

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL REVIEW No.131 of 2023

In
Civil Writ Jurisdiction Case No.814 of 2023

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1. Jitendra Prasad Singh Son of Ramashray Singh Resident of Village- Mohaddiganj, P.S.- Sasaram.
 2. Ritesh Ranjan Son of Mahendra Singh Resident of Village- Banjari, P.S.- Rohtas, District- Rohtas.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Urban Development and Housing Department, Government of Bihar, Vikash Bhawan, New Secretariat, Patna-800001.
2. The Additional Secretary, Urban Development and Housing Department, Government of Bihar, Vikash Bhawan, New Secretariat, Patna-800001.
3. The Managing Director, Bihar Urban Infrastructure Development Co-operation Limited, West Boring Canal Road, Rajapul, Patna-800001.
4. The Superintending Engineer, Urban Development Circle-02, Patna.
5. The Municipal Commissioner, Municipal Co-operation, Sasaram, Rohtas.
6. The Executive Engineer, Urban Development, Sub-Divisional- Rohtas and Kaimur, Sasaram.
7. Kumar Sonu Singh Son of Sidheshwar Singh Resident of New area, Ward No. 34, P.S.- Sasaram, District-Rohtas.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Subodh Kumar Jha, Advocate
For the Opposite Party/s	:	Mr. Yogendra Prasad Sinha (AAG- 7)
	:	Mr. Abhishek Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE RAMESH CHAND
MALVIYA

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

3 22-11-2023 The present civil review petition is filed by Jitendra Prasad Singh and Ritesh Ranjan for review of the order dated 19.04.2023 passed in CWJC No. 814 of 2023 (Kumar Sonu



Singh Vs. the State of Bihar and Ors.) who were stated to be successful bidder in respect of subject matter of NIT. In view of allowing Kumar Sonu Singh writ petition, the official respondents have taken action to cancel the work order allotted to the review petitioners. In other words, petitioners' rights are affected by virtue of our earlier order dated 19.04.2023 passed in CWJC No. 814 of 2023 in which review petitioners were not party to the proceedings. In such circumstances, civil review petition is not maintainable in the light of Hon'ble Apex Court's decision in the case of **Shivdeo Singh and Ors. Vs. State of Punjab and Ors.** reported in **AIR 1963 SC 1909**. Para 8 reads as under:-

"8. The other contention of Mr. Gopal Singh pertains to the second order of Khosla, J, which in effect, reviews his prior order. Learned counsel contends that Art. 226 of the Constitution does not confer any power on the High Court to review its own order and, therefore, the second order of Khosla, J., was without jurisdiction. It is sufficient to say that there is nothing in Art. 226 of the Constitution to preclude a 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. Here the previous order of Khosla, J., affected the



interests of persons who were not made parties to the proceeding before him. It was at their instance and for giving then a hearing that Khosla, J. entertained the second petition. In doing so, he merely did what the principles of natural justice required him to do. It is said that the respondents before us had no right to apply for review because they were not parties to the previous proceedings. As we have already pointed out, it is precisely because they were not made parties to the previous proceedings, though their interests were sought to be affected by the decision of the High Court, that the second application was entertained by Khosla, J."

2. Further, Hon'ble Apex Court reiterated the same principle in the case of **Rama Rao & Ors Vs. M.G. Maheshwara Rao and Ors.** reported in (2007) 14 SCC 54, Para 8 reads as under:-

"8. This contention raised was met by the High Court by pointing out that even though the assistants belong to a different cadre, since there was a confluence of the two streams leading to the promotional posts, the assistants had locus standi to file an application under Section 19 of the Act in which, to ventilate their grievances they could canvass the correctness of the decision earlier rendered on 6-7-1994 by the Administrative Tribunal. The High Court referred to the decision in K. Ajit Babu v. Union of India [(1997) 6 SCC 473 : 1997 SCC (L&S) 1520 : 1997 Supp (3) SCR 56] to find that the proper procedure to be adopted by persons



situated like the assistants in this case and who were not made parties to a prior decision which had effect on their career, was to move an application under Section 19 of the Act. In that decision, this Court noticed that even though the judgment of an Administrative Tribunal may only be a judgment in personam, occasionally, it could also operate as a judgment in rem and those affected by it had the right to approach the Tribunal again with an application under Section 19 of the Act when they are affected as a consequence of the earlier decision and are entitled to seek reconsideration of the view taken in the earlier decision. The High Court, following it, held that the assistants had the locus standi to move the application under Section 19 of the Act before the Tribunal and seek reconsideration of the earlier decision passed by it without notice to them and to show that the said order required reconsideration or that it was not a legal or a proper one. We see no reason not to accept the reasoning adopted by the High Court. After all, the assistants who were not impleaded in the earlier proceeding must have an avenue to ventilate their grievances. This Court has indicated that that avenue is an approach to the Tribunal and that was in a case in which the very same Act was involved. This Court had also pointed out what the Administrative Tribunal could do in such a situation. If this were not the position, the assistants would be able to say that since they were not parties to the earlier proceedings, they were not bound by it and they are entitled to ignore the decision therein and that the said decision cannot affect them since it would be a decision that is void in law for non-compliance with the



rules of natural justice. There is, therefore, no grace in the submissions that the assistants could not have approached the Administrative Tribunal with their grievance and the Tribunal could not have considered their grievance or gone back on its earlier decision. We are in agreement with the approach made by the High Court and the conclusion arrived at by it and hence have no hesitation in overruling this contention. The argument that the jurisdiction of the High Court came to be recognised only later, cannot change the situation, since when the High Court entertained the writ petition it had the jurisdiction to do so and it had jurisdiction also to consider what was the effect of the earlier order or the proceeding before it and whether the earlier order was legal and justified in the context of the decision of this Court in Ajit Babu case."

3. The same principle has been reiterated to the extent that if the third party right is affected by virtue of any order passed in a writ petition in that event he or she has remedy of filing writ petition and not in filing review petition. Obviously, for the reasons that scope of review petition is limited to the extent whether any error apparent on the face of the record with reference to order 47 Rule 1 of CPC. If writ petition is filed then the scope would be beyond the criteria insofar as filing review petition.

4. In the light of these facts and circumstances, the



present civil review petition is not maintainable. Accordingly, the present Civil Review Petition No. 131 of 2023 stands dismissed. Dismissal of the civil review petition would not be a hurdle for the petitioner in filing a fresh writ petition insofar as questioning the validity or seeking for recalling of the order dated 19.04.2023 passed in the case of Sonu Kumar Singh (CWJC No. 814 of 2023).

(P. B. Bajanthri, J)

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(Ramesh Chand Malviya, J)

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