

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Review No. 178 of 2015

Arising out of

Civil Writ Jurisdiction Case No. 19035 of 2011

- =====
1. The State of Bihar through its Secretary, Science and Technology Department, Patna.
 2. The Secretary, Science and Technology Department Government of Bihar, Patna.
 3. The Director, Science and Technology Department, Government of Bihar, Vishwesaraya Bhawan, Bailey Road, Patna.
 4. The Director, Technical Education, Science and Technology Department, Government of Bihar, Vishweraiya Bhawan, Bailey Road, Patna.
 5. The Principal Polytechnic College, Gaya.

.... Respondent/s / Petitioner/s

Versus

1. Rana Pratap Singh Son of Late Bhikhari Singh Resident of Village - Murgiya Chak, P.S.-Bena, District-Nalanda.

..... Petitioner/ Opposite Party

2. The Biscomaun, through its Managing Director, Patna.
3. The Accountant General, Bihar Birchand Patel Path, Patna.

.... Respondent/s/ Opposite Party/s

=====

Appearance :

For the Petitioner/s	:	Mr.
For the State	:	Mr. Anshuman Singh, A.C. to A.G.
For the Respondent/s	:	Mr. Bidya Sagar, Advocate
For the Accountant General	:	Mr. S. M. Ehtesham, Advocate

=====

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date: 04-07-2018

Heard learned counsel for the petitioners and opposite party no. 1.

2. The petitioners have filed the present application seeking the review of the order dated 17.06.2013 passed in C.W.J.C. No. 19035 of 2011. By the said order, the writ petition filed by the opposite party no. 1 has been disposed off with the observation that



the relief sought by the petitioner would be governed by the order passed by the Hon'ble Apex Court in SLP No. CC 22478 of 2011. It was further observed that if the respondents do not succeed in the SLP, the petitioner would be entitled to corresponding benefits and would be at liberty to file appropriate application, if the relief sought by him is not being redressed by the respondents.

3. Learned counsel for the opposite party no. 1 (writ petitioner) raised a preliminary objection with regard to maintainability of the present application. It was submitted that the same is beyond the parameters of review as per Order 47 Rule-1 of the Code of Civil Procedure, 1908. It was further submitted that the review petition itself has been filed after two years from the date of passing of the order under review without any petition seeking condonation of delay and also without disclosing the reasons justifying filing of the application after such a long delay. For such proposition learned counsel has referred to and relied upon a decision of the Hon'ble Supreme Court in the case of **Ragho Singh v. Mohan Singh** reported as **2001(3) PLJR (SC) 137**, the relevant being at paragraph no. 6; the judgment of a Co-ordinate Bench of this Court in the case of **Hem Narain Singh v. Ganesh Singh** reported as **1994 (2) PLJR 855**. It was further argued that under the guise of review, it is not permissible to reargue the same points which have been



agitated earlier and rejected as the same is not a right of appeal. For such proposition, learned counsel has relied upon a decision of the Hon'ble Supreme Court in the case of **Harinagar Sugar Mills Ltd. v. State of Bihar** reported as **2006 (3) PLJR (SC) 99**, the relevant being at paragraphs no. 11 and 12.

4. Learned counsel submitted that even on merits, the case of the petitioner is similar to the case of Ramashray Singh in whose matter the aforesaid SLP was filed before the Hon'ble Supreme Court. It was further submitted that if at all, the petitioners were aggrieved by the order, they ought to have filed appeal and not review application.

5. In reply thereof, learned counsel for the petitioners, who are State authorities, submitted that the case of the person where the State had preferred SLP i.e., Ramashray Singh was not similar to that of the petitioner and, thus, the Court observing that the case of the present petitioner shall also be governed by the order passed by the Hon'ble Apex Court in the SLP is erroneous. However, on a specific query of the Court, in connection with the preliminary objection of the opposite party no. 1, with regard to there being the need for at least some explanation as to why the review application has been filed after more than two years from the date of passing of the order under review, learned counsel fairly admitted that there is



no such stand taken in the application and the same has not been explained. On a further query of the Court as to what was the main thrust of his arguments with regard to making out a case of review, the submission was that it was on the basis of error apparent on the face of the record. On a further query of the Court to explain such stand, learned counsel submitted that the Court had observed with regard to the case of the petitioner being entitled to corresponding benefits which the person in whose case the SLP was preferred succeeded before the Hon'ble Supreme Court. It was submitted that there was no similarity between the two.

6. The Court would pause here. Perusal of the records of the writ petition discloses that a counter affidavit was filed on the behalf of the State in which at paragraph no. 13 a specific stand was taken that the case of the writ petitioner is not identical with the case of Kamal Bansh Narayan Singh and Ramashray Singh. Thus, when specific objection was taken on behalf of the petitioners before the writ Court and still the Court had observed that the case of the petitioners shall be governed in terms of the order of the Hon'ble Supreme Court in the SLP and that he would be entitled to corresponding benefits, it would be deemed that such objection was overruled. The Court finds that the decision relied upon by learned counsel for the opposite party no. 1 in the case of **Harinagar Sugar**



Mills Ltd. (supra), thus, covers the present case as far as the principle and scope of review is concerned. What the petitioners now contends before this Court is that there was no similarity between the case of the writ petitioner and that of Ramashray Singh, and if the Court were to interfere it would amount to the Court having reheard the writ petition on merits. This is clearly not permissible in review jurisdiction. Such point may be relevant for consideration before the Appellate Court but not by this Court while exercising power of review of its earlier order.

7. For the reasons aforesaid, the Court does not find that any ground has been made for review of the order dated 17.06.2013 passed in C.W.J.C. No. 19035 of 2011.

8. For the reasons aforesaid, the application stands dismissed.

(Ahsanuddin Amanullah, J.)

P. Kumar

AFR/NAFR	AFR
U	

