

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL REVIEW No.303 of 2022

In
Letters Patent Appeal No.613 of 2018

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Dr. Daman Chandra Mishra S/o Late Kamla Kant Mishra, R/o Maa Kamakhya Kutee, Near Bar Gachh Chowk, Mohalla and P.S.- Barari, Town and District- Bhagalpur.

... .. Petitioner/s

Versus

1. The T.M. Bhagalpur University, Bhagalpur through its Registrar.
2. The Vice Chancellor, T.M. Bhagalpur University, Bhagalpur.
3. The Pro Vice Chancellor, T.M. Bhagalpur University, Bhagalpur.
4. The Registrar, T.M. Bhagalpur University, Bhagalpur.
5. Priyabrat Narayan Yadav, S/o Late Basudeo Narayan Yadav, Reader, Deptt. of IRPM, Sabour College, District Bhagalpur.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Purushottam Kumar Jha, Advocate
For the Opposite Party/s : Mr.Ashhar Mustafa, Advocate

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

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

2 22-02-2023 The present Civil Review No. 303 of 2022 is arising out of LPA No. 613 of 2018 dated 14.11.2022. Order in LPA No. 613 of 2018 dated 14.11.2022 is open court dictation, therefore, learned counsel for the review petitioner is well aware of the order dictated on 14.11.2022.

Learned counsel for the review-applicants submitted that appellant-Priyabrat Narayan Yadav is not qualified to be promoted to the post of Reader for want of requisite qualification, therefore, the same is required to be taken note of,



even though if there is any delay on the part of review applicant- Dr. Daman Chandra Mishra in questioning promotion order of Priyabrat Narayan Yadav. It is to be noted that Dr. Daman Chandra Mishra is not one of the eligible candidate to be promoted to the post of Reader as on Priyabrat Narayan Yadav was promoted, therefore, he has no *locus*. The reasons for challenging the promotion of Priyabrat Narayan Yadav to the post of Reader was solely on the score that at his behest Head of the Department of the post held by the review petitioner-Dr. Daman Chandra Mishra has been set aside.

In the case of **Perry Kansagra vs. Smriti Madan Kansagra** reported in **(2019) 20 SCC 753** and **Shanti Conductors (P) Ltd. vs. Assam SEB** reported in **(2020) 2 SCC 677** Apex Court has dealt Order 47 under Rule 1 CPC read with Section 114 CPC and proceeded to hold that review court does not sit in appeal over its own order. In the Shanti Conductors (P) Ltd. matter review applicant cannot be permitted to reagitate and reargue questions which have already been addressed and decided. It was further taken note of that an error which is not self-evident and has to be detected by a process of reasoning, can hardly be said to be an error apparent on the face or record justifying the court to exercise its power of review under Order



47 Rule 1 CPC. An erroneous order may be subjected to appeal before the higher forum but cannot be a subject matter of review under Order 47 Rule 1 CPC. Recently, Apex Court in the case of **S.Murali Sundaram vs. Jothibai Kannan & Ors** examined the scope of Order 47 Rule 1 CPC in Civil Appeal Nos. 1167-1170 of 2023 in which Order 47 Rule 1 CPC had summed up as under:-

“(i) Review proceedings are not by way of appeal and have to be strictly confined to the scope and ambit of Order 47 Rule 1 CPC.

(ii) Power of review may be exercised when some mistake or error apparent on the fact of record is found. But error on the face of record must be such an error which must strike one on mere looking at the record and would not require any longdrawn process of reasoning on the points where there may conceivably be 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 a misconception of fact or law by a court or even an advocate.

(v) An application for review may be necessitated by way of invoking the doctrine actus curiae neminem gravabit.”

In the review petition scope is limited with reference to Order 47 of Rule 1 of CPC. The review petitioner has not apprise this Court what is error committed while passing order



on 14.11.2022 in LPA No. 613 of 2018.

Accordingly, the present Civil Review petition stands
dismissed.

(P. B. Bajanthri, J)

(Purnendu Singh, J)

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