

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL REVIEW No.32 of 2018

In
Letters Patent Appeal No.340 of 2016

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Arya Kanya Uchaya Vidyalaya, Khagaria Governed By A Managing Committee
Through Its Secretary, Neel Ka son of Vidya Sagar Diwakar, resident of
Kalibari, S.D.O. Road, P.S. Khagaria, Town and District Khagaria.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Department of
Secondary Education, Government of Bihar, New Secretariat, Bailey Road,
Patna.
2. The District Magistrate cum Collector, Khagaria.
3. The Additional District Magistrate, Khagaria.
4. The District Education Officer, Khagaria.
5. The In-charge, Head Master, Arya Kanya Uchaya Vidyalaya, Khagaria.
6. Bidya Nath Das, son of Shri Vishwanath Das, resident of Village- Sanhauli,
P.S. Sanhauli, Via- Koshi College, P.S. Chitragupta Nagar, District-
Khagaria.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Priya Gupta
For the Opposite Party/s : Mr. Ashutosh Ranjan Pandey Aag 15

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
and
HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

(Per: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA)

5 27-02-2019 Heard both sides.

The petitioner has filed this review petition against the
order dated 24.04.2017 passed by a Division Bench of this
Court in L.P.A. No. 340/2016 by which the matter was remitted
to the Writ Court for consideration afresh.

Learned counsel for the petitioner submits that the



petitioner was not made party in L.P.A. No. 340 of 2016 and, therefore, the order of the Division Bench was passed in absence of the petitioner but the learned counsel for O.P. No. 5 pointed out that the petitioner was one of the respondents and after the election, the new Secretary of the Vidyalaya had filed the Vakalatnama. The Vakalatnama is already on record before the L.P.A. Court. From perusal of the order, it appears that on the finding that the District Magistrate, according to the statute, is not empowered to hold election of the Managing Committee of the private institution and according to the statute, it is the District Education Officer or the Department of Education is empowered to hold election of the Managing Committee of the private institutions. On such, the matter was remitted to the Writ Court with the liberty to all the parties to raise all objections in the matter in accordance with law before the Writ Court. In the case of *Sasi (Dead) through Legal Representatives vs. Arabindakshan Nair And Anr*, reported in *2017(4) SCC 692*, the principle of review has been laid down in para 6 to 9 of the aforesaid judgment which are as under:

6. The grounds enumerated therein are specific. The principles for interference in exercise of review jurisdiction are well settled. The Court passing the order is entitled to review the order, if any of the grounds specified in the aforesaid provision



are satisfied.

7. In *Thungabhadra Industries Ltd. V. State of A.P.*, the Court while dealing with the scope of review had opined:

“11. What, however, we are now concerned with is whether the statement in the order of September 1959 that the case did not involve any substantial question of law is an “error apparent on the face of the record”. The fact that on the earlier occasion the Court held on an identical State of facts that a substantial question of law arose would not per se be conclusive, for the earlier order itself might be erroneous. Similarly, even if the statement was wrong, it would not follow that it was an “error apparent on the face of the record”, for there is a distinction which is real, though it might not always be capable of exposition, between a mere erroneous decision and a decision which could be characterised as vitiated by “error apparent”. A review is by no means an appeal in disguise whereby an erroneous decision is reheard and corrected, but lies only for patent error”. (emphasis supplied)

8. In *Parsion Devi v. Sumitri Devi*, the Court after referring to *Thungabhadra Industries Ltd.*, *Meera Bhanja v. Nirmala Kumari Choudhary* and *Aribam Tuleshwar Sharma v. Aribam Pishak Sharma*, held thus:

“9. Under Order 47 Rule 1 CPC, a judgment may be open to review inter alia if there is a mistake or an error apparent on the face of the record. An error which is not self-evident and has to be detected by a process of reasoning, can hardly be said to be an error apparent on the face of the record justifying the court to exercise its power of review under



Order 47 Rule 1 CPC. In exercise of the jurisdiction under Order 47 Rule 1 CPC it is not permissible for an erroneous decision to be “reheard and corrected”. A review petition, it must be remembered, has a limited purpose and cannot be allowed to be “an appeal in disguise.”

9. The aforesaid authorities clearly spell out the nature, scope and ambit of power to be exercised. The error has to be self-evident and is not to be found out by a process of reasoning. We have adverted to the aforesaid aspects only to highlight the nature of review proceedings.”

From the facts aforesaid, we find that it is not a fact that petitioner was not a party before the L.P.A. Court rather the petitioner through its Secretary has appeared and filed his power before the L.P.A. Court. Therefore, having considered the facts aforesaid and the law laid down by the Supreme Court (supra), We do not find any reason/ground to review the order.

Accordingly, the review petition is dismissed as devoid of any merit.

(Prabhat Kumar Jha, J)

(Sudhir Singh, J)

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