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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 17.03.2021

DELIVERED ON : 29.04.2021

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

CMP.No.13380 of 2020

in

Review Application SR.No.84024 of 2020

The High Court of Judicature at Madras
rep. by its Registrar General
High Court,
Madras - 600 104.

... Petitioner
sought to prefer this Review
Appeal Sr in this Court

Vs

1.The Branch Manager,
Oriental Insurance Co. Limited
Branch office, Subha Govindam Building
2nd Floor, Imperial Road,
Cuddalore 607 002.

2.Minor Giridharan
rep. by his next friend and
Mother Lalitha

3.S.Krishnamoorthy ... Respondents
sought to prefer this Review
Appeal Sr in this Court

Civil Miscellaneous Petition filed under Section 151 CPC to grant leave to the petitioner to file Review in respect of directions issued by the learned Judge in paragraph 31 of the order dated 13.03.2020 in CMA.No.2337 of 2015.

Prayer in CMA No.2337 of 2015:

Civil Miscellaneous Appeal filed under Section 173 of the Motor Vehicles Act against the award and decree dated 19/03/2015 made in MCOP No.3327 of 2013 on the file of the Motor Accidents Claims Tribunal/Special Sub Judge (MACT), Krishnagiri.



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For Petitioner : Mr.Ayyadurai, Sr.C. for
Mr.A.Durai Eswar

For Respondents: Mr.S.Arunkumar (R1)
Mr.Mukund Pandiyan (R2)

ORDER

Heard all the parties and perused the materials placed before this Court.

2. Seeking leave to file a Review Application in respect of the direction issued by this Court in paragraph 31 of the judgment dated 13.03.2020 in CMA.No.2337 of 2015 etc. batch, the Registry of this Court has come up with this Miscellaneous Petition.

3. For better appreciation, paragraph 31 of the judgment, which is sought to be reviewed by the petitioner, is extracted below:

"In view of the above, Registry is directed to circulate this order to all the District and Subordinate Courts dealing with Motor Accident Claims so as to scrupulously follow the same for awarding compensation and to the concerned authorities for issuing necessary directions to the Medical Boards in all the Districts of Tamil Nadu to issue the Disability Certificates as per the formats stipulated in the aforesaid Notification dated 04.01.2018, while assessing the percentage of permanent disability of the injured / claimant in the motor accident cases. The District and Subordinate Courts shall accept only such statutory certificates to fix the percentage of disability. A mere statement for disability shall not be considered for awarding compensation."

4. According to the petitioner, since the judgment was passed in relation to the private disputes, the Registry of this court is a third party to the appeal proceedings and hence, the direction issued to the Registry to circulate a copy of the order amounts to an order passed in a public interest litigation and the same can be issued only by the Division Bench dealing with such matters. The petitioner further stated that the general supervision, co-ordination and control of all administrative works of the High Court are vested with the Hon'ble Chief Justice of this court and that, if this court



feels that it is a matter of importance where a direction is required to be issued to the subordinate judiciary or executive, then, it has to be placed before the Division Bench dealing with Public Interest Litigations and therefore, such a direction cannot be issued by the learned single judge. To substantiate the said averments, the petitioner placed reliance on the following judgments of the Division Bench of this Court: (i)WA (MD)No.1061 of 2019 dated 23.10.2019 and (ii)WA.No.684 of 2020 dated 03.09.2020, copies of which are enclosed in the typed set of papers filed along with this petition.

5.At the outset, this court is of the view that the aforesaid two judgments relied on by the petitioner are not applicable to the present case, as they are factually different and distinguishable.

5.1 The first case in WA(MD)No.1061 of 2019 arises from the order passed in WP.(MD)No.16250 of 2012, which was filed to challenge the order dated 25.12.2011 passed by the fourth respondent and for consequential direction to permit the writ petitioner therein to discharge duties as part time overhead tank operator in the fourth respondent Panchayat. When the writ petition was heard on 04.06.2019, there was power failure for about seven minutes, due to which, the court was put to inconvenience, because there was no emergency lamp available in the court room. Hence, the Registrar Administration was suo motu impleaded and certain queries were raised relating to non-availability of emergency light in the court hall, verification of genuineness of the employees' educational qualification, age limit, community certificates etc., directly touching upon the administrative affairs of the institution. After examining all the aspects, the Division Bench was of the view that the direction issued by the learned single judge was clearly outside the scope of the writ petition and the same also makes inroads into the administrative process adopted by the High Court headed by the Hon'ble Chief Justice. After holding so, the writ appeal was allowed and the directions issued by the learned single judge was set aside.

