



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CIVIL APPLICATION (C.A.O.) NO.1557/2024 IN M.C.A. ST. NO.23342/2024 IN W.P NO.5760/2024 (D)

(M/s. Vaidya Industries, Nagpur Vs. State of Maharashtra and another)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. Praveen Chandra, Advocate h/f Mr. Rohit Borwankar, Advocate for the
applicant/petitioner.
Mr. H.D. Marathe, A.G.P for respondent Nos.1 and 2.

CORAM: NITIN W. SAMBRE & MRS.VRUSHALI V. JOSHI, JJ.
DATED: 13.2.2025.

P C.

For the reasons stated in the application, the civil application
for condonation of delay stands allowed and disposed of.

MISCELLANEOUS CIVIL APPLICATION STAMP NO.23342/2024.

2. The petition of the petitioner came to be dismissed vide order
dated 16.10.2024 of this Court which was assailed by the petitioner
before the Hon'ble Apex Court. The Hon'ble Apex Court while
dealing with the challenge to the order of this Court has shown
disinclination to interfere and thereby dismissed the Special Leave
Petition.

3. After the Special Leave Petition was dismissed, the present
review application is moved claiming that the dismissal of S.L.P. was
in *limine* the review application is tenable. This is how we have
looked into the claim of review put-forth by the petitioner.

4. The fact remains that the petitioner was required to submit
information regarding the pending litigation of last five years as per
clause 1.4.34 in Form No.VI of the tender. The petitioner has

submitted 'Nil' pendency in compliance with the said clause whereas from the order under review it can be noticed that the commercial proceedings initiated by petitioner were pending before the Jharkhand High Court. Such suppression was found to be the basis for rejection of the challenge of petitioner. Though on subsequent date the petitioner has submitted the information about pendency of litigation, same was rightly not considered by the tender authority as it was after the last date of submission of tender was over.

5. The Hon'ble Apex Court in the matter of Kamlesh Verma Versus Mayawati and others reported in (2013) 8 SCC 320, has summarised the principles relating to review jurisdiction. In paragraph 20 and paragraph no.20.2 of the aforesaid judgment provides for when the review will not be maintainable and the same is quoted as under:-

"20.2 when the review will not be maintainable:-

(i) A repetition of old and overrule 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 has 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.”

6. The order under review dated October 16, 2024 dismisses the writ petition on the ground that the petitioner has failed to mention before the Tendering Authority about the pendency of litigation at its behest before the Jharkhand High Court. This Court has thereafter noted that the Tendering Authority has given an opportunity to the petitioner to submit the shortfalls wherein also the petitioner has failed to submit the said information.

7. This Court thereafter analysed the aforesaid conduct of the petitioner in the light of the decision making process undertaken by the Tendering Authority and having regard to the settled position of law delivered by the Apex Court in *Galaxy Transport Agencies, Contractors, Traders, Transports and Suppliers Versus New J.K. Roadways, Fleet Owners and Transport Contractors & Others* [(2021) 16 SCC 808] has noted that the Court is not required to sit in appeal over the decision of the Tendering Authority unless it is demonstrated that the decision of the Tendering Authority is completely arbitrary.

8. There is no room to infer that the decision of the Tendering Authority was arbitrary particularly when the

petitioner inspite of chance being given has failed to furnish the information about the pendency of litigation which we are informed was withdrawn subsequently.

9. In the aforesaid backdrop of settled legal position and the reasoning furnished by this Court in the order under review, we are required to exercise the review jurisdiction in the light of the parameters laid down by the Apex Court in *Kamlesh Verma Versus Mayawati & Others* [(2013) 8 SCC 320]. What the petitioner is trying to put forth is repetition of old and overruled arguments and is seeking re-hearing of the entire case in the review jurisdiction. The petitioner has failed to demonstrate material error manifest on the fact of the order resulting into miscarriage of justice. There is no patent error noticed in the order under review. In this background, we see no reason to interfere with the order under review since the petitioner has failed to make out any case.

10. The miscellaneous civil application for review thus stands dismissed.

(MRS.VRUSHALI VJOSHI, J.)

(NITIN W. SAMBRE, J.)