



2023:DHC:8546



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
% **Date of order : 2nd November, 2023**
+ **W.P.(C) 13500/2023**
HARISHANKAR UPADHYAY AND ORS. Petitioners
Through: Mr.____, Advocate (Appearance not given)
versus
UNION OF INDIA AND ORS. Respondents
Through: Ms.Uma Prasuna Bachu, SPC for UOI

CORAM:
HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

ORDER

CHANDRA DHARI SINGH, J (Oral)

CM APPL./2023 (Additional documents-Registry to number the application)

1. Though the instant application is not listed for the day, however, on oral request of learned counsel appearing on behalf of the petitioners, the application is taken up for consideration.
2. The instant application under Section 151 of Code of Civil Procedure, 1908 has been filed by the petitioners for filing the additional documents on record.
3. For reasons stated in the application, the application is allowed and



the additional documents are taken on record.

4. Accordingly, the said application stands disposed of.

W.P.(C) 13500/2023

1. The instant petition under Article 226 of the Constitution of India has been filed on behalf of the petitioners seeking the following reliefs:

“1. Issue a writ of Quo-warranto cum certiorari nature to the respondents regarding non-proceeding with the appointment of petitioners despite qualifying with all eligibilities required by the respondents.

2. To issue quo-warranto writ to proceed with the appointments of petitioners who have cleared the cutoff.

3. Any other order required in accordance with the fact and circumstances of the case and in the interest of justice.”

2. The facts necessary for the adjudication of this instant petition are reproduced herein:

- a) The petitioners had applied for the post of commercial ticket collector advertised by respondents vide CEN No 1/2019, for a total of 4940 vacancies out of which 509 posts were reserved for the Railway Recruitment Board Bangalore zone (hereinafter RRB/ respondent no. 3).
- b) The petitioners filled the application form wherein they were required to select their educational qualification, and selected ‘Diploma’, which is equivalent to the 12th class certificate.
- c) Subsequently, their application forms were accepted by the



respondents and the petitioners were issued admit cards to appear for the examination.

- d) The petitioners had accomplished the examination cut-off marks and were shortlisted by the respondents and called in for verification of documents.
 - e) Further, the respondents refused to accept the equivalent diploma and rejected the candidature of the petitioners, thereby, citing that the diploma submitted by the petitioners is not equivalent to the 12th class certificate making them ineligible for the position they applied for.
 - f) Aggrieved by the non-acceptance of the equivalent diploma, the petitioners have preferred the present writ petition.
3. Learned counsel appearing on behalf of the petitioners applied for the 509 posts reserved for RRB/respondent no.3, wherein the applicants selected 'diploma qualification' as the eligibility criteria. The respondents called 447 applicants for document verification and empanelled only 226 applicants and hence, 243 seats are vacant.
4. It is further submitted that the eligibility criteria as indicated in Para 17.4 of the Advertisement provides for the following documents to be brought by the candidate for document verification is as follows:-

"17.4 Documents to be brought by candidates in original (as applicable) for document verification are indicated below:

1. Matriculation/High School Examination Certificate or Equivalent certificate as Proof for Date of Birth and Matriculation Qualification. (The c name and the father s/ name mentioned in the application will also be verified with reference to the names mentioned in this certificate.)



2. +2 / Inter / Higher Secondary/PUC/Equivalent Certificate
(As applicable).”

5. It is submitted that the eligibility criteria mentioned in the notification issued by the respondent no. 2 clearly mentions that the candidate should have qualified of class 12th or equivalent certificate and therefore the certificates possessed by the petitioners should be considered.
6. It is submitted that the petitioners do not possess the class 12th marksheet rather possess the diploma, which is considered to be equivalent to or more in value than the class 12th certificate. Moreover, such diploma certificates have been assigned greater value in comparison to a 10+2 certificate by State of Maharashtra, Jharkhand and Bihar as well as Himachal Pradesh and the same has been upheld by the various High Courts.
7. It is further submitted that it can be inferred that for completing an engineering which is of 4 year course, if anyone who has undergone a diploma of 3 years it gets reduced to 3 years of an engineering course.
8. It is submitted that respondent's conduct of not taking into consideration the diploma certificate of the petitioners is a clear abuse of power by the respondents.
9. It is submitted that the respondents should have rejected the petitioners' candidature at an earlier stage and cancelling the candidature at the last stage is beyond the power of the respondents.
10. In view of the foregoing reasons, it is prayed that the petition may be allowed and the reliefs as prayed by the petitioners may be granted.
11. *Per Contra*, learned counsel for the respondents vehemently opposed



the averments made on behalf of the petitioners and submitted that the present petition is nothing but an abuse of the process of law. It is submitted that the petitioners' candidature was rejected as the diploma certificate submitted by them is not equivalent to 10+2 certificate and therefore they do not meet the eligibility criteria as mentioned in the job advertisement.

