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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Decision: 25th November, 2021

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W.P.(C) 6704/2021

NATIONALIST POWER PARTY

..... Petitioner

Through: Mr. Shiv Pratap Singh Pawar -
Petitioner in person

versus

UNION OF INDIA & ORS.

..... Respondents

Through: Mr. Chetan Sharma, Additional
Solicitor General with Mr. Ajay Digpaul, Central
Government Standing Counsel with Mr. Kamal R.
Digpaul, Mr. Vinay Yadav, Mr. Amit Gupta,
Mr. Akshya Gadeock, Mr. Rishav Dubey &
Mr. Sahaj Garg, Advocates for UOI
Mr. Vikram Mehta & Ms. Akanksha Vigyan,
Advocate for R-7 and R-8.
Mr. Praveen K. Singh, Advocate for R-5
Mr. Akshay Amritanshu & Mr. Kartikey Singh,
Advocates for R-9 & R-10
Mr. Shovan Ghosh & Ms. Chirantani Ghosh,
Advocates for R-13 & R-15
Mr. Sanjeev Sagar, Standing Counsel (GAIL) &
Ms. Nazia Parveen, Advocate for GAIL along with
Ms. Abhinaya Iyar, Law Manager

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MS. JUSTICE JYOTI SINGH

JUDGMENT

: **D. N. PATEL, Chief Justice (Oral)**

Review Pet. 191/2021 (seeking review of order/judgment dated 26.10.2021)
in W.P.(C) 6704/2021

1. Present Review Petition has been preferred by the original Petitioner

in W.P.(C) 6704/2021. Writ petition was preferred by the Petitioner seeking the following reliefs:-

“(a) Issue a writ, order or direction to the responsible respondents HPCL, BPCL, IOCL, GAIL, ONGC to provide all investigated reports (which was done after sent letter by Under Secretary of Ministry of Petroleum & Natural Gas) to the petitioner/complainant with name and designation of those officials who approved the work which not done according to the standards.

(b) Issue order or direction to terminate all officials who was involved in the scams.

(c) Issue order or direction to blacklist all private companies who involved in the scams for 10 years.

(d) Issue order or direction to Central Beuro of Investigation- CBI to further investigation to all tenders awarded to M/s Honeywell Automation India Ltd., M/s Premier Power Product Pvt. Ltd., M/s Parmar Metals Pvt. Ltd. and M/s Parmar Industries.

(e) Pass such other order or direction, which this Hon'ble Court deems it fit and proper under the circumstances of the case.”

2. The aforementioned writ petition was dismissed by this Court *vide* order dated 26.10.2021.

3. We have heard the Review Petitioner, who appears in person and reiterates the arguments addressed when the writ petition was dismissed. Additionally, it is argued that the petition was neither politically motivated nor for publicity and therefore, the finding to that effect needs to be reviewed. It is also contended that the allegations levelled in the writ petition are true and correct and direction needs to be issued by this Court, to enquire into the same. Petitioner also avers and argues that there is substantial evidence to show that there is rampant corruption in some of the PSUs referred to in the writ petition but inadvertently, the Petitioner forgot to

attach the relevant documents at the time of filing the writ petition, which would clearly reveal the corruption. Therefore, the order passed by this Court on 22.10.2021 needs to be reviewed and the Petitioner be permitted to place on record certain additional documents, in support of the averments and allegations in the writ petition.

4. We have looked into the facts and circumstances of the case and we see no reason to review our judgment and order dated 26.10.2021 passed in W.P.(C) 6704/2021. The Review Petitioner has been unable to point out any error apparent on the face of the record in the order dated 26.10.2021, entailing a review of the decision. Petitioner concedes that certain documents, which according to him would prove his case, were not filed along with the writ petition. In a review petition, this Court cannot enlarge the scope of the writ petition and permit filing of additional documents so as to enable the Petitioner to make out a new case. Moreover, the Petitioner, it appears, in garb of a Review Petition is seeking to reagitate the same issues which were raised in W.P.(C) 6704/2021, which was dismissed as this Court did not find merit in the issues raised. Nor can this Court be called upon to adjudicate the correctness of the judgment rendered in the writ petition, as an Appellate Court.

5. We may only reiterate our observations in the judgment and order dated 26.10.2021 that the transactions in question go back to the year 2013, allegedly relating to supply of goods to HPCL, BPCL, IOCL, GAIL, ONGC, etc., more particularly, with regard to their quality. The quality of goods supplied is a matter of contract between two contracting parties and one has rights and remedies against the other in terms of the contract for supply of sub-standard goods. It is not for this Court in a writ jurisdiction to enter the

said domain, especially when this Court does not have the necessary expertise to ascertain the quality of goods supplied. We are sanguine that necessary action would have been taken by the concerned PSUs in case there were problems with the goods supplied in terms of the supply agreements.