5.2 In the second case in WA.No.684 of 2020, which was filed by the Registry of this court against the observations made in paragraphs (11) and (12) of the order dated 30.10.2019 passed in WP.No.30827 of 2019, relating to posting of cases, the contention raised was that the learned single judge made such observations against the Registry, who has transcended its authority and accordingly, adversely commented upon the procedure sought to be adopted. Having observed so, the learned single Judge issued directions to the Registrar General for ensuring transparency in the matter of dealing with the cases by



the High Court, as if posting of cases by the Registry at times amounts to an interference with the allotment of rosters and the same tends to create an impression that the counsel are successful in forum shopping. Hence, the Division Bench opined that the question of posting of cases is to be governed by the orders of the Chief Justice on the administrative side fixing rosters and therefore, if there is any doubt about the jurisdiction of the Hon'ble Judge entertaining a matter, then the same has to be dealt with on the administrative side with a direction to place it before the Chief Justice or otherwise clarify the same in terms of the roster already fixed by the Chief Justice. Accordingly, the Registrar General was instructed that whenever such an occasion arises, either the roster jurisdiction should be explained before the Hon'ble Judge entertaining the petition or in case of any doubt being expressed by the bench, the same should be placed before the Chief Justice on the administrative side for appropriate orders.

5.3 Thus, it is apparent that the aforesaid two judgments do not support the case of the petitioner herein, as the same are factually different and absolutely distinct.

6. However, during the course of hearing, the learned senior counsel appearing for the petitioner referred to a judgment of the Division Bench in WA.No.1161 of 2020 dated 24.03.2021, which was rendered subsequent to the order sought to be reviewed herein. The said case arises out of the order passed in WP.No.10230 of 2019, wherein a direction was given by the learned single judge to the Registry of this court to circulate a copy of the order to the Motor Accident Claims Tribunals in Tamil Nadu and Puducherry after getting appropriate orders from the Hon'ble Chief Justice. Therefore, before pondering the merits of the case at hand, it would be appropriate to consider the facts involved in W.P.No.10230 of 2019 and the judgment passed by the Division Bench in WA.No.1161 of 2020.

6.1 The writ petition was filed by an insurance investigator challenging the order of the police department refusing to furnish copies of the documents sought by him relating to a motor accident. The learned single Judge, while dismissing the writ petition, issued certain directions to the Registrar General to get necessary orders from the Hon'ble Chief Justice and thereafter, circulate a copy of the said order to the Motor Accident Claims Tribunals in Tamil Nadu and Puducherry. In the writ appeal, the High court Registry took a stand that such directions can be issued only by the Division Bench having the roster of Public Interest Litigations. The Division Bench disposed of the said writ appeal, after having held that such administrative decision cannot be taken as a rule-making body in exercise of powers under Article 226.



7. With great respect, this court is of the opinion that in the aforesaid writ appeal bearing No.1161 of 2020, the Registry did not bring all the material facts and many other orders / judgments of this court as well the apex court passed in similar circumstances. In fact, the two judgments relied upon by the Registry are completely on different facts and do not augment their case. In the judgement in State of U.P. and others v. Neeraj Chaubey and others¹, the subject matter was with respect to an advertisement for appointment to the post of Assistant Professor, but the Division Bench dealt with the issue relating to construction of new High Court building complex and passed order, which was completely unconnected with the 'lis' before the court. Therefore, the supreme court was of the view that since the subject of Public Interest Litigation was not posted before the Division Bench, it could not have done so. As such, the said judgment of the supreme court cannot be correlated to a direction issued by this court in a judicial capacity on the subject directly connected with the "lis".

7.1 In another judgment referred to in the said Division Bench judgement in Chawali vs. State of U.P. and others², not only the facts, but also the issues before the court were different. In that case, the learned single judge had continued to take up similar cases after the main HCP was disposed of and even after change of roster. Further, after a case was converted as a PIL and taken up with other cases, without the order of the Hon'ble Chief Justice, a single case was delisted and was posted before the learned single judge, who passed an order, which resulted in constitution of a Full Bench and thereafter, the said judgment was rendered by the supreme court. As the facts and the findings rendered therein are different, the said judgment is not applicable to the case at hand.

7.2 Thus, placing reliance on the aforesaid judgment of the Division Bench in WA.No.1161 of 2020, which was passed on 24.03.2021 subsequent to the judgment of this Court, there cannot be any ground raised by the petitioner to review the direction issued in CMA.No.2337 of 2015 etc. batch which was rendered much earlier on 13.03.2020 that the ratio laid down by the court in a subject matter allotted to it as per the roster in connection with the "lis" would amount to a Public Interest Litigation and that, a direction to communicate the same to all the subordinate courts would amount to interference with the roster, cannot be countenanced by this Court.

