

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Orders Reserved on : 18.12.2019

Orders Pronounced on : 20.12.2019

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH
and
THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

Review Application No.193 of 2018
in
W.P.No.5673 of 2018
and
W.M.P.Nos.37983 and 37984 of 2018
in Rev.A.No.193 of 2018

K.Suganthi

.. Review Applicant

Vs.

1. State of Tamil Nadu, rep. by its
Principal Secretary to Government,
Adi Dravidar and Tribal Welfare Department,
Secretariat, Chennai-9.
2. State Level Caste Scrutiny Committee,
Rep. by its Chairman and Secretary to
Government,
Adi Dravidar and Tribal Welfare Department,
Secretariat, Chennai-9.
3. The Deputy Director General,
All India Radio,
Kamarajar Salai,
Chennai-600 004.

4. The Station Director,
All India Radio,
Tirunelveli-2.

.. Respondents

Review Application filed under Order 47 Rule 1 read with Section 114 of the Code of Civil Procedure, to review the order dated 26.11.2018 passed in W.P.No.5673 of 2018 on the file of this Court.

For Review Applicant : Mr.S.Doraisamy

For respondents : Mr.S.N.Parthasarathy, Govt. Advocate for RR-1 & 2
Mr.G.Rajagopalan, Senior Counsel for
Mr.S.Rathnasabapathy, SPCCG for RR-3 & 4

ORDER

R.SUBBIAH, J

The present Review Application is filed to review the order dated 26.11.2018 passed by this Court in W.P.No.5673 of 2018. This Court had dismissed the said Writ Petition on the ground that on a perusal of the files from the respondents 1 and 2, it revealed that the report dated 20.11.2017 was sent to the petitioner and the explanation was also called from her and initially, she obtained the incomplete report under the Right to Information Act and subsequently, the complete report dated 20.11.2017 was sent to the petitioner. Now, the present Review Application has been filed to review the said decision made in the Writ Petition.

2. It is the submission of the learned counsel for the petitioner that the Vigilance Report is only dated 28.12.2017 and even before the Vigilance Report, a show cause notice was issued on 20.11.2017 and that this Court had not considered these aspects and in paragraph 14 of the order dated 26.11.2018 passed in the above Writ Petition in W.P.No.5673 of 2018, it was observed by this Court as follows:

"14. In the above aspects, we have called for the files from the respondents 1 and 2 and on a perusal of the same, we find that the Vigilance Report, dated 20.11.2017 was in fact sent to the petitioner and explanation was also called for from her. Initially, the incomplete report was obtained by her under the Right to Information Act, but subsequently, the complete report, dated 20.11.2017 was sent to her, which is evident from the files. Therefore, we are not inclined to accept the submission of the learned counsel for the petitioner that since the petitioner has not received the full Vigilance Report, she was not able to give her explanation and attend the enquiry. Thus, it is clear that the petitioner has been prolonging the matter by filing various petitions before this Court for so many years. From the files, it could be seen that the Vigilance Report, 20.11.2017 was given to the petitioner and the same was received by the petitioner and the incomplete report was received by her pursuant to the information obtained through the Right to Information Act prior to one month from 20.11.2017. As the said Vigilance Report, dated 20.11.2017 was in fact furnished to the petitioner, which is evident from the files, we do not find any merit in the Writ Petition."

3. Countering the above submissions, it is submitted by the learned

Government Advocate appearing for the respondents 1 and 2 that the Vigilance Report was enclosed along with the Show Cause Notice issued to the writ petitioner by the Director of Tribal Welfare, dated 20.11.2017, which is a full-fledged report. The Deputy Superintendent of Police, in his Vigilance Cell Report, dated 11.11.2017, had stated that Konda Reddis Community claim of the writ petitioner is not genuine and she belongs to Reddiar Community. The documents and report relied by the Deputy Superintendent of Police are as follows:

- (i) The report of the Village Administrative Officer, Thulaiyanatham;
- (ii) The Report of Revenue Inspector, Musiri;
- (iii) The School Records of the blood relatives of the petitioner, and
- (iv) The Report of the Anthropologist associated with Vigilance Cell.

The learned Government Advocate further submitted that this Court had considered all the aspects of the matter and dismissed the Writ petition, which may not be reviewed.

4. Heard both sides and perused the materials available on record.

5. This Court, only after perusal of the records/files and considering the same, had dismissed the Writ Petition. Hence, the Review Application is not maintainable.

6. Further, it is to be noted that to maintain the Review Application, it must be shown that there is an error apparent on the face of the records and in

the absence of the same, the Review Application, in our opinion, has been filed to re-argue and re-agitate the case, which was already considered by this Court while disposing of the Writ Petition itself. The grounds which are raised in the present Review Application have already been raised and considered by this Court in the Writ Petition. While so, the Review Application cannot be entertained. In this context, useful reference can be made to a decision of the Supreme Court in the case of Kamlesh Verma vs. Mayawati and others, reported in 2013 (8) SCC 320, wherein the Apex Court, after examining various judgments, had laid down the circumstances as to when the Court can review its own judgments. The relevant portion of the judgment of the Supreme Court is extracted as under:

"12.This Court has repeatedly held in various Judgments that the jurisdiction and scope of review is not that of an appeal and it can be entertained only there is an error apparent on the face of record."

... ..

"19. Review proceedings are not by way of an appeal and have to be strictly confined to the scope and ambit of Order XLVII Rule 1 of CPC. In review jurisdiction, mere disagreement with the view of the Judgment cannot be the ground for invoking the same. As long as the point is already dealt with and answered, the parties are not entitled to challenge the impugned Judgment in the guise that an alternative view is possible under the review jurisdiction."

7. In the light of the above decision of the Honourable Supreme Court, we

only wish to observe that if the Review Applicant is in any manner aggrieved by the order passed by this Court in the writ petition, it is well open to the Review Applicant/writ petitioner to file appeal before the Supreme Court and this Review Application is not maintainable. The Review Application is accordingly dismissed. No costs. Consequently, W.M.Ps. are closed.

(R.P.S.J) (R.P.A.J)
20.12.2019

Index: Yes
Speaking Order: Yes
CS

To

1. State of Tamil Nadu, rep. by its
Principal Secretary to Government,
Adi Dravidar and Tribal Welfare Department,
Secretariat, Chennai-9.
2. State Level Caste Scrutiny Committee,
Rep. by its Chairman and Secretary to
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3. The Deputy Director General,
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and

R.PONGIAPPAN, J

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Order in
Rev.Appln.No.193 of 2018

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W.P.No.5673 of 2018

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