6. Hence, we see no reason to review the judgment and order dated 26.10.2021, passed in W.P.(C) 6704/2021, as there is no error apparent in the said judgment. It is a settled law that even if the judgment is erroneous, a review petition is not tenable at law and the Petitioner may resort to other remedies available in law.

7. In the case of **Parsion Devi & Ors. v. Sumitri Devi & Ors.**, reported in (1997) 8 SCC 715, the Hon'ble Supreme Court in Paras 7 to 9 held as under:

“7. It is well settled that review proceedings have to be strictly confined to the ambit and scope of Order 47 Rule 1 CPC. In Thungabhadra Industries Ltd. v. Govt. of A.P. (SCR at p. 186) this Court opined:

“What, however, we are now concerned with is whether the statement in the order of September 1959 that the case did not involve any substantial question of law is an ‘error apparent on the face of the record’. The fact that on the earlier occasion the Court held on an identical state of facts that a substantial question of law arose would not per se be conclusive, for the earlier order itself might be erroneous. Similarly, even if the statement was wrong, it would not follow that it was an ‘error apparent on the face of the record’, for there is a distinction which is real, though it might not always be capable of exposition, between a mere erroneous decision and a decision which could be characterised as vitiated by ‘error apparent’. A review is by

no means an appeal in disguise whereby an erroneous decision is reheard and corrected, but lies only for patent error.”

(Emphasis ours)

8. Again, in Meera Bhanja v. Nirmala Kumari Choudhury while quoting with approval a passage from Aribam Tuleshwar Sharma v. Aribam Pishak Sharma this Court once again held that review proceedings are not by way of an appeal and have to be strictly confined to the scope and ambit of Order 47 Rule 1 CPC.

9. Under Order 47 Rule 1 CPC, a judgment may be open to review inter alia if there is a mistake or an error apparent on the face of the record. An error which is not self-evident and has to be detected by a process of reasoning, can hardly be said to be an error apparent on the face of the record justifying the court to exercise its power of review under Order 47 Rule 1 CPC. In exercise of the jurisdiction under Order 47 Rule 1 CPC it is not permissible for an erroneous decision to be “reheard and corrected”. A review petition, it must be remembered has a limited purpose and cannot be allowed to be “an appeal in disguise”.

(Emphasis supplied)

8. In the case of **Haryana State Industrial Development Corpn. Ltd. v. Mawasi**, reported in (2012) 7 SCC 200, the Hon’ble Supreme Court in Paras 26, 27 and 34 held as under:

26. At this stage it will be apposite to observe that the power of review is a creature of the statute and no court or quasi-judicial body or administrative authority can review its judgment or order or decision unless it is legally empowered to do so. Article 137 empowers this Court to review its judgments subject to the provisions of any law made by Parliament or any rules made under Article 145 of the Constitution. The rules framed by this Court under that article lay down that in civil

cases, review lies on any of the grounds specified in Order 47 Rule 1 of the Code of Civil Procedure, 1908 which reads as under:

Order 47 Rule 1:

“1. Application for review of judgment.—(1) Any person considering himself aggrieved—

(a) by a decree or order from which an appeal is allowed, but from which no appeal has been preferred,

(b) by a decree or order from which no appeal is allowed, or

(c) by a decision on a reference from a Court of Small Causes,

and who, from the discovery of new and important matter or evidence which, after the exercise of due diligence was not within his knowledge or could not be produced by him at the time when the decree was passed or order made, or on account of some mistake or error apparent on the face of the record, or for any other sufficient reason, desires to obtain a review of the decree passed or order made against him, may apply for a review of judgment to the court which passed the decree or made the order.

(2) A party who is not appealing from a decree or order may apply for a review of judgment notwithstanding the pendency of an appeal by some other party except where the ground of such appeal is common to the applicant and the appellant, or when, being respondent, he can present to the appellate court the case of which he applies for the review.

Explanation.—The fact that the decision on a question of law on which the judgment of the court is based has been reversed or modified by the subsequent decision of a superior court in any other case, shall not be a ground for the review of such judgment.”