1 (2010) 10 SCC 320

2 Misc.Bench No. 9470 of 2014 connected and Special Appeal (D) No. 32 of 2014, Writ Petition Nos. 2666 of 2013 and 299 (H/C) of 2014 dated 16.01.2015



8. There is no qualm that the Hon'ble Chief Justice is the master of the roster. However, such claim can be made, only if a Judge takes up a matter not falling in the roster allotted to him. Whereas, in the case at hand, this court only directed the Registry to circulate a copy of the judgment in CMA.No.2337 of 2015 etc. batch to all the District and Subordinate courts dealing with Motor Accident Claims, after having observed that issuance of disability certificates without meeting out the statutory requirements will result in irregularities and inconsistencies with huge monetary commitments to the Government and Public Sector Undertakings and therefore, a proper and uniform method has to be adopted, while issuing such certificates in future to weed out the same; and accordingly, this court directed the competent medical authorities to issue statutory disability certificates only as per the appendices prescribed in the notification dated 04.01.2018 as contemplated under the Act to maintain uniformity, consistency and standardisation in issuance of the same. Thus, the purpose for which such a direction was issued to the Registry is only in the academic as well as legal interest to enlighten the subordinate courts / Tribunals, which deal with motor accident compensation cases involving crores of rupees and hence, the same will, in no way, affect the existing procedure scrupulously followed by the Registry to streamline the administrative efficacy.

9. As mentioned earlier, the Registry did not bring about a very vital information available as Annexure 1 in the website of the Madras High Court under the heading "Right to Information Act-Manual/Duties and responsibilities of the Officers and Staff Members", which contains the latest and amended proceedings of this court issued on the Administrative Side vide R.O.C.No.32940/A-2016/B.2 dated 03.04.2017, wherein the role of the Registrar General is provided and the same runs thus:

"REGISTRAR GENERAL:

Matters to be placed before the Hon'ble Chief Justice /
Hon'ble

Committee / Hon'ble Judges:

1. Overall Administration and Policy matters.
2. Matters relating to Full Court and Administrative Committee.
3. Chief Justices' conference, Chief Ministers and CJs conference, and Finance Commission.
4. Finance and Budget of the High Court.
5. Matters relating to Madurai Bench of Madras High Court.



6. Matters - regarding - Recruitment - appointments, seniority, postings, regularization, Transfers, Promotion, ACP, retirement, and punishment in respect of Judicial Officers

7. Recruitment, appointments, promotions, seniority, deputation, retirement and major punishment in respect of the Officers and staff of the High Court and matters relating to Law Clerks.

8. Recording of ACR on the Judicial Officers in cadre of District Judge in the State of Tamil Nadu State Judicial Service and Puducherry Judicial Service.

9. Constitution/shifting of Courts and realignment of Courts in the State of Tamil Nadu and Union Territory of Puducherry.

10. Appointment of Vacation Judges of Civil and Criminal Side of Subordinate Judiciary.

11. Sanction of Staff car for the High Court Officers.

12. Appeal petitions relating to Disciplinary matters of the Staff of Subordinate Judiciary.

13. Recording of Annual Confidential Reports on the Officers of the High Court.

14. Matters relating to transfer and postings of CAOs and Sherishtadar of Subordinate Courts and matters relating to Court Managers functioning in the State of Tamil Nadu.

15. Deputation of Staff of the High Court to other departments and for training.

16. Matters relating to Pecuniary Limits of the Original Jurisdiction of the High Court and Subordinate Courts.

17. Issuance of circulars etc., to the Subordinate Courts based on the Judicial Orders.

Matters to be dealt by Registrar General independently:-

18. Furnishing of information to Government of India, Government of Tamil Nadu, Law Ministry, Parliamentary and Legislative Questions prepared by the Registrars.

19. All matters dealt by the Registrar (Admin), Registrar



(Management), Registrar (District Judiciary) and Registrar (IT-cum-Statistics) before being placed before appropriate Committee.

20. Communications relating to Vigilance Cell, High Court, Madras.

21. Matters relating to accounts of the High Court.

22. Regularisation, declaration of probation, imposing of minor punishment, transfer and postings of High Court Officers and Staff of the High Court.

