



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 25.11.2014

CORAM:

THE HONOURABLE MR. JUSTICE V.DHANAPALAN

AND

THE HONOURABLE MS. JUSTICE V.M.VELUMANI

Review Application (MD)No.142 of 2014
and
WA(MD)No. 592 of 2014

Sundarambal Middle School,
Rep. by its Educational Agency,
G.Joseph Jeyaseelan,
No.2, Keeraithurai,
Madurai - 1.

... Petitioner/ Respondent

Vs.

1.The District Elementary
Educational Officer,
D.E.E.O. Office,
R.M.S. Road,
Madurai.

2.The Additional Assistant Elementary
Educational Officer,
Madurai South, South Chithrai Street,
Madurai.

... Respondents/ Appellants

PRAYER: Writ appeal filed under Section 15 of letters patents Act against the order of this Court dated 22.02.2013 made in WP(MD)No. 13377 of 2011.

Prayer in WP(MD). 13377/ 2011 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a WRIT OF CERTIORARIFIED MANDAMUS, calling for the proceedings of the 1st Respondent in Na.Ka.No.7412/AA.1/2010, dated 20-04-2011 and quash the same and direct the 1st Respondent to approve the School Committee of the Petitioner School for the period 09-07-1997 to 31-10-2010 and 01-01-2011 to 31-12-2013.

For Petitioner : Mr.C.Godwin

For Respondents: Mr.VR.Shanmuganathan
Special Government Pleader

Date of reserving the Order : 05.11.2014

<https://doctrinesofcourts.com/in/house/cast> the Order : 25.11.2014

**ORDER****V.M.VELUMANI, J.**

Heard Mr.C.Godwin, learned counsel appearing for the petitioner and Mr.VR.Shanmuganathan, learned Special Government Pleader appearing for the respondents.

2. This is an application filed by the petitioner seeking to review the Judgment made in W.A.(MD) No.592 of 2014 passed by this Court on 03.07.2014, allowing the writ appeal filed by the respondents/appellants.

3. The review applicant sought for approval of school committee for the period from 09.07.1997 to 08.07.2000. The said proposal was rejected by the first respondent, by order, dated 03.12.2001. The Review Applicant filed an appeal challenging the order of rejection, however, the respondents did not pass any orders. Therefore, the Review Applicant filed W.P.No.39085 of 2003. The respondents did not pass orders on the proposal for subsequent periods also. The review applicant filed W.P.No.4063 of 2010, for a direction to the authorities to pass orders on the proposal of the review applicant. Finally, this Court, by the order dated 30.07.2010, in W.P.No.39085 of 2003, directed the respondent to give fresh proposals. W.P.No.4063 of 2010 was dismissed as withdrawn. As per the orders, the review applicant gave proposal for approval of the school committee for the period from 01.11.2011 to 31.12.2013. The first respondent rejected the same, by the order dated 20.04.2011.

4. The review applicant filed W.P.(MD)No.13377 of 2011, challenging the order, dated 20.04.2011 and prayed for a direction to the respondents to approve the school committee for the period from 09.07.1997 to 31.12.2010 and 01.11.2011 to 31.12.2013. While the writ petition was pending, the review applicant rectified the defects pointed out by the respondents. This Court allowed the writ petition quashing the order, dated 20.04.2011, with a direction to the first respondent to approve the school committee of the review applicant for the period from 09.07.1997 to 31.10.2010 and 01.11.2011 to 31.12.2013.

5. Aggrieved by the said order, the respondents filed W.A.(MD).No.592 of 2014, wherein they contended that there is no provision or power to approve the School Committee retrospectively.

6. This Court, considering the contentions of the respondents and the review applicant, allowed the writ appeal, by Judgment dated 03.07.2014, whereby the order of the learned Judge, dated 22.02.2013, made in W.P.(MD) No.13377 of 2011, is modified, directing the respondents to approve the School Committee from the date on which the Review Applicant rectified all the defects.

7. Aggrieved over the same, the present review application has been filed seeking to re-consider the said Judgment, dated 03.07.2014, made in W.A.(MD) No.592 of 2014.

<https://hcservices.secure.gov.in/hcservices> The contention of the review applicant is that the School Committee is a must for every school to discharge the duties of management of the



school. If the management of the school complies with the provisions of Rule 12(3) to (5) of the Tamil Nadu Recognized Private Schools (Regulation) Rules, 1974, then the approval of School Committee is automatic. The reasons given by the respondents to reject the proposal for approval of school committee are not contemplated in the provisions of the Tamil Nadu Recognized Private Schools (Regulation) Act and the Rules .

