

19.2. 2025
item No.7
n.b.
ct. no.24

RVW 33 of 2025
with
CAN 1 of 2025
In
WPA 474 of 2025

Nasair Uddin Gharami
Vs.
State of West Bengal & Ors.

Mr. R. A. Agarwala,
Ms. Nibedita Pal,
Mr. A. G. Mukherjee,
Ms. N. Khatoon,
..... for the respondent no.6.
Mr. Ritesh Kr. Ganguly,,
.... For the State.
Mr. S. C. Dhara,
.... For the review applicant.

This is an application for review of the order of this Court dated January 28, 2025 passed in WPA 474 of 2025.

Mr. Agrawala, learned counsel appearing on behalf of the private respondent submits that the review application is not maintainable at all. There are no such grounds to review the impugned order. The grounds as mentioned in the review application are out of the purview of the review application. This review application is not maintainable.

In support of his contention, he cited the decision of Hon'ble Supreme Court in **Sanjay Kumar Agarwal Vs.**

State Tax Officer and Anr. Reported in (2024) 2 SCC 362.

Mr. Dhara, learned counsel appearing on behalf of the review applicant submits that this Court has directed Sub-divisional Controller to dispose of the representation of the petitioner. He submits that when he approached the Sub-divisional Controller with the order of this Court, the Sub-divisional Controller was not in office. However, when he has been returning from the office of the SCFS, he has been assaulted by the husband of the respondent no.6. He further submits that the review applicant facing several difficulties to approach the office of the concerned SCFS. Apart from that ground, Mr. Dhara has pointed the ground no.2 of the review application and relied the judgment of Hon'ble Supreme Court passed in **Aribam Tuleshwar Sharma Vs. Aribam Pishak Sharma & Ors.** reported in **AIR 1979 SC 1047.**

Learned counsel appearing on behalf of the State authority submits that if the petitioner facing difficulty to approach the SCFS, he may be directed to approach DCFS, 24 Pargana(South) for passing necessary order.

Having heard the parties, it appears that the review applicant has raised point no.2 of the review application, which reads as follows:

“For that Director, DDP&S of Food and Supplies Department is the approval authority under statue for giving approval before issuance of licence to a FPS dealer.”

It is the submission of Mr. Dhara that Director DDPS, Food & Supply Department is the approval authority under the statute for giving approval for issuance of licence of FPS dealer.

At the time issuing the impugned order, it has been taken note that licence has already been issued in favour of the private respondent no.6. The petitioner has approached this Court regarding some points of objection, this Court thought it fit that this objection through representation can be decided or enquired by concerned SCFS.

Now, the petitioner filed the review application with the ground that the concerned Director DDPS, Food & Supply Department may be directed to take the hearing.

According to the observation of Hon'ble Supreme Court in **Sanjay Kumar Agarwal(Supra)** Paragraph 16 , the Apex Court has set out some guidelines, where a review application can be maintained.

“16.1. A judgment is open to review inter alia if there is a mistake or an error apparent on the face of the record.

16.2. A judgment pronounced by the court is final, and departure from that principle is justified only when circumstances of a substantial and compelling character make it necessary to do so.

16.3. 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 of record justifying the court to exercise its power of review.

16.4. In exercise of the jurisdiction under Order 47 Rule 1 CPC, it is not permissible for an erroneous decision to be “reheard and corrected”.

16.5. A review petition has a limited purpose and cannot be allowed to be “an appeal in disguise”.

16.6. Under the guise of review, the petitioner cannot be permitted to regitate and reargue the questions which have already been addressed and decided.

16.7. An error on the face of record must be such an error which, mere looking at the record should strike and it should not require any long-drawn process of reasoning on the points where there may conceivably be two opinions.

16.8. Even the change in law or subsequent decision/judgment of a coordinate or larger Bench by itself cannot be regarded as a ground for review.”

On perusal of the direction of the Hon’ble Supreme Court, it appears to me that the review applicant has aggrieved the order of this Court regarding direction upon Sub-division Controller, Food & Supply to dispose of the representation. This court considered the matter in merit and has directed the Sub-divisional Controller, Food &

Supply to consider representation. It appears to me that the observation of this Court is the end result of meritorious consideration of this case. To challenge such consideration, the petitioner have to approach appellate forum.

I make it clear the ground no.2 of review application touches the merit of the judgment. The review application cannot be allowed to be “an appeal in disguise”.

Under the above observation, I find no justification to entertain the review application. According to the review application is considered and dismissed.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Subhendu Samanta, J.)