

July 29, 2024
MONDAY

FORM NO. J (2)

**IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

Present:
The Hon’ble Justice Harish Tandon
And
The Hon’ble Justice Shampa Dutt (Paul)

RVW 189 of 2022
with
CAN 1 of 2022

Swapan Kumar Das
Vs.
The State of West Bengal & Ors.

For the Appellant : **Ms. Usha Maity, Advocate**
Ms. Malyasree Maity, Advocate
Mr. Sayak Maity, Advocate

For the State : **Mr. Tapan Kumar Mukherjee, Ld. AGP**
Mr. Pinaki Dhole, Advocate
Ms. Debdooti Dutta, Advocate

Heard on : July 29, 2024

Judgment on : July 29, 2024

The Court:

1. After perusing the averments made in the review application and the submissions advanced by Ms. Maity, learned Advocate appearing for the review applicant, we perceived that the intention of the review applicant is to get some observations from the Court so that the stand taken by the Authority is set at rest at this stage.
2. We are unable to comprehend from the application for review as well as the submissions advanced by the review applicant any case of a patent error, nor we could see any case having made out for discovery of new and important piece of evidence which despite due diligence was not within the knowledge of the applicant. The review jurisdiction is never meant for re-visitation and/or re-



writing the judgment. The scope under the review jurisdiction is limited to the extent that an omission or commission of an error by the Court which is patent should not be permitted to remain.

3. The Court shall not enter into voluminous papers or documents in order to decipher such error, if there be any, as the review is never intended to make a roving enquiry into the matter and reopening of the issues for re-visitation. It is preposterous to suggest that the Court exercising review jurisdiction shall enter into the merit of the case made out in the original petition in order to find out whether the process by which the original proceeding is decided, is erroneous.
4. There is distinction between an erroneous decision and a decision founded upon a patent error. The erroneous decision is capable of being corrected by the higher forum; on the other hand, the decision based upon error apparent on the face of the record can be corrected by the Court in exercise of review jurisdiction. Such distinction is real and the demarcation in exercise of the jurisdiction is to be borne in mind. The Court does not encourage the litigant either to have further observations or to issue clarificatory words in the garb of a review jurisdiction.
5. We are amazed when the review applicant submits before us that the point on which the writ-petition was decided is not coming under the purview of review but the thing which ought to have been uttered and/or reflected in the order needs to be clarified which, in our opinion, was never an object underlining the incorporation of the review provisions. The review jurisdiction should be exercised in a limited compass, more particularly, when the matter comes within the purview of Order XLVII Rule 1 of the Code of Civil Procedure. We are also not unmindful of the proposition that there is a difference between a substantive review and the procedural review but the manner in which the jurisdiction is exercised by the Court has to be borne in mind as each and every order is not susceptible to be reviewed as the Counsel or the



litigant things that the judgment ought to have been written in a particular way despite the fact that the ultimate decision does not appear to contain any error, be it patent or otherwise.

6. The order under review is passed on a writ-petition challenging the order of the West Bengal Administrative Tribunal. By the said order this Court affirmed the order of the Tribunal which leads to an inescapable conclusion that the decision of the Tribunal has not been interfered with. However, the position would have been different when the findings returned in the judgment rendered by the Writ Court runs counter to the findings returned by the Tribunal as such findings would merge with the findings of the higher forum and the law does not permit two inconsistent or contradictory findings to operate simultaneously in the field.
7. The moment the ultimate conclusion or a decision of the Tribunal is affirmed by dismissing the writ-petition, the matter ends then and there and it is the ultimate decision, which is affirmed or get merged in the order/judgment of the superior forum.
8. We thus do not find any ground warranting interference with the review jurisdiction. The same being **RVW 189 of 2022** is hereby **dismissed**. The connected application being **CAN 1 of 2022** also stands **dismissed**.
9. As a precautionary measure, we must record that the argument so advanced by the review application on the merit of the case or the stand so taken, if dealt with in exercise of the review jurisdiction may have turned out to be a boomerang and for such reason we desist ourselves from making any comment thereupon.

(Harish Tandon, J.)

(Shampa Dutt (Paul), J)



