

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

Sr. No.250

**RA-CW-31-2023 in
CWP-24275-2022
Date of Decision : April 26, 2023**

Saurav Markanda

...Applicant

Versus

Panjab University and another

...Respondents

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. Akshay Kumar Goel, Advocate,
for the applicant-respondents.

Mr. Aashish Chopra, Senior Advocate with
Mr. Gagandeep Singh, Advocate, for the non-applicant-
petitioner.

SUDHIR MITTAL, J. (ORAL)

Vide judgment dated 01.12.2022 passed in the main case, the writ petition was allowed and the respondents were directed to grant the petitioner 04 grace marks in the subject of Law of Property and declare his result thereafter.

2. This application has been filed for review of the said judgment on the ground that a wrong provision of the University Calendar has been relied upon while passing the said judgment. Clause 28.1(b) is applicable to the present case and not Clause 28.1(a).

3. Reply on behalf of the non-applicant-writ petitioner has been filed in which objection has been taken to the maintainability thereof.

4. Learned counsel for the parties have been heard.
5. The submission of learned counsel for the applicant is that the fact that Clause 28.1(b) of the University Calendar is applicable to this case came to light only after passing of judgment dated 01.12.2022 and when the matter was being processed for fresh declaration of the result. Thus, an error apparent on the face of the record has taken place. In any case, the judgment dated 01.12.2022 is liable to be reviewed on the ground of existence of 'any other sufficient reason'.
6. Learned Senior counsel for the non-applicant-writ petitioner has vehemently objected. According to him, the review application is not maintainable as it is not covered by any of the grounds for review mentioned in Order 47 Rule 1 CPC. It has further been submitted that the filing of the review application was an afterthought as is evident from the fact that the same has been preferred after filing of COCP No.431 of 2023. The said petition had been filed as result had not been declared pursuant to judgment dated 01.12.2022. The said petition was listed on 09.02.2023 and was disposed of on the same day as learned counsel for the University had stated that the order would be implemented within six weeks from the date of the order subject however to passing of an order in a review petition which was likely to be listed shortly. The review petition has been filed thereafter and for this reason also, the same cannot be entertained.
7. A perusal of the review application shows that it was filed on 24.01.2023. The record of this Court further shows that the judgment dated 01.12.2022 had been uploaded on 05.12.2022. Review, thus, could have been sought well within the period of limitation of 30 days but the University chose to wait till a certified copy of the judgment was made

available. The said copy was prepared on 07.01.2023 and keeping in view the 'copy days' the same is within limitation technically. Substantively, the same is barred by limitation as review could have been sought even with a copy downloaded from the website of this Court.

8. That apart and ignoring limitation, the present application is not maintainable in law. This is so because review can be sought only on the following grounds:

“(a) on discovery of new material or evidence which was not in the knowledge of the review applicant despite exercise of due diligence;

(b) If there is a mistake or error apparent on the face of the record and

(c) for any other sufficient reason.”

9. In this case, it cannot be said that new evidence has come to light which was not earlier in the knowledge of the applicant because Clause 28.1(b) is very much a part of the University Calendar. It also cannot be said that there is an error apparent on the face of the record because such an error is one which is discernible without consideration of lengthy arguments or process of reasoning. Thus, the question arises whether this case falls under the third ground i.e. 'any other sufficient reason'. The answer is vehemently 'No'. 'Any other sufficient reason' has to be a reason similar to the other two grounds mentioned in the provision i.e. discovery of new evidence and error apparent on the face of the record. For this conclusion, I place reliance upon some judgments of the Supreme Court though the list is unending. A three-Judge Bench in **S.**

Madhusudhan Reddy vs. V. Narayana Reddy and others, 2022(4) RCR (Civil) 36.

“26. As can be seen from the above exposition of law, it has been consistently held by this Court in several judicial pronouncements that the Court’s jurisdiction of review, is not the same as that of an appeal. A judgment can be open to review if there is a mistake or an error apparent on the face of the record, but an error that has to be detected by a process of reasoning, cannot be described as an error apparent on the face of the record for the Court to exercise its powers of review under Order XLVII Rule 1 CPC. In the guise of exercising powers of review, the Court can correct a mistake but not substitute the view taken earlier merely because there is a possibility of taking two views in a matter. A judgment may also be open to review when any new or important matter of evidence has emerged after passing of the judgment, subject to the condition that such evidence was not within the knowledge of the party seeking review or could not be produced by it when the order was made despite undertaking an exercise of due diligence. There is a clear distinction between an erroneous decision as against an error apparent on the face of the record. An erroneous decision can be corrected by the Superior Court, however an error apparent on the face of the record can only be corrected by exercising review jurisdiction. Yet another circumstance referred to in Order XLVII Rule 1 for

*reviewing a judgment has been described as “for any other sufficient reason”. The said phrase has been explained to mean “a reason sufficient on grounds, at least analogous to those specified in the rule” (Refer: **Chajju Ram v. Neki Ram and Moran Mar Basselios Catholicos and Anr. v. Most Rev. Mar Poulouse Athanasius and Others**).*”

10. **Chajju Ram vs. Neki Ram** is a judgment of the privy council and is reported as AIR 1922 PC 112 and **Moran Mar Basselios Catholicos vs. Most Rev. Mar Poulouse Athanasius** is an earlier judgment of the Supreme Court reported as 1955 SCR 250. It is thus evident that this view has held sway since before coming into force of the Constitution of India.

11. The same view has been taken in judgment dated 17.03.2023 passed by a two-Judge Bench in Miscellaneous Application No....of 2022 (Diary No.32257/2021) in Civil Appeal No.11857-2016, **Govt. of NCT of Delhi Through the Secretary, Land and Building Department & another vs. M/s K.L. Rathi Steels Limited and others**. Relevant observations therefrom are as follows:

“50. At the same time, there are a line of decisions which have held that exercising power of review for “for any other sufficient reason” must be analogous to the two reasons mentioned in the provision therein, namely, 1) who from the discovery of new and important matter or evidence, which after the exercise of due diligence, was not within his knowledge or

could not be produced by him at the time when the decree was passed or order was made; or

2) on account of some mistake or error apparent on the face of the record”

12. Identical exposition of law has been made in ***Kamlesh Verma vs. Mayawati and others, 2013 (8) SCC 320***. This is discernible from a reading of para 16 thereof.

13. There was no effort on the part of learned counsel for the respondent-University to highlight Clause 28.1(b) of the University Calendar on the date arguments were addressed and the judgment dated 01.12.2022 was passed. In fact, learned counsel has very fairly conceded that the fact came to light only after passing of the judgment and when the case was being processed for re-declaration of the result. It is therefore an instance of seeking rehearing on the ground of passing of a wrong judgment. On this ground review cannot be sought.

14. The application is accordingly dismissed as being not maintainable.

April 26, 2023
Ankur

(SUDHIR MITTAL)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether Reportable</i>	<i>Yes</i>