

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

REVIEW APPLICATION (CIVIL) NO. 51 OF 2018
IN WP/5849/2016

THE STATE OF MAHARASHTRA AND OTHERS
VERSUS
VIJAY NARAYANDAS RIZWANI

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AGP for Applicants : Shri Tambe S.K.
Advocate for Respondent : Shri Kasliwal A.H.

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CORAM : RAVINDRA V. GHUGE, J.
Dated: March 06, 2018

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PER COURT :-

1. I have heard the learned AGP for quite some time.
2. Issue raised is that the learned AGP, when the hearing of the Writ Petition No.5849 of 2016, which took place on 7.2.2017, had referred to a communication dated 9.12.2016 for reference purpose. The said communication was taken on record by this Court and marked Exhibit "X" for identification. Grievance of the State is that a communication which was only referred for reference purpose and was never under challenge in the Writ Petition or questioned by any of the parties and this Court has set aside that communication on the ground that it runs counter to the directions of the Honourable Minister.
3. The grievance, therefore, is that an issue which was not before this Court has been decided and the communication which was not under challenge, has been set aside.

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4. Shri Kasliwal, learned Advocate graciously appears on notice from the learned AGP and has rendered assistance by contending that Exhibit "X" was only a letter addressed by the Commissioner, State Excise to the District Collectors. It neither has any impact on the case of the original petitioner, nor does it have any significance so as to be considered while dealing with the contentions of the petitioner. He further submits that the learned AGP referred to the said communication and that is how the communication Exhibit "X" came before this Court.

5. Considering the short issue involved as well as the statement on behalf of the State that the communication had no consequence on the contentions of the petitioner, that this Review Application is partly allowed only to the extent of deleting paragraph No.9 from the order under review dated 7.2.2017. The corrected order be issued accordingly. Needless to state, if the said communication Exhibit "X" is brought before this Court in a substantive challenge, the same would be considered in a given situation.

(RAVINDRA V. GHUGE, J.)

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