12. It is contended that claiming a job is not a matter of right and is subjected to meeting the minimum eligibility criteria, failing which the candidature of any applicant may be rejected at any stage the non-eligibility surfaces in the process of appointment or even post appointment. The respondent no. 3 has just complied with the provisions as stated in the recruitment notification and effectuated the selection process.

13. Therefore, considering the foregoing submissions, the learned counsel appearing on behalf of the respondents prayed that the present petition, being devoid of any merits, may be dismissed.

14. Heard the learned counsel for the parties and perused the records.

15. It is the case of the petitioners that the respondent no.2 i.e., Railway Recruitment Board had discriminated against them by not appointing them to the position of Commercial Ticket Collector despite accepting their candidature at the initial stage, thereby, issuing admit cards and further shortlisting them in the merit list prepared based on the cut-off list, before rejecting their candidature on not having a class 12th certificate or equivalent certificate.

16. In rival contentions, the respondents have submitted that the statutory rules of the respondents do not authorise them to consider Diploma



qualifications to be equivalent to 10+2 for the purpose of recruitment in the Railways.

17. The petitioners have sought relief by issuance of writ in nature of quo warranto or certiorari. Therefore, it is imperative for this Court to revisit the settled law regarding issuance of the writ of quo warranto, to ascertain its applicability to the present matter where the petitioners are aggrieved by the respondents' non-acceptance of the equivalent diploma submitted by the during the filling of their candidature for the said posts.

18. A writ of quo warranto proceeding affords a judicial enquiry in which any person holding an independent substantive public office, or franchise, or liberty, is called upon to show by what right he holds the said office, franchise or liberty; if the inquiry leads to the finding that the holder of the office has no valid title to it, the issue of the writ of quo warranto ousts him from that office.

19. In the instant case, this Court cannot grant relief by way of issuing a writ of quo warranto as the petitioners are not holding any public office. In view of the discussion in the foregoing paragraphs, this Court is of the view, that the petitioners cannot be issued a writ of quo warranto in the instant petition.

20. By way of an application bearing CM App. No. _____/2023, the petitioners have placed on record certain documents which include the petitioners' representation to the respondents, which was made in compliance with the order dated 19th July 2023, passed by this Court alongwith evidence which shows that the respondents recognise + 2



diploma, and the reply dated 3rd October 2023, to the aforesaid representation made by the petitioners.

21. The relevant portion of the reply dated 3rd October 2023, to the representation of the petitioners has been reproduced herein below:

"The candidate was shortlisted for Document Verification for the post in Pay Level-3 on 19-01-2023. During Document Verification, he had produced certificate for the Educational Qualification of 10th standard with 3-year Diploma in Mechanical Engineering. Since he was not having the prescribed qualification of 10+2, he was not considered for empanelment.

Apart from his representation, the documents annexed the Writ Petition filed before the Hon'ble Court are also discussed under:

- 1. The revised office order No. Month BO/ACA/016/8070 dated 14.03.2016 issued by Board of Secondary Education Rajasthan, Ajmer mentioned the equivalence of Class 12 for admission in future education only.*
- 2. The State Board of Technical Education, Bihar, Patna indicates that after passing 10th, Diploma certificate is higher than intermediate (10+2) certificate and it is equivalent to passing the first year of a four-year engineering course vide Letter No. 765 dated 23.08.2015.*
- 3. On examination of the Hon'ble High Court of Himachal Pradesh's order dated 27.07.2022, it is noticed that the judgement relates to the notification for the post of Constable in the State of Himachal Pradesh.*
- 4. The Resolution issued vide letter No. T.S.P.N.S-14/2017-417 dated 05.06.2017 by Department of Higher Technical Education and Skill Development, Jharkhand, Ranchi indicated that the AICTE recognized diploma conducted in institutions located in the state will be considered equivalent to*



intermediate (10+2) for educational qualification posts.

The documents referred above in the Writ Petition do not indicate that the Diploma is the equivalent qualification to 10+2 for appointment in Railways.