9. The learned counsel for the review applicant also contended that the respondents approved the School Committee in the past and the order rejecting the request for approval of the School Committee for the period in question, is invalid and illegal. It is further argued that the order of the learned Judge, made in W.P.(MD) No.13377 of 2011, is as per the provisions of the Tamil Nadu Recognized Private Schools (Regulation) Act and the Rules, 1974 and the Judgment dated 03.07.2014, in modifying the order of the learned Judge, has to be re-considered and the order of the learned Judge has to be restored.

10. Per contra, the learned Special Government Pleader appearing for the respondents refuted the contentions of the Review Applicant and prayed for the dismissal of the Review Application.

11. We have considered the rival submissions and analysed the materials available on record.

12. This Court in the writ appeal considered the issue as to whether the School Committee can be approved with retrospective effect or not? This Court, in the Judgment, dated 03.07.2014, made in W.A.(MD) No.592 of 2014, held that the School Committee cannot be approved with retrospective effect. The learned counsel for the Review Applicant has not brought to our notice as to any provision either in the Act or under the Rules, which empowers the respondents to approve the School Committee with retrospective effect.

13. It is well settled principle of law that the review cannot be a re-hearing. The Courts should not encourage filing of appeal in the guise of Review Application. The scope of Review Application was considered by the Honourable Apex Court in the Judgment reported in **2000 (6) SCC 224 [Lilli Thomas and Others Vs. Union of India and Others]**. In paragraph 52 of the said Judgment, the Honourable Apex Court has held as follows:

"52. The dictionary meaning of the word "review" is "the act of looking, offer something again with a view to correction or improvement". It cannot be denied that the review is the creation of a statute. This Court in **Patel Narshi Thakershi Vs. Pradyumansinghji Arjunsinghji [1971 (3) SCC 844 : AIR 1970 SC 1273]** held that the power of review is not an inherent power. It must be conferred by law either specifically or by necessary implication. The review is also not an appeal in disguise. It cannot be denied that justice is a virtue which transcends all barriers and the rules or procedures or technicalities of law cannot stand in the way of administration of justice. Law has to bend before justice. If the Court finds that the error pointed out in the review petition was under a mistake and the earlier judgment would not have been passed but for erroneous assumption which in fact did not exist and its perpetration from rectifying the error."

(emphasis supplied)



14.The Division Bench of this Court in the Judgment reported in **2014 (3) TLNJ 245 (Civil) [M.Jai Kavitha Vs. The Authorised Officer, Syndicate Bank, Regional Office, Chennai - 1 and others]**, in which one of us **[V.DHANAPALAN, J.]** is a party, has considered the scope of judicial review, wherein the decision of the Honourable Apex Court was noted with approval and in paragraph No.9 of the said Judgment, it has been held as follows:-

"9.The power of review under Order 47 Rule 1 of CPC can be exercised by a court of law, if the order in question comprises a mistake or an error apparent on the face of record. Once an order is pronounced, it should not be altered, unless there is an apparent error. Law is well settled that erroneous finding is not a ground for review, so also improper consideration for that matter. In review application, the court does not sit in appeal over its own judgment and the said application cannot be treated as an appeal. This position has been ruled by the Supreme Court in Lily Thomas Vs. Union of India [2000 (6) SCC 224]. Therefore, in the absence of any error apparent on the face of record, we are not inclined to interfere with the order in question, except to the extent of deleting of the portions in paragraphs 14 and 15 of the impugned order, with which the applicant is concerned as to having an impact on the proceedings pending before the tribunal, as stated in the foregoing paragraph." (emphasis supplied)

15.In the light of the dicta laid down by the Honourable Apex Court as well as by the Division Bench of this Court, we are of the considered view that the earlier order of the Court can be reconsidered only if there is an error apparent on the face of the record and in that event, the said error can be rectified. Otherwise, a Review Application is not at all maintainable. In the present case on hand, the Review Applicant failed to raise any ground, reason or cause warranting interference at the hands of this Court.

16.Therefore, We do not find any error apparent on the face of the record in the Judgment, dated 03.07.2014, passed by this Court in W.A.(MD) No.592 of 2014. Accordingly, the Review Application fails.

17.In the result, the Review Application is dismissed. No costs.

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

1.The District Elementary Educational Officer,
D.E.E.O. Office, R.M.S. Road, Madurai.

2.The Additional Assistant Elementary Educational Officer,
Madurai South, South Chithrai Street, Madurai.

+lcc to Mr. C.Godwin ,Advocate in SR.No. 63392

TS/04.12.2014/4P-4C

<https://hcservices.ecourts.gov.in/hcservices/>

order in
Review Application (MD)No.142 of 2014
25.11.2014