

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL REVIEW No.200 of 2022

In
Civil Writ Jurisdiction Case No.5228 of 2020

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Pappu Kumar Yadav Son of Dharmanath Yadav, resident of Village- Mairy
Sudama, P.S.- Bhagwanpur Hat, District- Siwan.

... .. Petitioner/s

Versus

1. The Indian Oil Corporation through its Chairman, G-9, Ali Aval Jang Mall, Bandra (East), Mumbai- 400051.
2. The Deputy General Manager, (LPG-S), Patna Area Office, Indian Oil Corporation Ltd., 1st Floor, Shahi Bhavan, Exhibition Road, Patna- 1.

... .. Opposite Party/s

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Appearance :

For the Petitioner	:	Mr. Mahesh Narayan Parbat, Sr. Advocate
		Mr. Praveen Prabhakar, Advocate
For the Opposite Parties :		Mr. Ankit Katriar, Advocate
		Mr. Kanishka Shankar, Advocate

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CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
C.A.V. JUDGMENT

Date : 15-01-2026

1. Heard Mr. Mahesh Narayan Parbat, learned Senior Counsel for the petitioner and Mr. Ankit Katriar, learned counsel for the Indian Oil Corporation (herein after referred to as the 'IOC').

2. The instant application has been filed praying for review of the judgment dated 25.1.2021 passed in CWJC no.5228 of 2020, whereby the writ application filed by the petitioner/review applicant was dismissed.



3. The petitioner filed CWJC no.5228 of 2020 for quashing the letter dated 3.2.2020 of the IOC whereby the Letter of Intent (LoI) issued in favour of the petitioner for running the rural LPG distributorship in Morakhas in the district of Siwan was withdrawn. Further prayer was made by the writ petitioner to allow him to run the rural LPG distributorship as the petitioner had already invested huge amount and made necessary preparations for the same.

4. The relevant facts in brief are that the petitioner was one of the applicants for grant of LPG distributorship in the category of OBC against an advertisement published on 17/18.6.2017 by the IOC. In the draw of lots, the petitioner was selected and a LoI was issued on 27.6.2019. Subsequent thereto a registered deed of agreement was entered into between the petitioner on one hand and Raju Kumar Singh and Basant Mishra on the other on 31.7.2019. This was without prior permission of the IOC and in clear violation of clause 5.4 of the LoI dated 27.6.2019. Taking this into consideration, the LoI issued in favour of the petitioner was cancelled by the IOC which was challenged in the writ application. Not finding any merit in the writ application filed by the petitioner, CWJC no.5228 of 2020 was dismissed by judgment dated 25.1.2021. It



is the review of this judgment which is sought for in the instant application.

5. It is submitted by learned Senior Counsel appearing for the petitioner that the petitioner preferred LPA no.173 of 2021, which was dismissed as withdrawn with liberty to the petitioner to file a petition for review of the impugned judgment dated 25.1.2021. It is further submitted that clause 5.4 of the LoI relied upon in dismissing the writ application of the petitioner is an error committed and the said provision is not applicable in the facts and circumstances of the case. Similarly, error has also been committed in relying upon clauses 9, 9.1 and 9.3 in rejecting the writ application. The conclusion arrived at in the judgment under review is clearly erroneous and as such the order be reviewed and the prayer made in the writ application be allowed.

6. The application is opposed by learned counsel appearing for the IOC. It is submitted that the petitioner has not been able to point out any error apparent on the face of the judgment dated 25.1.2021 dismissing the writ application. The petitioner has not been able to make out any case for review of the judgment and as such the application be dismissed.

7. Heard learned counsel for the parties and perused



the material on record.

8. The writ application (CWJC no.5228 of 2020) filed by the petitioner came to be dismissed by judgment dated 25.1.2021. Relevant portion of the judgment is reproduced herein below for ready reference :-

“By clause 5.4 of the L.O.I. the petitioner/allottee has categorically been barred from inducting anyone as a partner or making any change in constitution of the proposed distributorship, by inducting a partner without prior approval from the I.O.C Ltd.. So far as the facts of the instant case are concerned, it is admitted that the petitioner entered into a registered partnership agreement with two other persons, the partnership being effective from 31.7.2019. This was in clear violation of clause 5.4 of the L.O.I dated 27.6.2019. Further from perusal of the legal notices dated 9.9.2019, 29.10.2019 and 4.1.2020, the contents thereof clearly show that the dispute between the partners had arisen as the newly inducted partners were demanding share to the extent of 75% to 80% of the profit from the petitioner, and it was for this reason that the same could not continue. The partnership was not being dissolved for reason of the same being in violation of the terms of the L.O.I.

The contents of the LOI shows that it only talks about the intent of the IOC Ltd. to offer to the petitioner the LPG distributorship.



The LOI also contained a number of conditions which had to be satisfied before the issuance of Letter of Appointment. The LOI also provided that the IOC Ltd. would not be held responsible for investment which may be made by the petitioner in construction of the godown without having a proper approach road. It also provided that the LOI may be withdrawn in case any fact in the application is found to have been suppressed, misrepresented, incorrect or false. After receipt of the LOI dated 27.6.2019, the petitioner having entered into a registered partnership agreement on 31.7.2019 without prior permission of the IOC Ltd for the purposes of running the LPG dealership, shows that the petitioner clearly violated the terms of the LOI and consequentially the action of the IOC Ltd. in withdrawing the Letter of Intent dated 27.6.2019 cannot be said to be illegal. Thus the Court finds no merit in the writ application nor any illegality in the order impugned dated 3.2.2020.

