

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

REVIEW APPLICATION NO.110 OF 2015
(The President, Kisan Shikshan Prasarak Mandal and others Vs.
Bhagwat Gunderao Musane and another)

IN

REVIEW APPLICATION NO.12 OF 2014

IN

WRIT PETITION NO.10650 OF 2010

Mr.V.D.Gunale, Advocate for the applicants.

Mr.Pradeep Deshmukh h/f Mr.Y.P.Deshmukh, Advocate for
respondent No.1.

Mr.V.B.Jadhav h/f Mr.A.V.Hon, Advocate for respondent No.2.

(CORAM : RAVINDRA V. GHUGE, J.)

DATE : 04/12/2015

PER COURT :

1. I have heard Mr.Gunale, learned Advocate for the applicants at length and the learned Advocates for the respondents.

2. The applicant/Management seeks a review of the order dated 09/01/2015 passed in Review Application No.12/2014. Ground for review is set out in the memo of the revision petition. The undertaking as was directed by this Court by the earlier order dated 19/01/2012 in WP No.10650/2010 is said to have been filed by the review applicant. This was not considered by this Court and that is said to be an error apparent on the face of the record.

3. Mr.Deshmukh, learned Advocate for the non applicant opposes the review application.

4. I find from the order dated 09/01/2015 that paragraph No.1 and 2 contains the submissions of the employee. Based on those submissions, Mr.Deshmukh, the learned Advocate had prayed that the orders dated 19/01/2012 and 22/02/2012 be recalled as the compromise became an empty formality between the parties. He had prayed for restoration of WP No.10650/2010.

5. Mr.Gunale, learned Advocate who appears for the review applicants and who were non-applicant Nos.1, 2 and 3 as set out in order dated 09/01/2015, had put forth his submissions, which were recorded in paragraph No.3 of the order as under :-

“3. Shri Gunale, learned Advocate appearing on behalf of respondent Nos. 1 to 3 has no objection for the setting aside of the compromise and recalling of the orders dated 19-01-2012 passed on the petition and 22-02-2012 passed on the Civil Application No.1999 of 2012.”

6. It is, therefore, apparent that since the compromise purshis was sought to be recalled and the review applicants had given their consent / no objection, the compromise and the orders dated

19/01/2012 and 22/02/2012 passed in CA No.1999/2012 were recalled. It is, therefore, obvious that the order dated 09/01/2015 was a consent order.

7. I find that the Review Petitioner has preferred this review application with malafide intentions in the light of the facts as below :-

- [a] The petitioner/Management entered into a compromise with respondent No.1 employee and settled the dispute.
- [b] Considering the compromise, this Court passed an order on 09/01/2012 on the basis of the compromise purshis/consent terms and the review petitioner was to pay an amount of Rs.4,00,000/- within 3 (three) months and the respondent No.1 employee was granted voluntary retirement from service.
- [c] For 3 years, the Review Petitioner / Management did not comply with the order and kept respondent No.1 on tenter – hooks.
- [d] Finally, being frustrated, respondent No.1 / employee preferred review application No.12/2014 informing the Court that the petitioner/Management is tiring out the said employee and is neither implementing the compromise nor informing the employee about any inability to make the payment of Rs.4,00,000/-.
- [e] On 09/01/2015, considering the grievance of the employee and after recording the consent of the review petitioner / Management, the orders of this Court dated 19/01/2012 passed on the writ petition and 22/02/2012 passed on the civil application were recalled and by consent, Writ Petition

No.10650/2010 was restored.

- [f] Now the review petitioner prays in the review application that the order dated 09/01/2015 be reviewed and Review Application No.12/2014 filed by the employee be dismissed.
- [g] The Review Petitioner / Management does not communicate in any manner whatsoever that they are willing to comply with the order dated 19/01/2012 and 22/02/2012 and proceed to settle the writ petition without further delay.

8. I, therefore, find that this review application, in the face of the order under review being a consent order, is a vexatious application. Time of this Court has been consumed despite the fact that there is no ground for review of a consenting order, more so when the applicants do not state that they had not authorized their Advocate to give a consent. The respondent employee is thus sought to be tired out.

9. This review application is, therefore, dismissed with costs quantified at Rs.25,000/- (Rs. Twenty Five thousand only) which the petitioners shall deposit in this Court on or before 08/01/2016. After the costs are deposited the non-applicant/employee shall withdraw the said amount.

(RAVINDRA V. GHUGE, J.)