23. Reference to Tamil Nadu Public Service Commission and Governments.

24. All matters relating to Judicial Academy.

25. Sanction of House building advance to the Officers and Staff of the High Court.

26. Matters which are not specifically allotted to other Officers.

27. Other matters that may be specifically allotted by the Hon'ble The Chief Justice from time to time."

9.1 The above order was issued by the Hon'ble Chief Justice on the administrative side and the same is binding on all the officers and staff of the High Court, needless to state, on the Registrar General as well. In serial no.17, it is specifically stated that the responsibility of the Registrar General is to place before the Hon'ble Chief Justice / Hon'ble Committee/Hon'ble Judge, the judicial pronouncements that are to be circulated to the subordinate judiciary. Therefore, it goes without saying that whenever a direction is issued by this court, whether to place it before the Hon'ble Chief Justice to obtain necessary orders for circulation or to circulate the decision to the subordinate judiciary, it is the bounden duty of the Registrar General to place the same before the Hon'ble Chief Justice and obtain necessary permission for sensitizing the subordinate judiciary. Further, the independent matters to be dealt with by the Registrar General also include the matters relating to Judicial Academy, implying important decisions are to be communicated to the Judicial Academy, which has been the practice. It is, therefore, lucid that the existence of such an administrative order and procedure, was not placed before the said Division Bench, rather projecting such direction to be an interference with the roster, which is not the case at hand.

10. Be it noted that various decisions of this court, in which directions were issued to the Registry to communicate to



the subordinate judiciary and the fact that some of such decisions were upheld by the Supreme Court, were not placed before the Division Bench. It is not out of place to mention here that the practice of issuing certain directions touching upon the 'lis' has been in vogue for several decades in the judiciary throughout the world. It is a part of the judicial function. It is not to be forgotten that a judicial officer representing the court, is performing a public duty in the administration of justice of which dispensation in the penultimate part with execution being the ultimate, for which the entire system strives. Therefore, it is the duty of the High Court to ensure that the purpose of the judgment is achieved when a law is laid down. It includes within its ambit, the judicial authority to ensure that ratio is brought to the knowledge of all concerned.

11. It is also to be pointed out that the court owes a responsibility not only to the system, but also to the public by ensuring that uniform principles and standards are followed. It is only under such circumstances, the courts have been issuing directions for circulation of the order, so as to enable the lower judiciary to be appraised of the legal position. Such directions are indispensably, part of judicial orders deriving power under Article 227 of the Constitution of India, and the same not only ensure uniformity and legality, but also comprehensively save the time of the court. At this juncture, it is apt to quote the three basic principles laid down by Lord Denning in *Ward v. James*³, while dealing with claims relating to personal injury, which reads as under:

"Firstly, accessibility: In cases of grave injury, where the body is wrecked or brain destroyed, it is very difficult to assess a fair compensation in money, so difficult that the award must basically be a conventional figure, derived from experience or from awards in comparable cases. Secondly, uniformity: There should be some measure of uniformity in awards so that similar decisions may be given in similar cases; otherwise there will be great dissatisfaction in the community and much criticism of the administration of justice. Thirdly, predictability: Parties should be able to predict with some measure of accuracy the sum which is likely to be awarded in a particular case, for by this means cases can be settled peaceably and not brought to court, a thing very much to the public good."



12. It is also relevant to refer to the judgement of the supreme court in *K. Kraipak v. Union of India*⁴. In the said case, while discussing on Administrative orders and quasi -Judicial Orders, the Apex Court held as follows:

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"13. The dividing line between an administrative power and a quasi-judicial power is quite thin and is being gradually obliterated. For determining whether a power is an administrative power or a quasi-judicial power one has to look to the nature of the power conferred, the person or persons on whom it is conferred, the framework of the law conferring that power, the consequences ensuing from the exercise of that power and the manner in which that power is expected to be exercised. Under our Constitution the rule of law pervades over the entire field of administration. Every organ of the State under our Constitution is regulated and controlled by the rule of law. In a welfare State like ours it is inevitable that the jurisdiction of the administrative bodies is increasing at a rapid rate. The concept of rule of law would lose its vitality if the instrumentalities of the State are not charged with the duty of discharging their functions in a fair and just manner. The requirement of acting judicially in essence is nothing but a requirement to act justly and fairly and not arbitrarily or capriciously. The procedures which are considered inherent in the exercise of a judicial power are merely those which facilitate if not ensure a just and fair decision. In recent years the concept of quasi-judicial power has been undergoing a radical change. What was considered as an administrative power some years back is now being considered as a quasi-judicial power. 'The following observations of Lord Parker C.J. in *Regina v. Criminal Injuries Compensation Board, Ex. Parte Lain*, (1967) 2 QB 264 at p.881 are instructive.

