

12.05.2022

Court : 04
Item : PB-01
Matter : RVW
Status : DO
Transcriber: nandy

RVW 15 of 2022
(Dr. Goutam Pal Vs. The State of West Bengal & Ors.)
with
CAN 1 of 2022
in
MAT 1071 of 2021
&
RVW 16 of 2022
in
MAT 1187 of 2021

Mr. Ranajit Chatterjee, Advocate
Mr. Aniruddha Mitra, Advocate

.....for the Applicants

Mr. Saptangsu Basu, Senior Advocate
Mr. Piush Chaturvedi, Advocate
Mr. Rajib Mullick, Advocate
Mr. Ankit Sureka, Advocate
Mr. Anujit Mookherjee, Advocate

.....for the College Authorities

Mr. Tapan Kumar Mukherjee, Advocate
Mr. Pinaki Dhole, Advocate
Ms. Debdooti Dutta, Advocate
Mr. Aniruddha Mitra, Advocate

.....for the State

Both the review applications are taken up together having filed against the identical order and the similar point has been taken as a ground for review.

These two applications for review are directed against an order dated January 20, 2022 by which the appeals were disposed of upon setting aside the order of the single Bench and the writ-petition to be heard out on merit upon giving an opportunity to the parties to exchange affidavits. The said order would further reveal that this Court kept all the points including the point relating to maintainability of the writ-petition open and once taken shall be decided in accordance with law. The review applications are primarily aimed at the aforesaid observation where the point of maintainability was kept open to contend that there has already been a judgment

of the coordinate Bench holding the point of maintainability and, therefore, there is an error apparent on the face of the record.

After hearing the Counsel for the applicants who filed the review applications, we do not think that such observation contains any patent error. This Court refrained from deciding the point of maintainability and observed that if such point is taken by the respective parties, the same shall be decided in accordance with law. There is no conscious decision on the above aspect nor we find that it amounts to a patent error within the purview of Order 47 Rule 1 of the Code of Civil Procedure. The moment this Court observed that such point would be decided in accordance with law whatever decision that would clinch the issue shall be taken into consideration by the single Bench within the permissible limit of law.

Thus we do not find any error apparent on the face of the record warranting invocation of the powers of review. However, at the time of hearing it is pointed out that despite the leave having granted to the applicant herein to file the supplementary affidavit within three days from date of the said order, the same could not be filed as an advice was given to file an application for review. Though the appearing parties have objected to the aforesaid prayer yet in order to render justice, we feel that such time should be extended to give fullest opportunity to the litigant to canvass his point before the Court.

We thus extend the time for filing supplementary affidavit by two days from date and the advance copy

thereof which has been shown to us in Court today shall be served upon the respective parties in course of this day.

It is pointed out by the applicant that the affidavit-in-opposition used by the contesting respondents, has not been served upon his client. The aforesaid contention has not been disputed and/or denied by the respondent who has affirmed the affidavit-in-opposition at an earlier point of time and communicated to the Court that the same would be served in course of this day.

In view of the above, the said contesting respondent is directed to serve the copy of the affidavit-in-opposition upon the learned Advocate-on-record of the applicant in course of this day.

The time to file reply is extended by a week from date. The counter-affidavit to a supplementary affidavit, which is expected to be served today, shall also be filed within a week from date.

Liberty is granted to the parties to pray for early disposal of the matter before the single Bench in the light of the observations made hereinabove.

The review applications being **RVW 15 of 2022** and **RVW 16 of 2022** as well as the connected application being **CAN 1 of 2022** are **disposed of**.

(Harish Tandon, J)

(Rabindranath Samanta, J)

