

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

REVIEW PETITION (ST) NO. 15883 OF 2016
IN
WRIT PETITION NO. 10972 OF 2015

1. Common Citizen of India	}	
(Common Man)	}	
through Rakesh Omprakash	}	
Agrawal, aged 57 years,	}	
Occupation - Social Worker,	}	
R/at 39, Udhan Complex, Gandhi	}	
Chaman Road, Jalna,	}	
Tal. and Dist. Jalna	}	
	}	
2. Peoples Rights Vigilance	}	
Organisation (NGO), through	}	
"General Secretary" Rakesh	}	
Omprakash Agarwal, aged 57	}	
years, Occupation Business,	}	
R/at G-2 Abad Complex, Gandhi	}	
Chaman Road, Jalna,	}	
Tal. and Dist. Jalna.	}	

Petitioners

versus

1. The Hon'ble High Court	}	
Judicature of Bombay through	}	
Registrar General, High Court,	}	
Mumbai, Fort area, Mumbai,	}	
Mumbai Tal. Dist. Mumbai.	}	
	}	
2. State Government of	}	
Maharashtra, through Chief	}	
Secretary, Law and Judiciary	}	
Department, Mantralaya,	}	
Mumbai - 32	}	
	}	
3. The Government of India	}	
through Chief Secretary,	}	
Law and Judiciary Department	}	
4 th floor, A Wing, Shastri Bhavan,	}	
New Delhi.	}	

Respondents

Mr. Rakesh Omprakash Agrawal-petitioner-in-person - present,
Mr. Arun Ghode, President - Peoples Rights Vigilance
Organisation - present in person.

Mr. Venkatesh Dhond - Senior Advocate with Mr. Sanjay Udeshi
i/b. M/s. Sanjay Udeshi and Co. for respondent no. 1.

Mr.P.G.Sawant - AGP for respondent no.2.

Mr. A. A. Garge for respondent no. 3.

**CORAM :- S. C. DHARMADHIKARI &
G. S. PATEL, JJ.**

**Reserved on 15th December, 2016
Pronounced on 15th March, 2017**

Judgment :- (Per S. C. Dharmadhikari, J.)

1 This review petition seeks a review of our order passed on
6th May, 2016 in the above writ petition.

2 The judgment delivered by us itself records as to how on the
prior occasion this court had examined the issues raised by the
present petitioners. The attempt of the petitioners was to seek a
rehearing of the same issues, which were concluded by the earlier
orders of this court. Therefore, in our detailed judgment, we had
applied the same parameters that are applied for deciding review
petitions. Now, the judgment we delivered in the writ petition is
sought to be reviewed by the present proceedings. The writ
petition projected the grievance and stated to be of common
helpless citizens in not being able to file petitions and applications
in Marathi language in this court. The plea of alleged

discrimination and differential treatment to litigants who wish to file proceedings in Marathi language and argue them in that language was squarely raised. The argument that Marathi being the language of the State, a petitioner/party appearing in person must be allowed to file and institute petitions/applications in Marathi language and equally to argue them in Marathi language was noted and duly considered. In the earlier round, on such a grievance, a detailed judgment and order was passed in Writ Petition No. 10972 of 2015 (the writ petition on which the judgment and order under review was passed).

3 Now the petitioners in the present review petition urge that they were not granted a complete opportunity of espousing their cause and elaborating their grievances. The review petitioners would submit that the question and issue of larger public interest is of access to justice. Access to justice is denied if a writ petition under Article 226 of the Constitution of India is not allowed to be filed with pleadings in Marathi language. That was precisely the grievance considered in the earlier round. We also found, from a perusal of the present review petition, that once again the very grievance is raised. The petitioners refer to their written arguments tendered during the course of the hearing of Writ Petition No.10972 of 2015. The petitioners state that there are

factual errors and mistakes in the judgment. They highlight in para 9.1 the fact that the citations and judgments tendered by the petitioners have not been referred by this court. There is also no reference to the plea raised by the petitioners on the applicability and interpretation of Articles 350 and 39A of the Constitution of India. Similarly, there are other errors and as highlighted in the sub-paras of para 9.1.

4 We do not see how we can consider these averments as set out in the petition in our limited review jurisdiction. Equally, the grounds set out in para 10.2 are not enough to enable us to exercise our review jurisdiction. If the judgment and order under review contains errors of law apparent on the face of the record, then, depending upon other conditions being satisfied, possibly, the review jurisdiction may be exercised. However, the grounds as raised do not point towards any error of law apparent on the face of the record. The grounds are that the court could not have disposed of the writ petition in the manner done or the court could not have taken into consideration the points which were never argued or exclude from consideration the points which were specifically argued. Similarly, the court could not have reserved the judgment with regard to Part II of Writ Petition No. 10972 of 2015.

5 The petitioner Common Citizen of India (Common Man) and another, therefore, seek review of our judgment and order on the above grounds.