"With regard to Mr. Bridge's second point I cannot think that Atkin, L.J. intended to confine his principle to cases in which the determination affected rights in the sense of enforceable rights. Indeed, in the *Electricity Commissioners* case, the rights determined were at any rate not immediately enforceable rights since the scheme laid down by the commissioners had to be approved

4 (1969) 2 SCC 262



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by the Minister of Transport and by resolutions of Parliament. The commissioners nevertheless were held amenable to the jurisdiction of this court. Moreover, as can be seen from *Rex. v. Postmaster-General, Ex-parte Carmichael*, [1928] 1 K.B.291 and *Rex. v. Boycott Ex parte Keasley*, [1939] 2 K.B. 651 the remedy is available even though the decision is merely a step as a result of which legally enforceable rights may be affected.

The position as I see it is that the exact limits of the ancient remedy by way of certiorari have never been and ought not to be specifically defined. They have varied from time to time being extended to meet changing conditions. At one time the writ only went to an inferior court. Later its ambit was extended to statutory tribunals determining a lis inter parties. Later again it extended to cases where there was no lis in the strict sense of the word but where immediate or subsequent rights of a citizen were affected. The only constant limits throughout were that it was performing -a public duty. Private or domestic tribunals have always been outside the scope of certiorari since their authority is derived solely from contract, that is, from the agreement of the parties concerned.

Finally, it is to be observed that the remedy has now been extended, see *Reg. v. Manchester Legal Aid Committee, Ex parte R. A. Brand & Co. Ltd.* (1952) 2 QB 413, to cases in which the decision of an administrative officer is only arrived at after an inquiry or process of a judicial or quasi-judicial character. In such a case this court has jurisdiction to supervise that process.

We have as it seems to me reached the position when the ambit of certiorari can be said to cover every case in which a body of persons of a public as opposed to a purely private or domestic character has to determine matters affecting subjects



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provided always that it has a duty to act judicially. Looked at in this way the board in my judgment comes fairly and squarely, within the jurisdiction of this court. It is as Mr. Bridge said, 'a servant of the Crown charged by the Crown, by executive instruction, with the duty of distributing the bounty of the Crown. 'It is clearly, therefore, performing public duties'".

13. To determine as to whether an order is a judicial order or not, one has to look at the law from where such power is derived, on whom such power is conferred, who has exercised such power and in what capacity, the substantive and procedural laws on the matter and the consequence of an order passed. If the result of such orders culminate in a legally enforceable right or in the nature of curtailing a right or directions to persons engaged in the performance of public duties, it is invariably a judicial order. Hence, there can be no doubt about the position that any direction issued by the court is nothing but a judicial order and the interpretation of the same by the Registry is misconceived.

14. It is also imperative to refer to the doctrine of implied power, a useful rule in the parlance of legal jurisprudence, which means that whenever an authority is granted, it goes without saying all incidental and implied powers that are granted along with it, which also includes its enforceability, failing which the grant of such power would become ineffective or redundant. In this context, it is significant to cite the Judgment of the supreme court in *Sakiri Vasu v. State of U.P.*⁵, wherein it was held as follows:

18. It is well-settled that when a power is given to an authority to do something it includes such incidental or implied powers which would ensure the proper doing of that thing. In other words, when any power is expressly granted by the statute, there is impliedly included in the grant, even without special mention, every power and every control the denial of which would render the grant itself ineffective. Thus where an Act confers jurisdiction it impliedly also grants the power of doing all such acts or employ such means as are essentially necessary to its execution.

19. The reason for the rule (doctrine of implied power) is quite apparent. Many matters of minor details are omitted from legislation. As Crawford



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observes in his Statutory Construction (3rd edn. page 267):-

"...If these details could not be inserted by implication, the drafting of legislation would be an indeterminable process and the legislative intent would likely be defeated by a most insignificant omission".

20. In ascertaining a necessary implication, the Court simply determines the legislative will and makes it effective. What is necessarily implied is as much part of the statute as if it were specifically written therein.

21. An express grant of statutory powers carries with it by necessary implication the authority to use all reasonable means to make such grant effective. Thus in ITO, Cannanore vs. M.K. Mohammad Kunhi, AIR 1969 SC 430, this Court held that the income tax appellate tribunal has implied powers to grant stay, although no such power has been expressly granted to it by the Income Tax Act.