The writ application stands dismissed.”

9. The Hon’ble Supreme Court in the case of **State of West Bengal & Ors. vs. Kamal Sengupta & Anr.; (2008) 8 SCC 612**, referring to the provision of review under Order XLVII Rule 1 of the Civil Procedure Code (CPC) and a number of other judgments held in paragraph no.35, as follows :-

“35. The principles which can be



culled out from the abovenoted judgments are:

(i) The power of the Tribunal to review its order/decision under Section 22(3)(f) of the Act is akin/analogous to the power of a civil court under Section 114 read with Order 47 Rule 1 CPC.

(ii) The Tribunal can review its decision on either of the grounds enumerated in Order 47 Rule 1 and not otherwise.

(iii) The expression "any other sufficient reason" appearing in Order 47 Rule 1 has to be interpreted in the light of other specified grounds.

(iv) An error which is not self-evident and which can be discovered by a long process of reasoning, cannot be treated as an error apparent on the face of record justifying exercise of power under Section 22(3)(f).

(v) An erroneous order/decision cannot be corrected in the guise of exercise of power of review.

(vi) A decision/order cannot be reviewed under Section 22(3)(f) on the basis of subsequent decision/judgment of a coordinate or larger Bench of the tribunal or of a superior court.

(vii) While considering an application for review, the tribunal must confine its adjudication with reference to material which was available at the time of initial decision. The happening of some subsequent event or a development cannot be taken note of for



declaring the initial order/decision as vitiated by an error apparent.

(viii) Mere discovery of new or important matter or evidence is not sufficient ground for review. The party seeking review has also to show that such matter or evidence was not within its knowledge and even after the exercise of due diligence, the same could not be produced before the court/tribunal earlier.

10. It would be appropriate to reproduce Order XLVII Rule 1 of the CPC which provides the grounds for filing a review application. The same reads as follows :-

“1. Application for review of judgment.-*(1) Any person considering himself aggrieved,-*

(a) by a decree or order from which an appeal is allowed, but from which no appeal has been preferred,

(b) by a decree or order from which no appeal is allowed, or

(c) by a decision on a reference from a Court of Small Causes, and who, from the discovery of new and important matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the decree was passed or order made, or on account of some mistake or error apparent on the face of the record, or for any other sufficient reason, desires to obtain a review of the decree passed



or order made against him, may apply for a review of judgment to the Court which passed the decree or made the order.

(2) A party who is not appealing from a decree or order may apply for a review of judgment notwithstanding the pendency of an appeal by some other party except where the ground of such appeal is common to the applicant and the appellant, or when, being respondent, he can present to the Appellate Court the case on which he applies for the review.

[Explanation-. The fact that the decision on a question of law on which the judgment of the Court is based has been reversed or modified by the subsequent decision of a superior Court in any other case, shall not be a ground for the review of such judgment.]”

11. In the case of **Parsion Devi & Ors. vs. Sumitri Devi & Ors.**; (1997) 8 SCC 715, the Hon’ble Supreme Court observed that it is well settled that review proceedings have to be strictly confined to the ambit and scope of Order XLVII Rule 1 of the CPC. It further observed that even if the statement was wrong, the same would not amount to be an ‘error apparent on the face of the record’. It held as follows :-

“7. It is well settled that review proceedings have to be strictly confined to the ambit and scope of Order 47 Rule 1 CPC. In



Thungabhadra Industries Ltd. v. Govt. of A.P. this Court opined:

“what, however, we are now concerned with is whether the statement in the order of September 1959 that the case did not involve any substantial question of law is an 'error apparent on the face of the record'). The fact that on the earlier occasion the Court held on an identical state of facts that a substantial question of law arose would not per se be conclusive, for the earlier order itself might be erroneous. Similarly, even if the statement was wrong, it would not follow that it was an 'error apparent on the face of the record', for there is a distinction which is real, though it might not always be capable of exposition, between a mere erroneous decision and a decision which could be characterised as vitiated by 'error apparent'. A review is by no means an appeal in disguise whereby an erroneous decision is reheard and corrected, but lies only for patent error.”

12. As to what would be construed to be error apparent on the face of the record came to be decided by the Hon'ble Supreme Court in the case of **Satyanarayan Laxminarayan Hegde & Ors. vs. Mallikarjun Bhavanappa Tirumale**; AIR 1960 SC 137, where it held as follows :-

“17.....An error which has to be



established by a long drawn process of reasoning on points where there may conceivably be two opinions can hardly be said to be an error apparent on the face of the record. As the above discussion of the rival contentions show the alleged error in the present case is far from self-evident and if it can be established, it has to be established by lengthy and complicated arguments. We do not think such an error can be cured by a writ of certiorari according to the rule governing the powers of the superior court to issue such a writ.”

13. So far as the facts of the instant case is concerned, as submitted by learned Senior Counsel appearing for the petitioner, the contention has been that the reliance placed on clause 5.4 of the LoI in dismissing the writ application is an error committed as the said provision is not applicable in the facts and circumstances of the case. Further submission is to the effect that error has also been committed in placing reliance on clauses 9, 9.1, 9.3 and in the conclusion arrived at in the judgment under review.

14. In the opinion of the Court, learned Senior Counsel appearing for the petitioner has not been able to point out any error apparent on the face of the record.

15. In the garb of a review application what the petitioner is seeking is rehearing of the writ application on



merits which is not permissible.

16. The Court finds no merit in the instant review application and the same is dismissed.

(Partha Sarthy, J)

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AFR/NAFR	
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