

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

REVIEW PETITION (ST) NO. 31713 OF 2017
IN
WRIT PETITION NO. 5501 OF 2015

1. The Inspector General of Registration
& Controller of Stamps, Maharashtra State,
Pune and anr.Petitioners
V/s.

Subhash Babu PatekarRespondent

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Mr. O.M. Kulkarni, AAGP for the State, applicants.

Mr. Gaurav Arvind Bandiwadekar, Advocate for the
respondent.

CORAM : SMT. V.K. TAHILRAMANI,
(ACTING CHIEF JUSTICE), &
SANDEEP K. SHINDE, JJ.

DATED : 26TH FEBRUARY, 2018.

P.C. :-

1. The State seeks review of the judgment and
order dated 21st July, 2017 passed in Writ Petition No.
5501 of 2016.

2. Writ Petition No. 5501 of 2016 was preferred by the State on 28th March, 2016 against the judgment and order dated 24th August, 2015 passed by the Maharashtra Administrative Tribunal in O.A. No.119 of 2013, which was preferred by the respondent herein. The MAT vide order dated 24th August, 2015 directed the State to conclude the departmental enquiry against the respondent by 31st December, 2015 with a rider that in the event, the deadline is not met, the chargesheet shall stand quashed. It is against this order, the petition was preferred by the State with a request that the State may be granted sufficient time to complete the departmental enquiry as directed by the MAT. As stated hereinabove, this petition was preferred on 28th March, 2016.

3. The petition was disposed off on 21st July, 2017 having found that, though the Tribunal had directed to conclude the enquiry by 31st December, 2015, the State did nothing till 28th March, 2016, the date on which the subject petition was filed. This Court has held that, since enquiry

has not been concluded by 31st December, 2015 nor the State had approached the Tribunal for extension of time and also on the premise that the respondent had retired on 31st December, 2015, the petition deserves no consideration and as such was dismissed.

4. In the Review Petition, it is brought on record by the State that the enquiry against the respondent was concluded on 31st January, 2016 and the memo was issued on 29th March, 2016 to the respondent. It is also brought on record that against the Memo dated 29th March, 2016 the respondent had filed O.A. No. 904 of 2016 before the Tribunal. However, in view of the withdrawal of the said Memo and having issued a fresh Memo dated 26th July, 2016 the respondent has filed another O.A. before the MAT and it is pending for hearing.

5. It is the contention of the Learned AGP, that the order dated 21st July, 2017 may kindly be reviewed since the respondents are relying on the said judgment in

pending proceedings in Tribunal and would urge that in terms of the order dated 21st July, 2017 the proceedings adopted by the State were not maintainable. He would also urge that, in fact enquiry was concluded on 31st January, 2016, however, inadvertently this fact was not brought on record. He would, therefore, submit that the order dated 21st July, 2017 may be recalled and/or be modified. Mr. Kulkarni, in support of his submission has also relied on the judgment of the Supreme Court in **Board of Control for Cricket, India V/s. Netaji Cricket Club**, reported in 2005 (4) **Supreme Court Cases** page 741.

6. Order 47 Rule 1 of the Civil Procedure 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 other sufficient reason.

7. We do not agree with the submissions of Mr. Kulkarni, the Learned AGP for the State. At the first place, Writ Petition No. 5501 of 2016 was filed in March, 2016. In the said petition, there are no averments about the events, post December, 2015. All such post December, 2015 events were well within the knowledge of the State and thus such events were not “subsequent events”. We find, though the petition was filed in March, 2016 and was disposed off by judgment and order dated 21st July, 2017 but even at that point of time, nothing was pointed out by the State about events which are sought to be brought on record by the State as a subsequent events. In view of this fact, we do not see any reason to review the judgment and order dated 21st July, 2017, in as much as, there is no error apparent on the face of the order. The Review Petition is thus dismissed.

(SANDEEP K. SHINDE, J)

(ACTING CHIEF JUSTICE)