It is to mention that the decision of considering the Diploma qualification as equivalent to 10+2 qualification by other RRBs is erroneous as Railway Board has not issued any instructions to treat Diploma as equivalent to 10+2 standard qualification. Such a mistake or an error cannot be a precedent. It is pertinent to mention that error on part of few RRBs in considering the candidates with Diploma Qualification does not make the Diploma equivalent to 10+2 in recruitment to Railway.

In this connection, the Hon'ble Supreme Court has observed about the similarly situated persons as "one may be wrong but the wrong order cannot be the foundation for claiming equality for enforcement of the same order" in the case of State of Haryana & Ors vs Ram Kumar Mann. Likewise, the Hon'ble Supreme Court observed in the case of UOI vs International Trading Co "that two wrongs do not make one right. A party cannot claim that since something wrong has been done in another case, direction should be given for doing another wrong".

With respect to recruitment in Railways, Railway Board is the competent authority for notifying the educational qualification for all the posts recruited through Railway Recruitment Boards. Nowhere, it is mentioned that Diploma qualification will be accepted in lieu of 12th standard in the RRB notification.

The Diploma qualification cannot be accepted in lieu of 10+2 qualification as there is no instruction from Railway Board to treat the Diploma as equivalent to 10+2 qualification.

Accordingly, the representation is disposed.

You are to acknowledge the receipt of this advice."

22. Upon perusal of the order, it is evident that the respondent no. 3 has



acknowledged that certain RRBs have erroneously taken into consideration the Diploma qualifications as equivalent to 10+2 in recruitment of the Railways. However, such an error on the part of the Railways cannot be treated as a precedent and supported its reasoning by way of enunciating the law laid down by the Hon'ble Supreme Court in the judgment of *State of Haryana & Ors v. Ram Kumar Mann, (1997) 3 SCC 321*.

23. The respondent no. 3 further stated that it is the competent authority for the purpose of notifying the educational qualification for any recruitment conducted by it and it is nowhere stipulated by respondent no. 3 that the Diploma qualification will be treated equivalent to the 12th Standard qualification.

24. Hence, the respondents have acted in consonance with the statutory rules and regulations governing the respondents.

25. Now advertent to the issue whether this Court can issue any direction by way of seeking issuance of writ of certiorari to set aside the reply dated 3rd October 2023, as per which the respondents did not proceed with the appointment of petitioners despite qualifying and meeting the eligibility criteria as laid down by the respondents.

26. Under Article 226 of the Constitution of India, High Court shall intervene with the order of the statutory authority only in cases where there is a gross violation of rights of the petitioner. A mere irregularity which does not substantially affect the case of the petitioner shall not be ground for the Court to interfere with the order of the authority.

27. Furthermore, writ of certiorari may be issued only in those cases



where there is an order of the lower Court which is to be quashed on the ground that there has been a wrongful exercise of powers by the lower Court. The Court does not sit as an appellate authority, thereby, perusing the entire record, re-appreciating the evidence, etc. The writ of certiorari can be issued if an error of law is apparent on the face of the record and in such cases, the Court has to take into account the circumstances and pass an order in equity and not as an appellate authority.

28. The Hon'ble Supreme Court has enunciated the said principle recently in the judgment of ***Central Council for Research in Ayurvedic Sciences and Another v. Bikartan Das and Others***, 2023 SCC OnLine SC 996. The relevant portion of the judgment is reproduced hereunder:

"50. Before we close this matter, we would like to observe something important in the aforesaid context:

Two cardinal principles of law governing exercise of extraordinary jurisdiction under Article 226 of the Constitution more particularly when it comes to issue of writ of certiorari.

51. The first cardinal principle of law that governs the exercise of extraordinary jurisdiction under Article 226 of the Constitution, more particularly when it comes to the issue of a writ of certiorari is that in granting such a writ, the High Court does not exercise the powers of Appellate Tribunal. It does not review or reweigh the evidence upon which the determination of the inferior tribunal purports to be based. It demolishes the order which it considers to be without jurisdiction or palpably erroneous but does not substitute its own views for those of the inferior tribunal. The writ of certiorari can be issued if an error of law is apparent on the face of the record. A writ of certiorari, being a high prerogative writ, should not be issued on mere asking.



