

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 26th APRIL, 2023

IN THE MATTER OF:

+ **LPA 405/2022**

I.K.SAINI

..... Appellant

Through: Appellant in - person.

versus

CENTRAL INFORMATION COMMISSION AND ANR

..... Respondents

Through: Mr. Vikrant N. Goyal, Advocate

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

JUDGMENT

CM APPL. 19361/2023 (Exemption)

Allowed, subject to all just exceptions.

REVIEW PET. 105/2023 & CM APPLs. 19362/2023, 19363/2023

1. The Appellant has filed the instant review petition seeking review of the Order dated 08.07.2022 passed by this Court in LPA 405/2022. The Appellant herein approached this Court by filing a writ petition being W.P.(C) 6999/2019 with the following prayers:

“In the facts and circumstances of the aforesaid, the Petitioner prays before Lordship that the Hon’ble Court may be pleased to issue notice upon the opposite parties to show cause why purported order dated 19.11.2018 of the case No. CIC/LS/A/2011/001385/BS/SAXXXXXX or CIC/IS/A/2011/001385 should not be set aside or

quashed after cause that might be shown by the opposite parties and after perusal of the record this Hon'ble Court may be pleased to quash the impugned order dated 19.11.2018 and a fresh direction may be issued upon the respondent opposite parties to disposed off the case No. CIC/LS/A/2011/001385/BS/SAXXXXXX or CIC/LS/A/2011/001385 in accordance with law, and award suitable costs to the petitioner for the litigation."

2. The Appellant, by way of W.P.(C) 6999/2019, sought to challenge the Order dated 19.11.2018 passed by the Central Information Commission wherein the CIC held that complete information, as sought for by the Appellant, had been furnished as directed by the Commission in its Order dated 31.10.2018. The learned Single Judge by its Order dated 10.07.2019 issued notice to all the Respondents except Respondent No.1/CIC on the ground that notice need not be issued to Central Information Commission (CIC) as the same is a quasi judicial authority and has passed the impugned Order. The said Order dated 10.07.2019 was sought to be challenged by the Appellant by filing LPA 405/2020 contending that notice ought to have been issued to CIC. The LPA was dismissed by this Court on 08.07.2022 by passing the following Order:

"LPA 405/2022 & CM APPL. 29705/2022, CM APPL. 29706/2022, CM APPL. 29707/2022

The present Letters Patent Appeal is arising out of the Order dated 10.07.2019 passed by the learned Single Judge in W.P.(C) No. 6999/2019. The facts of the case are that a writ petition was preferred by the appellant impleading the Central Information Commission (CIC) as respondent No.1. The learned Single Judge has passed the impugned order issuing

notice to all the respondents, except CIC as CIC is a quasi-judicial authority. It is with regard to the non-issuance of notice to the CIC that the instant appeal has been filed. The appellant has provided no valid reason as to why notice should be issued to the CIC. This Court, therefore, does not find any reason to interfere with the impugned order. Accordingly, the LPA is dismissed.”

3. The abovementioned Order dated 08.07.2022 is sought to be reviewed by filing the instant review petition. It is stated by the Appellant that the Central Information Commission (CIC) has failed to evaluate activities of the concerned Government authorities which attract penal provisions under RTI Act, 2005. It is stated that non-issuance of notice to CIC has resulted in overlooking of the grievances of the review Petitioner and denial natural justice. It is also stated that the learned Single Judge has failed to appreciate that the CIC has failed to consider the sufferings of the family of the review Petitioner. It is further stated that the CIC has failed to appreciate that the review Petitioner is a 77 years old senior citizen.

4. The Apex Court has, time and again, laid down the parameters of entertaining the review petitions. It is well settled that the scope of review is extremely limited and must only be allowed if there is an error apparent on the face of the record, or if there is any new or important evidence that is discovered by the Applicant which was not in its knowledge and thus could not be provided when the decree was passed despite conducting due diligence. It must, under no circumstances, be an appeal in disguise. The Apex Court in Haridas Das v. Usha Rani Banik, (2006) 4 SCC 78 has observed as under:

13. In order to appreciate the scope of a review, Section 114 CPC has to be read, but this section does not even adumbrate the ambit of interference expected of the court since it merely states that it “may make such order thereon as it thinks fit”. 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. This is amply evident from the Explanation to Rule 1 of Order 47 which states that 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. Where the order in question is appealable the aggrieved party has adequate and efficacious remedy and the court should exercise the power to review its order with the greatest circumspection. This Court in Thungabhadra Industries Ltd. v. Govt. of A.P. [(1964) 5 SCR 174 : AIR 1964 SC 1372] held as follows : (SCR p. 186)

“[T]here 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. ... where without any elaborate argument one could point to the error and say here is a substantial point of law which stares one in the face, and there could reasonably be no two opinions entertained about it, a clear case of error apparent on the face of the record would be made out."

5. In Meera Bhanja v. Nirmala Kumari Choudhury, (1995) 1 SCC 170, the Apex Court has held as under:

"8. It is well settled that the 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. In connection with the limitation of the powers of the court under Order 47 Rule 1, while dealing with similar jurisdiction available to the High Court while seeking to review the orders under Article 226 of the Constitution, this Court, in Aribam Tuleshwar Sharma v. Aribam Pishak Sharma [(1979) 4 SCC 389 : AIR 1979 SC 1047] speaking through Chinnappa Reddy, J. has made the following pertinent observations:

'It is true there is nothing in Article 226 of the Constitution to preclude the High Court from exercising the power of review which inheres in every court of plenary jurisdiction to prevent miscarriage of justice or to correct grave and palpable errors committed by it. But, there are definitive limits to the exercise of the power of review. The power of review may be exercised on the discovery of new and important matter or evidence which, after the exercise of due diligence was not within the knowledge of the person seeking the review or could not be produced by him at the time when the order was made; it may be exercised where some mistake or error apparent on the face of the record is

found, it may also be exercised on any analogous ground. But, it may not be exercised on the ground that the decision was erroneous on merits. That would be the province of a court of appeal. A power of review is not to be confused with appellate power which may enable an appellate court to correct all manner of errors committed by the subordinate court.' "
(SCC pp. 172-73, para 8)

6. The Appellant has failed to disclose any error on the face of record in the Order dated 08.07.2022 passed by this Court in LPA 405/2022. The learned Single Judge has not issued notice to CIC as it is a quasi-judicial authority and has passed the Order which was impugned in the writ petition. There was no necessity to issue notice to CIC to defend its own Order and for this reason, this Court is not inclined to interfere with the Order passed by the learned Single Judge. No grounds for review of the Order dated 08.07.2022 is made out. Considering the fact that the Appellant is appearing in – person, this Court is not inclined to impose costs for wasting precious judicial time.

7. In view of the above, the Review Petition is dismissed, along with pending application(s), if any.

SATISH CHANDRA SHARMA, CJ

SUBRAMONIUM PRASAD, J

APRIL 26, 2023

S. Zakir