



Rev.Aplw.No.77 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 30.11.2021

CORAM

THE HONOURABLE MR. JUSTICE B.PUGALENDHI

Rev.Aplw.No.77 of 2021
in
WP.No.35552 of 2019
and
WMP (MD) No.12239 of 2021

1.M.Ahmadh Hussain
Petitioner

... Review

Vs.

- 1.The State of Tamil Nadu
Represented by its Secretary to Government,
Health and Family Welfare Department,
Fort St.George, Chennai - 600 009.
- 2.The Medical Council of India,
MCI building, Pocket -14,
Sector -8, Dwaraka Phase-I,
New Delhi - 110 077.
- 3.The Director of Indian Medicine and Homeopathy,
Arignar Anna Government Hospital of
Indian Medicine Campus,
Arumbakkam, Chennai - 600 016.
- 4.The Special Commissioner,
Joint Director,
Indian Medicine and Homeopathy,
Arignar Anna Government Hospital of
Indian Medicine Campus,
Arumbakkam, Chennai - 600 016.
- 5.The Selection Committee,
Directorate of Indian Medicine and Homeopathy,
Arignar Anna Government Hospital of
Indian Medicine Campus,
Arumbakkam, Chennai - 600 016.



Rev.Aplw.No.77 of 2021

Considering the interim orders passed by the Hon'ble Supreme Court, this Court by order dated 15.02.2021, permitted the petitioner to participate in the counselling scheduled to commence from 15.02.2021. Further, it is reported that the petitioner has not appeared for the NEET examination for the academic year 2020-2021. The petitioner has filed this writ petition based on his eligibility of appearance of NEET examination in the year 2019.

8.As per the guidelines of the sixth respondent, the results of the NEET cannot be carried over for the subsequent year. Moreover, the interim relief granted by the Hon'ble Supreme Court on the eligibility of the candidates, who have obtained their qualification through NIOS, is subject to the result of Special Leave Petition pending before the Hon'ble Supreme Court and the same has been granted only as an interim arrangement to those, who have approached the Hon'ble Supreme Court. The petitioner, who have appeared in the NEET examination in the year 2019, cannot seek for an admission based on those marks, for the academic year 2020-2021.



Rev.Aplw.No.77 of 2021

9. Accordingly, this writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed."

3. Before venturing into any discussion on the rival contentions, this Court may point out that the power of Courts in matters of review is very limited. Such power can be exercised only when there is an error apparent on the face of the record and in that event if an order is not reviewed, it would amount to miscarriage of justice. For the said proposition, this Court may usefully refer to the Judgment of a Division Bench of this Court, in **Union of India, Rep. by the Senior Divisional Commercial Manager, Chennai, Vs. The Registrar, Central Administrative Tribunal, Madras Bench**, reported in **CDJ 2014 MHC 241**, wherein the Hon'ble Division Bench has made a complete survey of several Judgments of the Supreme Court, on this question, and has ultimately, in Paragraph No.10, held as follows:-

"10. In yet another Judgment reported in **2013 (8) SCC 320, [Kamlesh Verma Vs. Mayawati and others]**, the Hon'ble Apex Court, after examining various Judgments passed earlier has held as follows:

"12. This Court has repeatedly held in



Rev.Aplw.No.77 of 2021

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. A mere repetition through different counsel, of old and overruled arguments, a second trip over ineffectually covered grounds or minor mistakes of inconsequential import are obviously insufficient....."

In the above Judgment, the Hon'ble Apex Court has laid down the principles as under:

"19. 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.

Summary of the principles:

20. Thus, in view of the above, the following grounds of review are maintainable, as stipulated by the statute:

20.1 When the review will be maintainable:-

(i). Discovery of new and important matter or evidence which, after the exercise of due diligence, was not within knowledge of the petitioner or could not be produced by



Rev.Aplw.No.77 of 2021

him;

(ii). Mistake or error apparent on the face of record;

(iii). Any other sufficient reason.