52. *The second cardinal principle of exercise of extraordinary jurisdiction under Article 226 of the Constitution is that in a given case, even if some action or order challenged in the writ petition is found to be illegal and invalid, the High Court while exercising its extraordinary jurisdiction thereunder can refuse to upset it with a view to doing substantial justice between the parties. Article 226 of the Constitution grants an extraordinary remedy, which is essentially discretionary, although founded on legal injury. It is perfectly open for the writ court, exercising this flexible power to pass such orders as public interest dictates & equity projects. The legal formulations cannot be enforced divorced from the realities of the fact situation of the case. While administering law, it is to be tempered with equity and if the equitable situation demands after setting right the legal formulations, not to take it to the logical end, the High Court would be failing in its duty if it does not notice equitable consideration and mould the final order in exercise of its extraordinary jurisdiction. Any other approach would render the High Court a normal court of appeal which it is not.*

53. *The essential features of a writ of certiorari, including a brief history, have been very exhaustively explained by B.K. Mukherjea, J. in T.C. Basappa v. T. Nagappa, AIR 1954 SC 440. The Court held that a writ in the nature of certiorari could be issued in 'all appropriate cases and in appropriate manner' so long as the broad and fundamental principles were kept in mind. Those principles were delineated as follows:*

"7. ... In granting a writ of 'certiorari', the superior court does not exercise the powers of an appellate tribunal. It does not review or reweigh the evidence upon which the determination of the inferior tribunal purports to be based. It demolishes the order which it considers to be without jurisdiction or palpably erroneous, but does not substitute its own views for those of the



inferior tribunal

8. The supervision of the superior court exercised through writs of certiorari goes on two points, as has been expressed by Lord Summer in King v. Nat Bell Liquors Limited [[1922] 2 A.C. 128, 156]. One is the area of inferior jurisdiction and the qualifications and conditions of its exercise; the other is the observance of law in the course of its exercise.

9. Certiorari may lie and is generally granted when a court has acted without or in excess of its jurisdiction.”

54. Relying on T.C. Basappa (supra), the Constitution Bench of this Court in the case of Hari Vishnu Kamath (supra), laid down the following propositions as well established:

“(1) Certiorari will be issued for correcting errors of jurisdiction, as when an inferior court or tribunal acts without jurisdiction or in excess of it, or fails to exercise it.

(2) Certiorari will also be issued when the court or tribunal acts illegally in the exercise of its undoubted jurisdiction, as when it decides without giving an opportunity to the parties to be heard, or violates the principles of natural justice.

(3) The court issuing a writ of certiorari acts in exercise of a supervisory and not appellate jurisdiction. One consequence of this is that the court will not review findings of fact reached by the inferior court or tribunal, even if they be erroneous.”

55. This Court explained that a court which has jurisdiction over a subject matter has jurisdiction to decide wrong as well as right, and when the Legislature does not choose to confer a right of appeal against that decision, it would be defeating its purpose and policy if a superior court were to rehear the case



on the evidence and substitute its own finding in certiorari.

56. In Syed Yakoob v. K.S. Radhakrishnan, AIR 1964 SC 477, P.B. Gajendragadkar, C.J., speaking for the Constitution Bench, placed the matter beyond any position of doubt by holding that a writ of certiorari can be issued for correcting errors of jurisdiction committed by inferior courts or tribunals. The observations of this Court in para 7 are worth taking note of:

“7. The question about the limits of the jurisdiction of High Courts in issuing a writ of certiorari under Art. 226 has been frequently considered by this Court and the true legal position in that behalf is no longer in doubt. A writ of certiorari can be issued for correcting errors of jurisdiction committed by inferior courts or tribunals : these are cases where orders are passed by inferior courts or tribunals without jurisdiction, or is in excess of it, or as a result of failure to exercise jurisdiction. A writ can similarly be issued where in exercise of jurisdiction conferred on it, the Court or Tribunal acts illegally or improperly, as for instance, it decides a question without giving an opportunity to be heard to the party affected by the order, or where the procedure adopted in dealing with the dispute is opposed to principles of natural justice. There is, however, no doubt that the jurisdiction to issue a writ of certiorari is a supervisory jurisdiction and the Court exercising it is not entitled to act as an appellate Court. This limitation necessarily means that findings of fact reached by the inferior Court or Tribunal as result of the appreciation of evidence cannot be reopened or questioned in writ proceedings. An error of law which is apparent on the face of the record can be corrected by a writ, but not an error of fact, however grave it may appear to be. In regard to a finding of fact recorded by the Tribunal, a writ of certiorari can be issued if it is shown that in recording the said finding, the Tribunal had erroneously refused to admit admissible and material evidence, or had erroneously admitted



inadmissible evidence which has influenced the impugned finding. Similarly, if a finding of fact is based on no evidence, that would be regarded as an error of law which can be corrected by a writ of certiorari. In dealing with this category of cases, however, we must always bear in mind that a finding of fact recorded by the Tribunal cannot be challenged in proceedings for a writ of certiorari on the ground that the relevant and material evidence adduced before the Tribunal was insufficient or inadequate to sustain the impugned finding. The adequacy or sufficiency of evidence led on a point and the inference of fact to be drawn from the said finding are within the exclusive jurisdiction of the Tribunal, and the said points cannot be agitated before a writ Court. It is within these limits that the jurisdiction conferred on the High Courts under Art. 226 to issue a writ of certiorari can be legitimately exercised.....”

