on behalf of the review-petitioner has submitted that the provision as contained in Section 97 of the Bihar Panchayat Act, 2006 has not been correctly appreciated in the judgment and order under review which requires reconsideration. After elaborately placing the provision of Section 97 of the said Act, the learned senior counsel has tried to persuade this Court to align with the interpretation of the said provision as put forward and to hold that the order under review is fit to be recalled. It has further been also submitted that there has been manipulation in the minutes of Aam Sabha as well as in the application submitted by the respondent no. 7 in her selection on the post of Anganwari Sevika but the said aspects have not been considered in the order under review. It has also been

argued that the resignation letter submitted by the brother-in-law of the respondent no.7 has also been manipulated as the same has not been forwarded to any competent authority but this aspect has also not been considered.

The learned counsel for the opposite party no. 7 has submitted that in appeal against the judgment and order under review, the review-petitioner and the present opposite party no. 7 were heard at length and when the review-petitioner failed to persuade the appellate court to interfere in the judgment and order at present under review, the prayer was made to withdraw the appeal with liberty to file appropriate petition in the C.W.J.C. No. 23729 of 2012. It has further been submitted that the issues relating to manipulation, forgery and fabrication were never pressed by the review-petitioner either before the respondent authorities or during the course of submissions in the writ application or even before the appellate court and as such at this stage new points cannot be allowed to be raised for the purpose of seeking review and even otherwise also, these issues relating to fraud or manipulation are pure question of fact which is beyond the domain of writ jurisdiction.

After the perusal of the judgment under review and considering the submissions on behalf of the parties, it is evident



that the submissions on the basis of the provision of Section 97 of the Bihar Panchayat Raj Act has been made and considered by this Court in the judgment under review. The submission by the learned senior counsel on behalf of the review petitioner that the correct interpretation of the said provision has not been made in the order under review cannot be accepted as valid ground for review. It is well settled that a review is by no means an appeal in disguise to rehear and correct an erroneous decision. It would be fruitful here to notice the principle laid down by the Apex Court in **Kamlesh Verma Vs. Mayawati A.I.R. 2013 SC 3301** as follows:-

“15. Review proceedings are not by way of an appeal and have to be strictly confined to the scope and ambit of Order XLVII, Rule 1 of C.P.C. In review jurisdiction, mere disagreement with the view of the judgment cannot be the ground for invoking the same. As long as the point is already dealt with and answered, the parties are not entitled to challenge the impugned judgment in the guise that an alternative view is possible under the review jurisdiction.”

So far as the submission with regard to the non-consideration of the issues of manipulation, forgery and



fabrication in the documents is concerned, it transpires from the judgment and order under review that no submission in that regard was made on behalf of the petitioner during the course of hearing of the writ application. It further also transpires from the orders passed by the respondent authorities that these issues had not been pressed even before those authorities. It is not the case of the review-petitioner either in the writ application that these issues were pressed before the respondent authorities who failed to consider the same or in the review petition that though these issues were pressed during the course of hearing of the writ application, the same have not been considered. The review jurisdiction can be invoked only in cases of patent error and not for the purpose of rehearing of the dispute on new grounds which were never pressed. The principle in this regard has been laid down by the Apex Court in the case of **Haridas Das Vs. Smt. Usha Rani Banik A.I.R. 2006 S.C. 1634** as follows:-

“13. In order to appreciate the scope of a review, Section 114 of the C.P.C. has to be read, but this section does not even adumbrate the ambit of interference expected of the Court since it merely states that it “may make such order thereon as it thinks fit.” The parameters are prescribed in Order XLVII of the C.P.C. and for the



purposes of this lis, permit the defendant to press for a rehearing “on account of some mistake or error apparent on the face of the records or for any other sufficient reason”. The former part of the rule deals with a situation attributable to the applicant, in the latter to a jural action which is manifestly incorrect or on which two conclusions are not possible. Neither of them postulate a rehearing of the dispute because a party had not highlighted all the aspects of the case or could perhaps have argued them more forcefully and/or cited binding precedents to the court and thereby enjoyed a favourable verdict.....
.....
Where the order in question is appealable the aggrieved party has adequate and efficacious remedy and the Court should exercise the power to review its order with the greatest circumspection”

For the aforesaid reasons and discussions, this Court does not find any error apparent on the face of record or any sufficient reason to allow the prayer for review as made.

Accordingly, the review application is dismissed.

Devendra/-

(V. Nath, J)

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