

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**925 REVIEW APPLICATION (CIVIL) NO.84 OF 2021
IN WP/2273/2018**

**BIPIN CHHABURAO PATOLE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

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Advocate for Applicants : Mr. Latange V. P.
AGP for Respondents-State : Mr. S. K. Tambe.
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**CORAM : R. D. DHANUKA, AND
S. G. MEHARE, JJ.**

DATE : 22.04.2022

PER COURT :-

1. By this Review Petition, the applicants (original petitioners) in Writ Petition No.2273 of 2018 seek recall of the order dated 19.12.2019 passed by the Division Bench of this Court thereby dismissing the Writ Petition.

2. Learned counsel for review petitioners invited our attention to the order dated 21.07.2017 passed by the learned Single Judge of this Court in Writ Petition No.9175 of 2016 filed by these review petitioners and more particularly paragraph No.7. He also invited our attention to the order

dated 19.12.2019 passed by the Division Bench of this Court in the subsequent Writ Petition No.2273 of 2018 filed by the petitioners impugning the order passed by the State of Maharashtra declining to regularize the services of the petitioners. He invited out attention to paragraph No.1 of the said judgment and would submit that the Division Bench of this Court dismissed the said Writ Petition filed by the petitioners on the ground that the learned Single Judge of this Court did not entertain the Petition and the said Writ Petition came to be disposed off. This Court further observed that the findings of the learned Industrial Court were final.

3. The learned counsel for the review petitioners submitted that though the learned Single Judge of this Court while dismissing the said Writ Petition No.9175 of 2016 made it clear that the observations of this Court in the order dated 09.03.2017 and the judgment of the Industrial Court dated 07.08.2014 dismissing the complaint ULP No.107 of 2008 shall not be an impediment, the Division Bench of this Court dismissed the Writ Petition on the ground that the findings of the Industrial Court had attained finality.

4. We have perused the findings recorded by the learned Single Judge as well as the learned Division Bench. We are of the view that though in paragraph No.7 of the order passed by the learned Single Judge, it was made clear that dismissal of the said Writ Petition filed by the petitioners, observation of this Court in the order dated 09.03.2017 and the judgment of the Industrial Court dated 07.08.2014 dismissing the complaint ULP No.107 of 2008 shall not be an impediment, while dismissing the said writ petition by the Division Bench of this Court, this Court overlooked the said paragraph of the clarification made by the learned Single Judge and held that the findings of the Industrial Court had attained finality.

5. In our view, there is a clear error apparent on the face of the order passed by the Division Bench in the order dated 19.12.2019 warranting interference in view of the said Order 47, Rule 1 of the Code of Civil Procedure, 1908.

6. We accordingly pass the following order :

ORDER

(i) Order dated 19.12.2019 is recalled.

- (ii) Writ Petition No.2273 of 2018 is restored to file and to be heard on its own merits.
- (iii) Review Application No.84 of 2021 is allowed in the aforesaid terms. No order as to costs.

(S. G. MEHARE, J.)

(R. D. DHANUKA, J.)

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vmk/-