57. In Surya Dev Rai v. Ram Chandra Rai, (2003) 6 SCC 675, a Bench of two Judges held that the certiorari jurisdiction though available, should not be exercised as a matter of course. The High Court would be justified in refusing the writ of certiorari if no failure of justice had been occasioned. In exercising the certiorari jurisdiction, the procedure ordinarily followed by the High Court is to command the inferior court or tribunal to certify its record or proceedings to the High Court for its inspection so as to enable the High Court to determine, whether on the face of the record the inferior court has committed any of the errors as explained by this Court in Hari Vishnu Kamath v. Ahmad Ishaque, AIR 1955 SC 233 occasioning failure of justice.

58. From the aforesaid, it could be said in terms of a jurisdictional error that want of jurisdiction may arise from the nature of the subject matter so that the inferior court or tribunal might not have the authority to enter on the inquiry. It



may also arise from the absence of some essential preliminary or jurisdictional fact. Where the jurisdiction of a body depends upon a preliminary finding of fact in a proceeding for a writ of certiorari, the court may determine, whether or not that finding of fact is correct. The reason is that by wrongly deciding such a fact, the court or tribunal cannot give itself jurisdiction.

59. In Anisminic Ltd. v. Foreign Compensation Commission, [1969] 2 A.C. 147, the House of Lords has given a very broad connotation to the concept of 'jurisdictional error'. It has been laid down that a tribunal exceeds jurisdiction not only at the threshold when it enters into an inquiry which it is not entitled to undertake, but it may enter into an enquiry within its jurisdiction in the first instance and then do something which would deprive it of its jurisdiction and render its decision a nullity. In the words of Lord Reid:

“But there are many cases where, although the tribunal had jurisdiction to enter on the enquiry, it has done or failed to do something in the course of the enquiry which is of such a nature that its decision is a nullity. It may have given its decision in bad faith. It may have made a decision which it had no power to make. It may have failed in the course of the enquiry to comply with the requirements of natural justice. It may in perfect good faith have misconstrued the provisions giving it power to act so that it failed to deal with the question remitted to it and decided some question which was not remitted to it. It may have refused to take into account something which it was required to take into account. Or it may have based its decision on some matter which, under the provisions setting it up, it had no right to take into account. I do not intend this list to be exhaustive.”

60. So far as the errors of law are concerned, a writ of certiorari could be issued if an error of law is apparent on the



face of the record. To attract the writ of certiorari, a mere error of law is not sufficient. It must be one which is manifest or patent on the face of the record. Mere formal or technical errors, even of law, are not sufficient, so as to attract a writ of certiorari. As reminded by this Court time and again, this concept is indefinite and cannot be defined precisely or exhaustively and so it has to be determined judiciously on the facts of each case. The concept, according to this Court in K.M. Shanmugam v. The S.R.V.S. (P) Ltd., AIR 1963 SC 1626, 'is comprised of many imponderables... it is not capable of precise definition, as no objective criterion could be laid down, the apparent nature of the error, to a large extent, being dependent upon the subjective element.' A general test to apply, however, is that no error could be said to be apparent on the face of the record if it is not 'self-evident' or 'manifest'. If it requires an examination or argument to establish it, if it has to be established by a long drawn out process of reasoning, or lengthy or complicated arguments, on points where there may considerably be two opinions, then such an error would cease to be an error of law. (See : Satyanarayan Laxminarayan Hegde v. Mallikarjun Bhavanappa Tirumale, AIR 1960 SC 137.)

61. However, in our opinion, such a test should not be applied in a straitjacket formula and may fail because what might be considered by one Judge as an error self-evident, might not be considered so by another Judge.