22. Similar examples where this Court has affirmed the doctrine of implied powers are Union of India vs. Paras Laminates AIR 1991 SC 696, Reserve Bank of India vs. Peerless General Finance and Investment Company Ltd AIR 1996 SC 646 (at p. 656), Chief Executive Officer & Vice Chairman Gujarat Maritime Board vs. Haji Daud Haji Harun Abu 1996 (11) SCC 23, J.K. Synthetics Ltd. vs. Collector of Central Excise, AIR 1996 SC 3527, State of Karnataka vs. Vishwabharati House Building Co-op Society 2003 (2) SCC 412 (at p.432) etc.

15.As already stated, the Registrar is duty bound to communicate the orders of this court. The orders / judgments of this court are public records. It is pertinent to mention that the orders / judgments of this court are published in the website of the court. That apart, every judge is entitled to indicate in the order, whether the judgment is reportable or not and depending upon the same and the rules for reporting by private law journals copies are taken by the editors of the journals and the copies are sent to Judicial Academy. The object, as said before, is to sensitize all the people involved in the administration of justice, including but not limited to the litigants and the subordinate judiciary.



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16. Now, it is necessary to list some of the cases in which directions were issued and the same were complied with by the Registrar, based on the administrative procedure in vogue, as below:

1. Order dated 10.03.2004 in Crl OP. 8119 of 2004, wherein directions issued to the magistrates dealing with cases under Section 138 of the N.I. Act and complied with by the Registrar General vide R.O.C.No.156-A/2004/F1 dated 08.04.2004,

2. Order dated 22.03.2006 in Crl.O.P.No.7328 of 2006, wherein directions issued to the magistrate courts and District courts and complied with by the Registrar General vide R.O.C.No.1253-A/2006/Crl.Sec/F1 dated 28.03.2006,

3. Order dated 28.10.2009 in Crl O.P.No.16253 of 2007, wherein, directions issued by the court regarding procedure to be followed by the investigating agencies and trial courts and complied with by the Registrar General Vide ROC No 5920-A/09/F1 P.DIS NO.8/2010 dated 28.01.2010,

4. Order dated 23.04.2010 in C.M.A.(MD).No.69 of 2010, wherein, directions issued to the tribunals in Tamil Nadu dealing with Motor Accident claim cases to deny the insurance companies to put forward certain plea and complied with by the Registrar General vide R.O.C.No.504-A/2011/F/MB in P.Dis.No.10/2011 dated 12.04.2011,

5. Order dated 07.03.2016 in Crl.O.P.(MD).No.3144 of 2016, wherein, directions issued by this court to the Registry to circulate the order after getting appropriate orders from the Hon'ble Chief Justice and complied with by the Registrar General vide Roc.No.740-A/2016/F/MB P.dis 119/2016,

6. Order dated 11.03.2016 in C.M.A.No.428 of 2016 by the Division Bench of this court while hearing an appeal relating to motor accident claim, whereby a procedure was laid down and the compensation awarded was directed to be deposited in the bank account of the claimant and the order was directed to be circulated to the subordinate tribunals after getting appropriate orders from the Hon'ble Chief Justice and complied with by the Registry vide Roc.No.31955-A/2016/FI P.Dis.No.120/2016, High Court of Madras,

7. Order dated 12.04.2016 in C.M.A.No.2380 of 2015 by the Division Bench hearing appeals in motor accident claims cases, wherein procedure for assessment of disability was laid down and Registry was directed to circulate the order and complied with vide Roc.No.53091-A/2016-FI dated 04.08.2016,



8. Order dated 21.07.2017 in CrI.OP.Nos.8690 and 12060 of 2017, wherein the many directions were issued including transfer of all cases relating to idol theft in the state to the file of the Additional Chief Judicial Magistrate Court, Kumbakonam and complied with by the Registry vide R.O.C.No.62204-A/2017/F1 dated 17.08.2017. The Special Leave Petition in SLP (CrI). Nos.6139 of 2017 & 6140 of 2017 filed against the said order were also dismissed on 01.09.2017. This factum was not brought to the knowledge of the Division Bench.

9. Order dated 26.06.2018 in C.M.A.No.1317 of 2018 by the Division Bench while dealing with an appeal against the award of motor accident claims tribunal, wherein directions were issued to the tribunals to consider the standard deduction in the particular year while calculating the income of the deceased and complied with by the Registrar vide Roc.No. 50261-A/2018/F1 P. Dis. No : 124/2018,

10. Order dated 14.10.2019 in W.P.No.7789 of 2019, wherein the Division Bench of this court while hearing a Writ Petition relating to SARFAESI Act by an aggrieved party, issued directions to the trial courts to take note of the bar under Section 34 of the Act and complied with by the Registry vide Roc.No.89G43-A/2019/F1 P.Dis.135/2019.

