

300 **28.04.**
2023
Ct. No. 04

Ab

RVW 33 of 2023
With
IA No. CAN 1 of 2023

Basudeb Ghosh and others
Vs.
The State of West Bengal and others.

Mr. Dibyendu Chatterjee,
Ms. Reshmi Ghosh,
Mr. Rahul Deb Goenka.

... for the applicants.

Mr. Anirban Ray, Ld. GP,
Mr. Raja Saha,
Mr. Biswabrata Basu Mallick,
Mr. Sayan Ganguly.

... for the State.

Ms. Shraboni Sarkar.

... for the PSC.

The review is filed against a judgment dated 23rd December 2022 passed by this Court in WPST 44 of 2022 whereby and whereunder certain directions were passed upon the authorities in the following:

“(i) The PSC shall publish a fresh merit list after scrutinizing the certificates not only pertaining to caste but also under the desirable qualification submitted by each candidates and shall ensure that such certificates are in conformity with the conditions incorporate in the advertisement i.e. certificates issued by a competent authority mentioned therein and shall also ensure that the said certificates if found in order are issued by a competent authority on or before the closing date for submission of online application i.e. 3.7.2018.

(ii) After scrutiny of the certificate in terms of the direction above the candidates who are included in the fresh merit list to be published, the PSC shall disclose such certificates of the successful candidates on the website portal for access to all the candidates.

(iii) So far as the category of Meritorious Sports persons are concerned the PSC after making a verification and scrutiny of the

certificates shall allot the requisite marks as disclosed in the advertisement and shall also publish the break up marks of each candidates in addition to the fresh merit list. The relevant certificates issued by the competent authority as mentioned in the said advertisement shall also be uploaded in the web portal of the PSC.

(iv) The PSC shall ensure that the certificates submitted by the candidates under the reserved category as well as Meritorious Sportspersons are in conformity with the conditions laid down in the advertisement and in the event, the same is not issued by a competent authority or issued after the closing date for submission of online application i.e. 3.7.2018 shall reject the said applications and such candidate shall not be treated under the reserved category but may be included under the unreserved category if the marks secured by them entitled him within the zone of appointment.

(v) No appointment shall be given to the candidates on the basis of the merit list already published in terms of the order of the Tribunal until the fresh publication of the merit list in terms of this order.

(vi) The PSC shall complete the exercise within two months from the date and shall invite the objections if there be any thereupon, within a week therefrom.

(vii) In the event, the objections are received; the selections committee shall consider such objections and upload its decision on the portal within fortnight from the last date of the submission of such objection.”

It is contended by the learned Advocate for the applicants that while disposing of the writ petition, this Court formulated the points and while determining such points have relied upon a judgment, which is distinguishable on facts.

We are afraid whether such a ground can be said to be a ground for review under Order XLVII Rule 1 of the Code of Civil Procedure. A distinction has to be drawn between an erroneous order and an order containing error apparent on the face of the record. The wrong appreciation of fact or the ratio culled out from

the judgment may invite the decision to be erroneous capable of being corrected by a higher forum but cannot be said to be an error apparent on the face of the record. The error must be such, which does not require any roving enquiry into the voluminous papers, but may be ascertained or capable of being ascertained on the face of the record.

The review jurisdiction cannot be extended for rehearing and/or revisitation of the order nor a litigant can invite the Court to rewrite the judgment. The review jurisdiction is exercised within a limited sphere, more particularly, on the eventualities and/or the grounds envisaged under Order XLVII Rule 1 of the Code. The Court should not be invited to exercise the review jurisdiction merely because the ratio laid down in the reported judgment is distinguishable on facts and, therefore, the Court should revisit the said judgment.

As indicated above, such course if allowed to be taken and accepted will open a pandora box for all and the sundry and the public policy that the litigation must attain finality would not be achieved. The moment the Court has culled out a ratio and applied the same in the facts of the instant case, merely because the case where the decision has been taken by a Co-ordinate Bench or the higher forum has decided the same on the set of facts, which may not be identical and/or similar to the facts involved therein, do not entail the order to suffer on the anvil of the error apparent on the face of the record.

The expression “error apparent on the face of the record” connotes patent error and not every error discernable from the interpretation and/or the tenet of the various voluminous documents.

We, thus, do find that this is such a case where review jurisdiction can be exercised.

The review application is dismissed.

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

(Harish Tandon, J.)

(Prasenjit Biswas, J.)