

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Order Reserved on 09.7.2019****Order Delivered on 23/07/2019****REVP No. 103 of 2019**

1. Ishita, D/o Raksha Awasthi, Aged About 19 Years, R/o VIP Bungalow No.5, Rohini Vihar, Green Park Colony, Bilaspur, Chhattisgarh. 9479130140

---- Appellant**Versus**

1. Union Of India Through The Secretary, Ministry Of Human Resource Development, Shastri Bhawan, Dr. Rajendra Prasad Road, New Delhi - 110001.
2. The National University Of Advanced Legal Studies (NUALS) Kochi, "CLAT 2018 - Organizing University", Through Its Registrar, NUALS, Campus, HMT Colony, P.O. Kalamassery, Kochi, Kerala - 683503, E-Mail registrar@nuals.ac.in, Kerala
3. Core Committee Common Law Admission Test 2018, Through Its Convener Vice Chancellor, National University of Advanced Legal Studies (NUALS), Kochi, Nuals Campus, HMT Colony, P.O. Kalamassery, Kochi, Kerala - 683503,, Kerala
4. The Dharmasashtra National Law University Through The Registrar, Ridge Road, Jabalpur 482001, E-Mail. Info@MpdnlU.Ac.In.
5. The National Law School Of India University Bagalore, E-Mail Registrar@Nls.Ac.In.

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For Appellant	:	Appellant in person.
For Respondent No.1	:	Shri B. Gopa Kumar, Asst. Solicitor General

Hon'ble Shri P. R. Ramchandra Menon, CJ**Hon'ble Shri Parth Prateem Sahu, J****CAV Order****Per Parth Prateem Sahu, J****23/07/2019**

1. Appellant appearing in person has filed this petition seeking review of the order dated 18.3.2019 passed by this Court thereby dismissing writ appeal filed against the order dated 21.1.2019 passed by learned Single Judge in WPC No.3057/18.

2. Facts of the case, in brief, are that the appellant being aspirant for admission in a law college, appeared in the 'Common Law Admission Test' (for short 'the CLAT') conducted for academic session 2018-19. However, due to multiple adversity faced by her while writing exam, she could attempt only 138 questions out of total 200. Appellant submitted representation with the authority concerned for benefit of normalization formula but no heed was paid to her request. Appellant preferred writ petition bearing WPC No.1654/2018 before the writ Court. The writ Court dismissed the said petition and against which a writ appeal was preferred, which also came to be dismissed.
3. Subsequently, the appellant filed another writ petition bearing WP No.3057/19 and the writ Court after considering overall circumstances of the case including dismissal of earlier writ petition of appellant for identical reliefs, dismissed writ petition as not maintainable vide order dated 21.1.2019 by observing that as orders of dismissal of writ petition and appeal have not been challenged before the superior Court, therefore, they have attained finality and that no second writ petition is maintainable on same facts, grounds and cause of action. The appellant challenged the order of dismissal of petition in an appeal and the Division Bench after hearing the parties in the matter, dismissed the writ appeal vide order dated 18.3.2019 and affirmed the order dated 21.1.2019.
4. Appellant thereafter filed instant review petition on the grounds that the writ Court has not decided her petition on merits and dismissed the same on technical ground that after dismissal of earlier writ petition, second petition on the same grounds is not maintainable. She submits

that even the order passed by this Court is a non-speaking order. Relying on various judgements passed by Hon'ble Supreme Court she tried to submit that both the Courts have committed mistake in holding that second writ petition is barred by *res judicata*.

5. Appellant in her submission raised same argument which are pleaded in grounds of review petition. She in support of her submission relied on the judgment of **Hari Vishnu Kamath v. Ahamad Ishaq** reported in **AIR 1955 SC 233**.
6. On the other hand, learned counsel appearing for respondent Union of India supports the order under review.
7. We have heard learned counsel for the parties and perused the record.
8. Indisputably, first writ petition bearing WPC No.1654/18 preferred by appellant has been dismissed and writ appeal filed against which has also been dismissed. Instead of challenging the orders dismissing her petition and writ appeal before the superior Court, the appellant has chosen to file second writ petition on the same facts, grounds and cause of action. It is in that background her second writ petition as well as appeal was dismissed. Learned Single Judge recorded reasons for dismissing writ petition. In the aforementioned fact, applicant cannot raise a ground that her petition and appeal was dismissed without hearing by non-speaking order. It is well settled that a party cannot be permitted to re-agitate the same issue before the same Court on the same grounds. If this practice is allowed, then there will be no end to litigation. This practice was deprecated by Hon'ble Supreme Court in its various decisions.

9. The case law relied upon by petitioner is on different facts and circumstances of the case. In that case, their Lordships was dealing with the issue with respect to maintainability of writ petition.
10. That apart, the scope of judicial review of a matter is extremely limited. Every error of fact or law cannot be permitted to be corrected by filing a review application but it can be rectified in an appeal. In the matter of Meera Bhanja v. Nirmala Kumari Choudhary reported in AIR 1995 SC 455 the Hon'ble Supreme Court has held thus:-

“15. In our view the aforesaid approach of the Division Bench dealing with the review proceedings clearly shows that it has overstepped its jurisdiction under Order 47, Rule 1 CPC by merely styling the reasoning adopted by the earlier Division Bench as suffering from a patent error. It would not become a patent error or error apparent in view of the settled legal position indicated by us earlier. In substance, the Review Bench has re-appreciated the entire evidence, sat almost as court of appeal and has reversed the findings reached by the earlier Division Bench. Even if the earlier Division Bench's findings regarding C.S. Plot No. 74 were found to be erroneous, it would be no ground for reviewing the same, as that would be the function of an appellate court. Learned counsel for the respondent was not in a position to point out how the reasoning adopted and conclusion reached by the Review Bench can be supported within the narrow and limited scope of Order 47, Rule 1 CPC. Right or wrong, the earlier Division Bench judgment had become final so far as the High Court was concerned. It could not have been reviewed by reconsidering the entire evidence with a view to finding out the alleged apparent error for justifying the invocation of review powers. Only on that short ground, therefore, this appeal is required to be allowed. The final decision dated 8-7-1986 of the Division Bench dismissing the appeal from Appellate Decree

No. 569 of 1973 insofar as C.S. Plot No. 74 is concerned as well as the review judgment dated 5-9-1984 in connection with the very same plot, i.e., C.S. Plot No. 74, are set aside and the earlier judgment of the High Court dated 3-8- 1978 allowing the second appeal regarding suit Plot No. 74 is restored. The appeal is accordingly allowed. In the facts and circumstances of the case, there will be no order as to costs.

11. In the case at hand also, appellant is agitating an issue which has already been set at rest by this Court in a writ appeal, which in view of above law laid down by Hon'ble Supreme Court is not sustainable.
12. Keeping in view the above mentioned settled law by the Hon'ble Apex Court, we do not find any ground to interfere with the order dated 18.3.2019. Review Petition is accordingly dismissed.

Sd/-
(P.R. Ramchandra Menon)
Chief Justice

Sd/-
(Parth Prateem Sahu)
Judge

roshan/-