17.Apart from that, there are numerous cases, in which the Supreme Court, while hearing appeals under Articles 132 and 133 and petitions for Special Leave to Appeal under Article 136 of the Constitution of India, issued similar directions, which are very much available in the website of the state judicial academy. All the above orders as well as many such orders are displayed in the website of the Tamil Nadu State Judicial Academy, the primary object of which inter alia is to provide training to the judicial officers and appraise them about the judicial pronouncement of higher forums. When such being so, it is really unfortunate that the petitioner did not appraise of the said position before the Division Bench. It is not out of place to mention here that the Division Benches issued such directions that were complied with by the Registrar General by circulating such orders to the subordinate courts. This fact was also not brought to the knowledge of the Division Bench.

18.For a limited purpose of culling out the situation in which the case was projected by the Registrar General without any party to oppose or put forth the correct facts and law before the Division Bench, which made the court to pass such an



order, it is apropos to refer to the Full Bench Judgment of the Patna High Court in Re: Babul Chandra case⁶, wherein, the Patna High Court while dealing with a writ petition under Article 226 of the Constitution of India seeking a direction against the refusal of the very same High Court to enrol a person as an Advocate, held as follows: "It is apparent that a writ cannot be issued by the High Court to itself for the process involves rather the absurd position that it calls upon the Judges to show cause to themselves why they should not be directed to quash something they themselves have determined. It is also manifest on principle that a judge is without jurisdiction to issue a writ or order to another judge of co-ordinate jurisdiction and power to compel performance of duties".

18.1 It was only the appellant therein, that is, the Registrar was heard. The formal respondents were not interested in the appeal as it pertained only to the directions to the Registrar to communicate. Obviously, the Division Bench could not have arrayed the High Court itself as a respondent to strike down the directions issued by the High court in an appeal filed by it. If at all anybody could have defended the appeal, it could only be the Registrar, who, for unknown reasons, filed the appeal in suppression of the facts indicated above.

19. It is also noteworthy that the judgment referred to by the petitioner was rendered by the Division Bench on 24.03.2021, whereas the direction sought to be reviewed herein, was issued by judgment dated 13.03.2020 in CMA.No.2337 of 2015 etc. batch, and hence, the said Division Bench judgment cannot be made applicable retrospectively, but only prospectively and hence, such a direction ought to have been complied with by the Registry.

20. Now coming to the case at hand, the grounds for review is no longer res integra. In the Judgment in Kamlesh Verma v. Mayawati⁷, the apex court, after examining various Judgments passed earlier, has held as follows:

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 if there is an error apparent on the face of the record. A mere repetition through different counsel, of old and overruled arguments, a second trip over

⁶ AIR 1952 Pat 309 (FB)

⁷ (2013) 8 SCC 320



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ineffectually covered grounds or minor mistakes of inconsequential import are obviously insufficient. This Court, in *Sow Chandra Kante & Anr. vs. Sheikh Habib* (1975) 1 SCC 674, held as under:

"1. Mr Daphtary, learned counsel for the petitioners, has argued at length all the points which were urged at the earlier stage when we refused special leave thus making out that a review proceeding virtually amounts to a re-hearing. May be, we were not right in refusing special leave in the first round; but, once an order has been passed by this Court, a review thereof must be subject to the rules of the game and cannot be lightly entertained. A review of a judgment is a serious step and reluctant resort to it is proper only where a glaring omission or patent mistake or like grave error has crept in earlier by judicial fallibility. A mere repetition, through different counsel, of old and overruled arguments, a second trip over ineffectually covered ground or minor mistakes of inconsequential import are obviously insufficient. The very strict need for compliance with these factors is the rationale behind the insistence of counsel's certificate which should not be a routine affair or a habitual step. It is neither fairness to the Court which decided nor awareness of the precious public time lost what with a huge backlog of dockets waiting in the queue for disposal, for counsel to issue easy certificates for entertainment of review and fight over again the same battle which has been fought and lost. The Bench and the Bar, we are sure, are jointly concerned in the conservation of judicial time for maximum use. We regret to say that this case is typical of the unfortunate but frequent phenomenon of repeat performance with the review label as passport. Nothing which we did not hear then has been heard now, except a couple of rulings on points earlier put forward. May be, as counsel now urges and then pressed, our order refusing special leave was capable of a different course. The present stage is not a virgin ground but review of an earlier order which has the normal feature of finality."



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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.

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 him;

(ii) Mistake or error apparent on the face of the 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 Poulouse Athanasius & Ors.*, (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.

