

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

Present: - Hon'ble Mr. Justice Subhendu Samanta.

RVW 201 of 2025
With
CAN 1 of 2025

Kabita Mondal
Vs.
The State of West Bengal & Ors.

For the petitioner : **Mr. Ram Anand Agarwal**
Ms. Nibedita Pal
Mr. Anand Gopal Mukherjee

For the State : **Mr. Swapan Datta**

Heard on : **16.07.2025**
Judgment on : **26-9-2025**

Subhendu Samanta, J.

This is an application for review against the judgment and order dated February 25, 2025 passed by this Court in WPA 2972 of 2025.

The brief fact of the matter is that the present petitioner approached this court challenging reasoned order dated September 17 of 2024 passed by the Director, DDP & S who has turned down the application of petitioner for compassionate appointment. This Court vide impugned order dated February 25, 2025 has disposed of the entire writ petition with the observation as follows:

“On the facts and circumstances of this case it appears to me that the writ petitioner is married daughter of the deceased dealer who no applied for

the license for compassionate ground rather filed “no objection” in favour of some other applicants, who are the family members. Now as their application were not materialized, the present petitioner has applied for the license. In my view there is a long delay in filing the application for jetting compassionate appointment. The status of the present petitioner can be considered to be a “fence sitter” who was consciously silent and observing the fate of the litigation. After litigation was over, the petitioner jumped over the spot and applied for the license. In may view of the petitioner being a “fence sitter” can not apply for a license which she has already denied by declaring “no objection” through affidavit affirmed before the competent authority. In the writ petition the petitioner can not claim equity what she already consciously denied to receive.”

Mr. Agarwal, learned senior counsel appearing on behalf of the petitioner submits that at the time of passing the impugned order, the petitioner failed to apprise this Court regarding the provisions of West Bengal Public Distribution System(Maintenance and Control) Order, 2003, which was in vogue at the time of demise of the dealer. He submits that according to the amendment of Control Order, 2013 dated December 14, 2020 married daughter came under the definition of “family member”. Prior to that petition being married daughter cannot apply for compassionate appointment on demise of his father. Such fact was not raised before this Court at the time of hearing. Thus, the change of law has to be considered afresh. Accordingly, the review application has been placed.

Mr. Dutta, learned AGP appearing on behalf of the State respondent has raised strong objection and submits that the grounds raised by the review petitioner is not available under reviewed jurisdiction. Thus, the review petition is not maintainable.

Having heard learned counsel for the parties and also considering the grounds mentioned in the review itself, it appears that the learned counsel for the petitioner tried to impress this Court on the fact that the petitioner being a married daughter of deceased dealer could not applied for licence under

compassionate appoint as per provision of Control Order, 2013. By virtue of amendment dated December 14, 2020, under Control Order, 2013 petitioner being a married daughter may apply for licence under compassionate appointment. Accordingly, petitioner had applied for licence in the later stage.

On hearing the submission of Mr. Agarwal, it appears to me that this Court has already taken a decision that the petitioner initially has given “no objection” in favour of a relatives of the deceased dealer, when such relative applied for licence. Thereafter, when the prayer of such relative was turned down, petitioner again applied for licence on compassionate ground. The conduct of the petitioner once issuing no objection, thereafter again applied for licence is deprecated by the order of this Court. If this Court intends to here out merit of the writ petition on the basis of grounds as mentioned in the review application, it shall not change the view of this Court in its order dated 25.2.2025. However, this ground may be very well accepted in the appellate stage. Hon’ble Supreme Court in **Kamalesh Verma Vs. Mayawati** reported in **(2013) 8 SCC 320** has set out the grounds in which the review application can be maintainable. For better appreciation of finding of Hon’ble Supreme Court paragraph nos.20, 20.1 and 20.2 are set out as follows:-

“20. Thus, in view of the above, the following grounds of review are maintainable as stipulated by the statute:-

20.a. When the review will be maintainable:

- (i) Discovery of new and important matter or evidence which, after the exercise of due diligence, was not within knowledge of the petitioner or could not be produced by him;*
- (ii) Mistake or error apparent on the face of the record;*
- (iii) Any other sufficient reason.*

The words “any other sufficient reason” have been interpreted in Chhajju Ram v. Neki and approved by this Court in Moran Mar Basselios Catholicos v. Most Rev. Mar Poulouse Athanasius to mean “a reason sufficient on grounds at least analogous to those specified in the rule”. The same principles have been reiterated in Union of India v. Sandur Manganese & Iron Ores Ltd.

20.2. *When the review will not be maintainable:*

- (i) *A repetition of old and overruled argument is not enough to reopen concluded adjudications.*
- (ii) *Minor mistakes of inconsequential import.*
- (iii) *Review proceedings cannot be equated with the original hearing of the case.*
- (iv) *Review is not maintainable unless the material error, manifest on the face of the order, undermines its soundness or results in miscarriage of justice.*
- (v) *A review is by no means an appeal in disguise whereby an erroneous decision is reheard and corrected but lies only for patent error.*
- (vi) *The mere possibility of two views on the subject cannot be a ground for review.*
- (vii) *The error apparent on the face of the record should not be an error which has to be fished out and searched.*
- (viii) *The appreciation of evidence on record is fully within the domain of the appellate court, it cannot be permitted to be advanced in the review petition.*
- (ix) *Review is not maintainable when the same relief sought at the time of arguing the main matter had been negated.”*

Following the Hon’ble Supreme Court in **Kamalesh Verma(Supra)** it appears to me that ground as mentioned in the present review application is a ground available in the appeal and review application cannot be allowed which disguise an appeal.

This Court finds no jurisdiction to entertain the review application under Order 47 Rule 1 CPC.

Under the above observation, the instant review application is considered and rejected.

Accordingly RVW 201 of 2025 is hereby disposed of.

Connecting application, if any, are also disposed of.

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

(Subhendu Samanta, J.)

