

07.09.2022

Court No.32
rrc/01

RVW 52 of 2018
with
CAN 1 of 2020 (Old No. CAN 1161 of 2020)
with
CAN 2 of 2020 (Old No. CAN 1163 of 2020)
(Applications not found)

(Union of India & Ors. Vs. Paresh Dhar & Ors.)

Mr. Smarajit Roy Chowdhury
Mr. Anirban Mitra

..... For the appellants

Mr. Shahan Shah

.... For the respondent no. 1

Aggrieved by the judgment dated 5th September, 2017 passed in WPCT 234 of 2015, the Union of India and its functionaries have preferred the present review application, being RVW 52 of 2018.

As we have invited Mr. Roy Chowdhury, learned advocate appearing for petitioners/applicants to advance his argument on merits, we condone the delay of 219 days in preferring the review petition. The application for condonation of delay, being IA No.: CAN 1 of 2020 (Old No.: CAN 1161 of 2020) is treated as on day's list and disposed of.

Mr. Roy Chowdhury primarily argues that the impugned judgment has been delivered being oblivious of the fact that the Board of Secondary Education, Delhi is totally different from Uchchar Madhyamik Siksha Mandal, Delhi. Both the Boards have different logo, different official address and different official *website*. The Uchchar Madhyamik Siksha Mandal, Delhi from which the writ petitioner/respondent no.1

obtained the High School (Class – X) Examination Year, 2011 certificate, is not a recognized Board.

He contends that though the Uchatar Madhyamik Siksha Mandal, Delhi was impleaded as party respondent to the writ petition, no affidavit was called for from the said respondent and as such, there is an error apparent on the face of the record.

He argues that the writ petition was disposed of without considering an order passed in the case of *State of Bihar Vs Onkar Nath Singh* in the year 2016 and the documents referred to in Ground XI of the review. From the said documents, it would be explicit that the Uchatar Madhyamik Siksha Mandal, Delhi is not a recognised Board.

Mr. Shah, learned advocate appearing for the respondent no.1 submits that it is not a case that even after exercise of due diligence, the order passed in *Onkar Nath Singh* (supra) and the documents referred to in Ground XI of the review could not be brought to the notice of the Court by the applicants at the time of hearing of the writ petition. Though the said order was within the knowledge of the applicants, they did not place reliance upon the same when the writ petition was finally heard.

He argues that there is no patent error on the face of the record and that the parameters prescribed for review do not postulate rehearing because a party has not highlighted all the aspects of the case or could not perhaps argue them more forcefully and/or citing binding precedent to the Court. In support of such contention, reliance has been placed upon a judgment delivered by the Hon'ble Supreme Court in the case

of *Smt. Meera Bhanja Vs. Smt. Nirmala Kumari Choudhury*, reported in *AIR 1995 SC 455*.

Heard the learned advocates appearing for the respective parties.

All the documents and the order, as referred to in the review application pertain to a period prior to disposal of the writ petition. Matters which ought to have urged in course of appeal have been sought to be agitated afresh.

The law on the subject – exercise of power of review, as propounded by the Hon'ble Apex Court and various other High Courts may be summarised as follows:

- i) review proceedings are not by way of appeal;
- ii) power of review may be exercised when some mistake or error apparent on the face of record is founded. But, error on the face of record must be such an error which must strike on mere looking at the record and would not require any long drawn process of reasoning on the point where there may be conceivable two opinions;
- iii) power of review may not be exercised on the ground that the decision was erroneous on merits;
- iv) power of review can also be exercised for any sufficient reason which is wide enough to include the misconception of fact or law by the court or even the advocate;

The arguments advanced by Mr. Roy Chowdhury 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 any new and important piece of evidence.

For the reasons discussed above, no interference is called for and the review application being RVW No.52 of 2018 and the same is dismissed. The application for stay, being IA No.: CAN 2 of 2020 (Old No.: CAN 1163 of 2020) is also treated as on day's list and dismissed.

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

Urgent photostat certified copy of this order, if applied for, be supplied to the parties, upon compliance of all requisite formalities.

(Partha Sarathi Chatterjee, J.) (Tapabrata Chakraborty, J.)