6 We have heard the review petitioner appearing in person. Mr. Rakesh Agrawal tendered before us written arguments and which refer to the above pleas raised in the review and main petition. The paragraphs of the review petition are once again referred in the written arguments. Once again, it is stated as to how the Indian Constitution guarantees access to justice. It guarantees justice to all irrespective of their economic and social status. According to the review petitioners, if that is to be made meaningful and purposeful, then, the Middle Class Income Group Legal Aid Scheme has to be either re-framed or the Government of Maharashtra should be directed to make a better scheme. In the absence of such a scheme, parties like the petitioners suffer injustice.

7 In the review petition, it is stated that the judgment and order under review is contrary to the principles of natural justice. The very same ground, as raised in the review petition in para 10.2 is reiterated at page 2 of the written arguments. Secondly, the Division Bench should not have disposed of the writ petition in the absence of respondent nos. 2 to 6. Thirdly, the judgment

and order under review is contrary to the pleadings and the prayers. Then, a plea is raised in para 2 of the written arguments about the principles of natural justice being violated. That pertains to Part II of Writ Petition No. 10972 of 2015.

8 We have perused these written arguments and the extracts of the judgments relied upon. Essentially, what is projected in the written arguments is that in the earlier round, one of the writ petitions filed by the petitioners was heard by a Bench to which one of us (S. C. Dharmadhikari, J.) was a party. Therefore, the writ petition, in which the judgment and order under review was passed, should not have been assigned to him. However, the petitioners forget that they appeared before the Bench to which the matter was assigned and argued the petition on merits as well.

9 We do not see how we can entertain these pleas. We also do not know how, if the petitioners feel that citizens of India and residents of Maharashtra are handicapped because they cannot file petitions in the language of the State nor argue them, can they make a request by Civil Application No. 94 of 2016 for an in-camera hearing and recording of the review proceedings. That civil application is in English and it seeks to highlight as to how for a free and fair trial, the instant review petition should be heard in-camera.

10 We have also carefully perused the citations and which have been tendered during the course of the arguments on this review petition. On a careful perusal of the entire material, we are of the opinion that in review jurisdiction we cannot have a rehearing of the main cause. That cause is now decided and finally by our judgment and order under review. The judgment and order under review, in the opinion of the applicant/party in-person may be erroneous on facts and law. However, that is not enough for us to review our judgment and order. In review jurisdiction we cannot decide once again the question whether the materials produced by the petitioners/applicants were enough to grant the reliefs sought in Writ Petition No. 10972 of 2015. If the materials were adequate and the reliefs should have been granted, then that is a grievance which the petitioner can make in appellate proceedings before a higher court. We do not see how we can lose sight of the distinction expressly made in law, namely, a judgment and order under review containing errors of law apparent on the face of the record and the judgment and order under review being erroneous on merits. The latter plea, which is essentially raised and pressed repeatedly cannot be taken cognizance and note of in review jurisdiction. The difference between review and appeal has to be borne in mind and cannot be lost sight of. Applying the settled parameters, we do

not think that the review petition can be entertained. It is accordingly dismissed.

11 We would have been justified in imposing costs on the party appearing in person. He has not only repeatedly raised the same issue and involved in substantive proceedings filed earlier and which were transferred for hearing and decision to the Principal Seat, but once again in review jurisdiction. As a final indulgence, we do not impose heavy costs on him presently, but caution him that such an exercise not only harms the larger public interest as precious judicial time of this court is wasted, but defeats the cause and issues raised in the writ petition, wherein the judgment and order under review is passed. This court has cautioned the applicants in the earlier round that the forum where they can press their demand that the language of the State should be the language of the High Court is not this court (see Article 348). Similarly, if any existing legal aid and advise scheme ought to be more litigant-friendly, then as well, the forum for seeking such relief, as held earlier, is not this court. Both views expressed by this court may be erroneous, as is assumed by the petitioners, but the forum to have them set aside or reversed is not this court but an appellate court. Hence, by administering this caution and warning that hereafter such litigation would not only be not

entertained, but would be dismissed with heavy costs, we refrain from passing any order as to costs in the review petition.

12 At this stage, the party-in-person relies on Article 134A of the Constitution of India and submits that this Court, on oral application made by him, determine the question whether a certificate of the nature referred in clause (1) of Article 132 or clause (1) of Article 134 or, as the case may be, sub-clause (c) of clause (1) of Article 134 may be given in respect of this case.

13 First of all, we find that the review petitioner, who is appearing in person, is not clear as to which certificate he seeks. We proceed on the footing that he desires that this Court should state a substantial question of law as to interpretation of this Constitution.

14 He prays for issuance of certificate on the basis that this case involves a substantial question of law of general importance and that we should record an opinion that it needs to be decided by the Hon'ble Supreme Court.

15 The order that we have pronounced today is passed on a Review Petition. The main judgment was sought to be reviewed on

the grounds which were found by us not to be sufficient enough to exercise our review jurisdiction. We do not think from such an order, any substantial question of law, either as to interpretation of the Constitution or of general importance arises and which needs to be decided by the Hon'ble Supreme Court of India.

16 Hence, the request for issuance of the certificate is rejected.

(G.S.PATEL, J.)

(S.C.DHARMADHIKARI, J.)