The words 'any other sufficient reason' has been interpreted in **Chhajju Ram Vs. Neki, AIR 1922 PC 112** and approved by this Court in **Moran Mar Basselios Catholicos Vs. Most Rev.Mar Poullose Athanasius & others [1955] 1 SCR 520**, to mean, "a reason sufficient on grounds at least analogous to those specified in the rule". The same principles have been reiterated in **Union of India Vs. Sandur Manganese & Iron Ores Ltd., ors., JT (2013) 8 SC 275**.

20.2. When the review will not be maintainable:-

(i) A repetition of old and overruled argument is not enough to reopen concluded adjudications.

(ii). Minor mistakes of inconsequential import.

(iii). Review proceedings cannot be equated with the original hearing of the case.



Rev.Aplw.No.77 of 2021

(iv). Review is not maintainable, unless the material error, manifest on the face of the order, undermine its soundness or results in miscarriage of justice.

(v) A review is by no means an appeal in disguise whereby an erroneous decision is reheard and corrected but lies only for patent error.

(vi). The mere possibility of two views on the subject cannot be a ground for review.

(vii). The error apparent on the face of the record should not be an error which has to be fished out and searched.

(viii). The appreciation of evidence on record is fully within the domain of the appellate Court, it cannot be permitted to be advanced in the review petition.

(ix). Review is not maintainable when the same relief sought at the time of arguing the main matter had been negatived."

4. Learned Counsel for the review petitioner submitted that in an identical issue the Odissa High Court has granted such a similar relief. Therefore, he prays for allowing the present review application.

5. It is seen that the petitioner has not appeared



Rev.Aplw.No.77 of 2021

for the NEET Examination for the academic year 2020-21.

However, he has filed the writ petition based on his eligibility of appearance of NEET Examination in the year 2019. As per the Regulation 2(d)(ii) of the Indian Medicine Central Council (Minimum Standards of Education in Indian Medicine) Amendment Regulations, 2018 and Regulation 4(A)(ii) of Homeopathy (Degree Course) Amendment Regulations, 2018, the results of the NEET for a particular academic year cannot be carried forwarded for the subsequent year. The relevant provision is extracted hereunder :

"in order to be eligible for admission to undergraduate course for an academic year, it shall be necessary for a candidate to obtain minimum of marks at 50th percentile in the "National Eligibility Entrance Test For Undergraduate Course" held for the said academic year."

6.Insofar as the interim relief granted by the Hon'ble Supreme Court, is concerned, it was restricted only to those candidates, who have approached the Hon'ble Supreme Court.



Rev.Aplw.No.77 of 2021

7.The petitioner has not made out any case for entertaining this review application and accordingly the same is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

30.11.2021

To

- 1.The Secretary to Government,
Health and Family Welfare Department,
Fort St.George, Chennai - 600 009.
- 2.The Medical Council of India,
MCI building, Pocket -14,
Sector -8, Dwaraka Phase-I,
New Delhi - 110 077.
- 3.The Director of Indian Medicine and Homeopathy,
Arignar Anna Government Hospital of
Indian Medicine Campus,
Arumbakkam, Chennai - 600 016.
- 4.The Special Commissioner,
Joint Director,
Indian Medicine and Homeopathy,
Arignar Anna Government Hospital of
Indian Medicine Campus,
Arumbakkam, Chennai - 600 016.
- 5.The Selection Committee,
Directorate of Indian Medicine and Homeopathy,
Arignar Anna Government Hospital of
Indian Medicine Campus,
Arumbakkam, Chennai - 600 016.
- 6.The Director,
National Eligibility -cum-Entrance Test (NEET),
Noida, Uttar Pradesh.



WEB COPY



Rev.Aplw.No.77 of 2021

B. PUGALENDHI , J.

dsk

Rev.Aplw.No.77 of 2021
in
WP.No.35552 of 2019
and
WMP (MD) No.12239 of 2021



WEB COPY



Rev.Aplw.No.77 of 2021

30.11.2021