62. At this stage, it may not be out of place to remind ourselves of the observations of this Court in Syed Yakoob (supra) on this point, which are as follows:

“Where it is manifest or clear that the conclusion of law recorded by an inferior court or tribunal is based on an obvious misinterpretation of the relevant statutory provision, or



something in ignorance of it, or may be even in disregard of it, or is expressly founded on reasons which are wrong in law, the said conclusion can be corrected by a writ of certiorari. Certiorari would also not lie to correct mere errors of fact even though such errors may be apparent on the face of the record. The writ jurisdiction is supervisory and the court exercising it is not to act as an appellate court. It is well settled that the writ court would not re-appreciate the evidence and substitute its own conclusion of fact for that recorded by the adjudicating body, be it a court or a tribunal. A finding of fact, howsoever erroneous, recorded by a court or a tribunal cannot be challenged in proceedings for certiorari on the ground that the relevant and material evidence adduced before the court or the tribunal was insufficient or inadequate to sustain the impugned finding.

It is also well settled that adequacy or sufficiency of evidence led on a point and the inference of fact to be drawn from the said finding are within the exclusive jurisdiction of the tribunal and these points cannot be agitated before the writ court.”

63. In the aforesaid context, it will be profitable for us to refer to the decision of this Court in the case of Indian Overseas Bank v. I.O.B. Staff Canteen Workers' Union, (2000) 4 SCC 245 : AIR 2000 SC 1508. This Court observed as under:

“... The findings of fact recorded by a fact-finding authority duly constituted for the purpose and which ordinarily should be considered to have become final, cannot be disturbed for the mere reason of having been based on materials or evidence not sufficient or credible in the opinion of the writ Court to warrant those findings at any rate, as long as they are based upon such materials which are relevant for the purpose or even on the ground that there is yet another view which can be reasonably and possibly undertaken. ...”



64. However, we may clarify that findings of fact based on 'no evidence' or purely on surmises and conjectures or which are perverse points could be challenged by way of a certiorari as such findings could be regarded as an error of law.

65. Thus, from the various decisions referred to above, we have no hesitation in reaching to the conclusion that a writ of certiorari is a high prerogative writ and should not be issued on mere asking. For the issue of a writ of certiorari, the party concerned has to make out a definite case for the same and is not a matter of course. To put it pithily, certiorari shall issue to correct errors of jurisdiction, that is to say, absence, excess or failure to exercise and also when in the exercise of undoubted jurisdiction, there has been illegality. It shall also issue to correct an error in the decision or determination itself, if it is an error manifest on the face of the proceedings. By its exercise, only a patent error can be corrected but not also a wrong decision. It should be well remembered at the cost of repetition that certiorari is not appellate but only supervisory."

29. It is evident that the Court shall exercise its power under Article 226 for granting writ of certiorari very cautiously and sparingly in exceptional circumstances i.e., only where it is demonstrated that there is something palpably erroneous in the process of adjudication of the matter before the authority concerned.

30. Tersely stated, the contention as posed by the petitioners is on non-consideration of their diploma certificate during verification of documents for the post of a commercial ticket collector.

31. The respondent by way of its order dated 3rd October 2023, has



provided the reasons for said non-consideration thereby stating that the consideration of diploma certificate would amount to transgressing the stator mandates of the respondent as per which no such diploma certificates can be considered by the respondent.

32. This Court finds substance in the contentions raised by the respondent and is of the view that the grounds raised by the petitioners for setting aside the order dated 3rd October 2023, do not merit interference of this Court since, there is no error apparent on the face of the said order. The respondent has considered the plea of the petitioners along with the evidence and accordingly, it adjudicated upon it. There is no illegality on the part of the petitioners in passing the said order.

33. The writ of certiorari cannot be issued in the present matter since for issue are of such writ, there should be an error apparent on the face of it or it goes to the root of the matter. However, no such circumstances are present in the instant petition.

34. The writ jurisdiction is supervisory and the Court exercising it is not to act as an appellate court. It is well settled that the writ court would not re-appreciate the evidence and substitute its own conclusion of fact for that recorded by the adjudicating body, be it a Court or a tribunal. A finding of fact, howsoever erroneous, recorded by a Court or a tribunal cannot be challenged in proceedings for certiorari on the ground that the relevant and material evidence adduced before the Court or the tribunal was insufficient or inadequate to sustain the impugned finding.

35. In view of the discussions in the foregoing paragraphs, I do not find



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any merit in the instant petition and is liable to be dismissed.

36. Accordingly, the instant petition stands dismissed.

37. The order be uploaded on the website forthwith.

CHANDRA DHARI SINGH, J

NOVEMBER 2, 2023

Dy/db/ds

Click here to check corrigendum, if any