27. *The aforesaid provisions have been interpreted in several cases. We shall notice some of them. In S. Nagaraj v. State of Karnataka [1993 Supp (4) SCC 595 : 1994 SCC (L&S) 320 : (1994) 26 ATC 448] , this Court referred to the judgments*

in Raja Prithwi Chand Lal Choudhury v. Sukhraj Rai [AIR 1941 FC 1] and Rajunder Narain Rae v. Bijai Govind Sing [(1837-41) 2 MIA 181 : (1836) 1 Moo PC 117] and observed: (S. Nagaraj case [1993 Supp (4) SCC 595 : 1994 SCC (L&S) 320 : (1994) 26 ATC 448] , SCC pp. 619-20, para 19)

“19. Review literally and even judicially means re-examination or reconsideration. Basic philosophy inherent in it is the universal acceptance of human fallibility. Yet in the realm of law the courts and even the statutes lean strongly in favour of finality of decision legally and properly made. Exceptions both statutorily and judicially have been carved out to correct accidental mistakes or miscarriage of justice. Even when there was no statutory provision and no rules were framed by the highest court indicating the circumstances in which it could rectify its order the courts culled out such power to avoid abuse of process or miscarriage of justice. In Raja Prithwi Chand Lal Choudhury v. Sukhraj Rai [AIR 1941 FC 1] the Court observed that even though no rules had been framed permitting the highest court to review its order yet it was available on the limited and narrow ground developed by the Privy Council and the House of Lords. The Court approved the principle laid down by the Privy Council in Rajunder Narain Rae v. Bijai Govind Sing [(1837-41) 2 MIA 181 : (1836) 1 Moo PC 117] that an order made by the Court was final and could not be altered: (Rajunder Narain Rae case [(1837-41) 2 MIA 181 : (1836) 1 Moo PC 117] , MIA p. 216)

‘... nevertheless, if by misprision in embodying the judgments, errors have been introduced, these courts possess, by common law, the same power which the courts of record and statute have of rectifying the mistakes which have crept in. ... The House of Lords exercises a similar power of rectifying mistakes made in drawing up its own judgments, and this Court must possess the same authority. The Lords have, however, gone a step further, and have

corrected mistakes introduced through inadvertence in the details of judgments; or have supplied manifest defects, in order to enable the decrees to be enforced, or have added explanatory matter, or have reconciled inconsistencies.'

Basis for exercise of the power was stated in the same decision as under:

'It is impossible to doubt that the indulgence extended in such cases is mainly owing to the natural desire prevailing to prevent irremediable injustice being done by a court of last resort, where by some accident, without any blame, the party has not been heard and an order has been inadvertently made as if the party had been heard.'

Rectification of an order thus stems from the fundamental principle that justice is above all. It is exercised to remove the error and not for disturbing finality. When the Constitution was framed the substantive power to rectify or recall the order passed by this Court was specifically provided by Article 137 of the Constitution. Our Constitution-makers who had the practical wisdom to visualise the efficacy of such provision expressly conferred the substantive power to review any judgment or order by Article 137 of the Constitution. And clause (c) of Article 145 permitted this Court to frame rules as to the conditions subject to which any judgment or order may be reviewed. In exercise of this power Order 40 had been framed empowering this Court to review an order in civil proceedings on grounds analogous to Order 47 Rule 1 of the Civil Procedure Code. The expression, 'for any other sufficient reason' in the clause has been given an expanded meaning and a decree or order passed under misapprehension of true state of circumstances has been held to be sufficient ground to exercise the power. Apart from Order 40 Rule 1 of the Supreme Court Rules this Court has the inherent power to make such orders as may be necessary in the interest of justice or to prevent the abuse of process of court. The court is thus not precluded from

recalling or reviewing its own order if it is satisfied that it is necessary to do so for sake of justice.”

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34. *In Haridas Das v. Usha Rani Banik [(2006) 4 SCC 78], the Court observed: (SCC p. 82, para 13)*

“13. ... The parameters are prescribed in Order 47 CPC and for the purposes of this lis, permit the defendant to press for a rehearing ‘on account of some mistake or error apparent on the face of the records or for any other sufficient reason’. The former part of the rule deals with a situation attributable to the applicant, and the latter to a jural action which is manifestly incorrect or on which two conclusions are not possible. Neither of them postulate a rehearing of the dispute because a party had not highlighted all the aspects of the case or could perhaps have argued them more forcefully and/or cited binding precedents to the court and thereby enjoyed a favourable verdict.”

(Emphasis supplied)

9. Petitioner has not made out any ground under Order XLVII Rule 1 CPC, calling upon this Court to exercise its jurisdiction of review.

10. For the aforesaid facts, reasons and judicial pronouncements, in our view, there is no merit and substance in the Review Petition. The same is accordingly dismissed.

CHIEF JUSTICE

JYOTI SINGH, J

NOVEMBER 25, 2021

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