

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Review No.324 of 2014

Arising out of

Letters Patent Appeal No. 772 of 2013

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Kumari Avantika, Daughter of Harivansh Thakur and Wife of Pankaj Kumar,
Resident of Village-Kamalpura, P.S.-Paroo, District-Muzaffarpur.

.... Respondent No.1- Petitioner/s

Versus

1. Mukhia, Gram Panchayat Raj Kamalpura, P.S. Paroo, District Muzaffarpur.
2. Panchayat Secretary, Gram Panchayat Raj Kamalpura, P.S. Paroo, District-Muzaffarpur.

.... Appellants/ Opposite Party 1st Set.

3. State of Bihar.
4. Principal Secretary, Department of Human Resources, Government of Bihar, Patna.
5. District Magistrate, Muzaffarpur.
6. District Education Officer, Muzaffarpur.
7. District Programme Officer (Establishment), Muzaffarpur.
8. Block Development Officer, Paroo, District Muzaffarpur.
9. Block Education Extension Officer, Paroo, District Muzaffarpur.

.... Respondent Nos.2 to 8/ Opposite Party 2nd Set.

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Appearance :

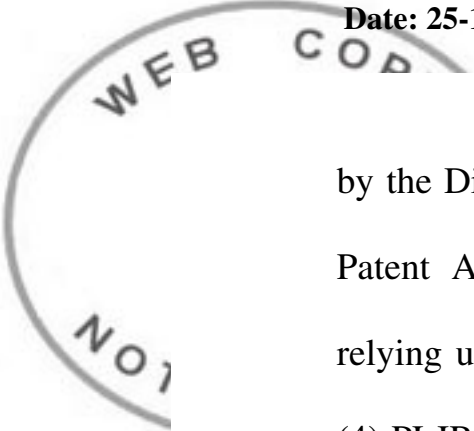
For the Petitioner	:	Mr. Md. Imteyaz Ahmad, Advocate
		Mr. Ajit Kumar, Advocate
		Mr. Ajay Kumar Thakur, Advocate
		Mr. Nilesh Kumar, Advocate
For the Respondent Nos. 1 & 2:		Mr. Manoj Kumar Manoj, Advocate

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CORAM: HONOURABLE THE ACTING CHIEF JUSTICE
And
HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT
(Per: HONOURABLE THE ACTING CHIEF JUSTICE)

Date: 25-11-2016



The present is a petition for review of the order passed by the Division Bench of this Court on 24th February, 2014 in Letters Patent Appeal No.772 of 2013 whereby, the appeal was allowed relying upon the Full Bench judgment of this Court reported as 2010 (4) PLJR 318 (State of Bihar v. Mamta Kumari) and also the Supreme Court judgment reported as (2010) 12 SCC 609 (Rajasthan Pradesh Vaidya Samiti Sardarshahar v. Union of India) in respect of status of *Hindi Sahitya Sammelan* as an institution incapable of awarding recognized degree.

2. Learned counsel for the petitioner has sought to argue that the judgment of the Full Bench of this Court in Mamta Kumari's case (supra) is not applicable to the facts of the present case inasmuch as the petitioner was a Graduate from Bihar University and, therefore, the degree of *Shiksha Visharad* degree obtained by *Hindi Sahitya Sammelan* loses its significance in view of the later Graduate degree obtained from the University. Therefore, the said fact having not been noticed, the order passed by this Court suffers from patent error and requires to be recalled. Reliance is placed upon two judgments of the Hon'ble Supreme Court reported as Lily Thomas Versus Union of India, (2000) 6 SCC 224; and Board of Control for

Cricket in India Versus Netaji Cricket Club, (2005) 4 SCC 741.



3. We have heard learned counsel for the parties and find no merit in the present review petition. The Judgment in Lily Thomas's case (supra) deals with the power of the Supreme Court in recall of the order passed by it. It is case where the scope and extent of Section 494 of the Indian Penal Code was being examined as held in earlier judgment reported as Sarla Mudgal, President, Kalyani v. Union of India, (1995) 3 SCC 635. It is the said judgment which was sought to be reviewed by various persons and institutions. While considering the petitions, the Supreme Court said that Court can exercise the power of review in a petition under Article 136 or Article 32 or any other provision of the Constitution of India if the Court is satisfied that its directions have resulted in the deprivation of fundamental rights of a citizen or any other legal right of the petitioner because no one can be forced to suffer because of the mistake of the Court. The said judgment has no applicability even remotely with the issue raised in the present petition. It deals with power of the Supreme Court to correct an error in its orders. Since the order of the Supreme Court has wide implication throughout the country and is final, therefore, the power of the Supreme Court to review an order passed by it under Article 136 or Article 32 of the Constitution of India has no parallel with the power of review keeping in view the Order XLVII of the Code of Civil

Procedure, the principles of which are applicable to the writ application.

4. In Netaji Cricket Club's case (supra), it was undertaking given by the Senior Counsel which was sought to be withdrawn. Examining the said fact, the Court held that the review application would be maintainable not only upon discovery of a new and important piece of evidence or when there exists an error apparent on the face of the record but also if the same is necessitated on account of some mistake or for any other sufficient reason. The Court held to the following effect:-

“89. Order 47 Rule 1 of the Code provides for filing an application for review. Such an application for review would be maintainable not only upon discovery of a new and important piece of evidence or when there exists an error apparent on the face of the record but also if the same is necessitated on account of some mistake or for any other sufficient reason.

90. Thus, a mistake on the part of the court which would include a mistake in the nature of the undertaking may also call for a review of the order. An application for review would also be maintainable if there exists sufficient reason therefor. What would constitute sufficient reason would depend on the facts and circumstances of the case. The words “sufficient reason” in Order 47 Rule 1 of the Code are wide enough to include a misconception of fact or law by a court or even an advocate. An application for review may be necessitated by way of invoking the doctrine “*actus curiae neminem gravabit*”.

5. In the present case, the impugned order was passed after hearing the learned counsel for the petitioner. No such distinction

was pointed out at the time of hearing. Under the garb of review, the arguments on merits cannot be addressed to find out whether the judgment of the Full Bench has been wrongly applied to the facts of the present case. The detailed arguments required to find out as to whether the reasoning for arriving at a conclusion of this Court suffers from error apparent on record does not form basis to seek review of the order passed.

6. We do not find any error apparent on record which may warrant review of the order. The Review Petition is, thus, dismissed.

(Hemant Gupta, ACJ)

(Vikash Jain, J)

Sunil

AFR/NAFR	A. F. R.
CAV DATE	N. A.
Uploading Date	29.11.2016
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