

01-10-2021
Court No.1
Km/Sh- 01

**CIRCUIT BENCH OF CALCUTTA HIGH COURT
AT JALPAIGURI**

**RVW 5 OF 2021
With
CAN 1 of 2021 [Section 5]
and
CAN 2 of 2021 [Stay application]**

**Shipra Barma
-Vs-
The Bharat Petroleum Corporation Ltd. & Anr.**

Mr. Jagriti Mishra,
Mr. Debayan Goswami,
Mr. Subhan Gupta
..For the Applicant.

Mr. Bikramaditya Ghosh
..For the Respondents.

Aggrieved by the order dated 20th November, 2018 passed in the writ petition, being WP 20633 of 2018 the writ petitioner/applicant has preferred the present review application.

Records reveal that the applicant preferred an appeal against the order dated 20th November, 2018 being MAT 1516 of 2018 and on 31st January, 2019 the same was dismissed as withdrawn on the appellant's prayer so that she can file a review application. In view of the said order and as I have invited Mr. Mishra, learned advocate appearing for the applicant to advance

his argument on merits of the review application, I condone the delay and allow the application under Section 5 of the Limitation Act, being CAN 1 of 2021.

Mr. Mishra primarily argues that due to inadvertence the learned First Court could not be apprised of two material facts and had such facts been brought to the notice of the learned First Court, the order would have been otherwise.

According to Mr. Mishra, the applicant's application for award of LPG distributorship was rejected by an order dated 18th September, 2018 on a purported ground that the lease deed pertaining to the land offered by the applicant for godown and shop room was an unregistered one. However, the said lease deed was executed and registered on 31st May, 2018. The fact that the applicant was having a registered lease deed was also informed to the officer conducting the field verification. However, such fact was not taken into consideration. In support of such contention, reliance has been placed upon the averments made in paragraphs 11, 12 and 17 of the stay application.

He submits that the selection process pertaining to the LPG distributorship at Baro Kodali had not yet been finalised and as such, necessary direction be issued for fresh consideration of the applicant's prayer as she was short listed and she also emerged to be successful in the draw of lots.

Mr. Ghosh, learned advocate appearing for the respondents submits that it is not a case that even after exercise of due diligence, the applicant could not apprise the learned First Court that the lease deed pertaining to the land offered by the applicant was a registered one. Such fact was within the knowledge of the applicant at the time of hearing of the writ petition but no reliance was placed upon the same.

It is well-settled that review proceedings are not by way of appeal and that the power of review may be exercised only when some mistake or error apparent on the face of the record is found.

The argument advanced by Mr. Mishra and the grounds taken in the review application do not in any manner establish any error whatsoever on the face of the record nor the application for review had been preferred upon discovery of a new and important piece of evidence. Matters which ought to have been urged in course of hearing of the writ petition have been sought to be agitated afresh.

For the reasons stated above, no interference is called for and the review application, being RVW 5 of 2021 and the stay application, being CAN 2 of 2021 are, accordingly, dismissed.

There shall, however, be no order as to costs.

Urgent certified copy of this order, if applied for, be given to the learned advocates for the appearing parties on compliance of all requisite formalities.

(TAPABRATA CHAKRABORTY, J.)