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



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(v) A review is by no means an appeal in disguise whereby an erroneous decision is re-heard 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.

24) Based on the above, at the foremost, it is submitted by Mr. Shanti Bhushan, learned senior counsel for the petitioner that on a reading of various orders of this Court, it is clear that FIR being RC No. 0062003A0019 of 2003 was lodged under the orders and directions of this Court. In order to substantiate the above argument, Mr. Shanti Bhushan, once again, took us through earlier orders which were passed at the time of original hearing. In fact, the very same orders and arguments were advanced by the then Additional Solicitor General for CBI as well as Ms. Kamini Jaiswal, learned counsel on behalf of the intervener. In paragraph Nos. 18 to 23 of the order dated 06.07.2012, the very same contentions have been made, dealt with and duly considered at length and it was clarified that anything beyond the Taj Corridor matter was not the subject matter of reference before the Taj Corridor Bench and the CBI is not justifying in proceeding with FIR being RC No. 0062003A0019 of 2003 dated 05.10.2003 since the order dated 18.09.2003 does not contain any specific direction regarding lodging of FIR in the matter of disproportionate assets case against Ms. Mayawati-Respondent No. 1 herein.

From the above settled position of law on the grounds of review, it is evident that there must be a material error, manifest on the face of the order that undermine its soundness or results in miscarriage of justice. Whereas, in the present case, the direction so issued to the Registry cannot be termed as an error and hence, the review petition cannot be maintainable.



21. That apart, it is settled law that unless a petitioner is aggrieved with the ratio laid down in the judgment, he has no right to file a petition to review. In this context, it is relevant to refer to the judgment of the Apex Court in *State of Karnataka v. T.R. Dhananjaya*⁸, in which it was held as follows:

"3. It is now settled law that an appeal or application like the one at hand can be initiated only by the person found guilty. No other person has any right to intervene on his behalf, as he alone is the person aggrieved. Since Vasudevan had filed aforesaid applications and his prayer for remission was rejected on merits, the application filed by the State seeking review of a review order, is not maintainable. It is submitted on behalf of the State that in view of the extensive power of this Court under Article 142 of the Constitution, this Court may consider the matter and remit the sentence. We do not find any circumstance warranting further review of our review order and that too on self-same grounds. The contention of the State is that since the action is taken at different levels, the officer is not personally liable for the violation of the order of the Court. It is their internal management and the court or any other party would not know as to who was actually responsible for the disobedience. It would be open to the Government to frame appropriate rules fastening the responsibility and accountability for implementation of the order of the courts and to inform the courts in that behalf. Till this is done, officers like Vasudevan shall have to be held responsible for disobedience of courts' order relating to their Department".

In *Satvir Singh v. Baldeva*⁹, the apex court held as follows:

"2. In our view, the review application is not maintainable. In *Simranjit Singh Mann vs. Union of India* (1992 (4) SCC 653), this Court has held that a third party has no locus standi to challenge the conviction and sentence awarded to certain convicts even on the averments of violation of their fundamental rights.

⁸ (1995) 6 SCC 254

⁹ (1996) 8 SCC 593



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3. In State of Karnataka vs. I.R. Dhananjaya, (1995) 6 SCC 254, it has been held that the review petition filed by the State seeking review of the conviction and sentence of one of the officers of the State was not maintainable. The petitioner in this review petition has relied on the decision of this Court in S.P. Gupta vs. President of India, AIR 1982 SC 149 and has contended that the third party like him is competent to file the present petition for review. Such contention, however, cannot be accepted. In S.P. Gupta's case, the petitioner was espousing the case of independence of judiciary. The present petitioner is not espousing such a cause, but praying for review of the judgment passed in an appeal preferred by the convicted appellants. The same stands entirely on different footing and, in our view, the petitioner has no locus standi to maintain the instant review petition."

Applying the aforesaid principles to the facts of the present case, the petitioner / Registry of this court, as a third party to the appeal proceedings and whose role is limited to the extent of communicating the judgment, is not entitled to sustain a review application, as they by any stretch of imagination, cannot be treated as a party aggrieved. Further, it is settled position that a subsequent decision by a higher forum is not a ground for review. Nevertheless, this court has held even otherwise that the judgments cited are not relevant and hence, the same cannot be relied upon for various reasons as stated above.

22. In such view of the matter, the petition deserves to be dismissed as devoid of merits and is accordingly, dismissed. Consequently, the Review Application is rejected at SR stage itself. No costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar



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The Registrar General,
High Court, Madras.

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