



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO.815 OF 2026
IN
REVIEW APPLICATION (ST) NO.38808 OF 2025
IN
WRIT PETITION NO.1775 OF 2021

THE STATE OF MAHARASHTRA AND OTHERS
VERSUS

JAI MALHAR SHIKSHAN PRASARAK MANDAL, SAWARGAON (P) THROUGH
ITS SECRETARY

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Mr. R.S. Wani, AGP for applicants / State

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CORAM : SMT. VIBHA KANKANWADI &
S.G. CHAPALGAONKAR, JJ.

DATE : 20th JANUARY, 2026

ORDER : (PER : SMT. VIBHA KANKANWADI, J.)

. Present application has been filed by the State Government for
condonation of delay of 676 days in filing review application.

2 Heard learned AGP Mr. R.S. Wani for applicants and perused the
documents.

3 For condoning the delay the applicants are giving reasons that -

- a) the delay is neither intentional nor deliberate;
- b) the applicants have received knowledge about the order on 18.01.2024 pursuant to the representation dated 08.02.2024 by respondent;
- c) vide letter dated 17.06.2024 the applicants had brought the order to the notice of the State Government and on 26.07.2024, State Government asked the Government Pleader to give opinion, accordingly, the opinion was given on 18.01.2024;
- d) thereafter the File was submitted to Law and Judiciary Department and the permission was given on 03.12.2024;
- e) the draft was submitted on 20.12.2024, which was then approved by the State Government on 10.01.2025;

and then the review application came to be filed on 18.12.2025.

4 The first and the foremost fact that is to be noted is that the order was passed by this Court in Writ Petition No.1775 of 2021 on 18.01.2024, which was uploaded on 19.01.2024. But then the applicants say that the knowledge of date of order was through the representation of respondent dated 08.02.2024. This is indigestible. The operative order might have been pronounced on the same date itself in presence of learned

AGP, then representing in the original matter. Secondly, even if we consider that the date of knowledge was of the applicants of said order was dated 08.02.2024, why it took three weeks to the applicants to bring the said order to the notice of State Government, has not been explained. Then, though the legal opinion was given on 16.08.2024, it appears that the Law and Judiciary Department took long time to permit filing of review application i.e. by letter dated 03.12.2024. So, the period between 18.06.2023 to 03.12.2024 (both the dates excluded) is unexplained. Thereafter, the State Government approved the draft of review application on 10.01.2025 and directed applicant No.2 to file the review by letter dated 27.02.2025 and then it is stated that respondent No.2 had authorized to respondent No.3 to file review application by letter dated 10.10.2025. Here, again period between 27.02.2025 to 10.10.2025 (both days excluded) delay has not been properly explained. Even thereafter also respondent No.3 has taken further almost two months to file review application in this Court. Again this period is unexplained. Therefore, we come to the conclusion that the delay of 676 days in filing review application is not explained at all properly.

5 Merely because the applicants are the Government authorities, the delay *per se* cannot be condoned. The Government is also like any other litigant and, therefore, the Government also has to explain the delay. We can

understand the administrative exigencies, but each time and at each stage that cannot be the reason. On this ground alone application for delay condonation deserves to be dismissed.

6 For the sake of arguments it is taken that the delay has been explained properly; yet, and the grounds for the review if considered as argued by learned AGP would demonstrate that all the facts were before this Court and there was also the affidavit-in-reply filed on behalf of Government in the matter which was considered by this Court. The grounds for review are in the form of appeal and this Court cannot entertain a review under disguise of appeal.

7 The legal position in respect of review application stands as follows :

In **Vinay Sharma and another vs. State (NCT of Delhi) and others**
[(2018) 8 SCC 186], it has been observed that -

“Power of review cannot be confused with appellate power which enables a superior Court to correct all errors committed by a subordinate Court. A repetition of old and overruled argument is not enough to reopen concluded adjudications.”

7.1 Further, in **Thungabhadra Industried Ltd. vs. Government of A.P**

[AIR 1964 SC 1372] (Three Judges Bench) it has been observed that -

“A review is by no means an appeal in disguise whereby an erroneous decision is reheard and corrected, but lies only for patent error. We do not consider that this furnishes a suitable occasion for dealing with this difference exhaustively or in any great detail, but it would suffice for us to say that where without any elaborate argument one could point out to the error and say here is a substantial point of law which stares one in the face, and there could reasonably be no two opinions, entertained about it, a clear case of error apparent on the face of the record would be made out.”

7.2 Further, in **Parsion Devi vs. Sumitri Devi [(1997) 8 SCC 715]** it has been observed that -

“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 the record justifying the court to exercise its power of review under Order 47 Rule 1 CPC. A review petition, it must be remembered has a limited purpose and cannot be allowed to be 'an appeal in disguise.’”

7.3 Same ratio has been reiterated in **Vikram Singh @ Vicky Walia and another vs. State of Punjab and another [(2017) 8 SCC 518]**, wherein it has been observed that “*Review cannot be made on those grounds which were already urged during appeal*”.

7.4 Further, in **State of West Bengal and others vs. Kamal Sengupta and another [(2008) 8 SCC 612]** it has been held thus -

"21. At this stage, it is apposite to observe that where a review is sought on the ground of discovery of new matter or evidence, such matter or evidence must be relevant and must be of such a character that if the same had been produced, it might have altered the judgment. In other words, mere discovery of new or important matter or evidence is not sufficient ground for review *ex debito justitiae*. Not only this, the party seeking review has also to show that such additional 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 earlier.

22. The term "mistake or error apparent" by its very connotation signifies an error which is evident per se from the record of the case and does not require detailed examination, scrutiny and elucidation either of the facts or the legal position. If an error is not self evident and detection thereof requires long debate and process of reasoning, it cannot be treated as an error apparent on the face of the record for the purpose of Order 47 Rule 1 CPC or Section 22(3)(f) of the Act. To put it differently an order or decision or judgment cannot be corrected merely because it is erroneous in law or on the ground that a different view could have been taken by the court/tribunal on a point of factor law. In any case, while exercising the power of review, the court/tribunal concerned cannot sit in appeal over its judgment/decision."

7.5 Further, reliance can be placed on **Inderchand Jain (dead) through L.Rs. vs. Motilal (dead) through L.Rs.** [(2009) 14 SCC 663], wherein it has been reiterated that “*Review is not an appeal in disguise. Review Court cannot sit in appeal over its own order and re-hearing of the matter is impermissible in law.*”

7.6 Reliance was then placed on **Board of Control for Cricket in India vs. Netaji Cricket Club** [(2005) 4 SCC 741]. Note of the earlier decisions was taken by the Hon’ble Supreme Court and it has been observed that “*When there is new discovery of fact, then there is no question of applying the review powers, unless it is shown that certain facts were absolutely not within the knowledge of the appellant.*”

7.7 In **Kamlesh Verma vs. Mayawati and others** [(2013) 8 SCC 320] it has been held by Hon’ble Supreme Court that “change of Advocate and then re-opening of the same point by the new Advocate is impermissible in review. In this case principles have been summarized relating to review jurisdiction. One of the grounds is – ix) Review is not maintainable when the same relief sought at the time of arguing the main matter had been negatived.

8 When the facts those were put forth were considered and if at all

according to the applicants those facts have been wrongly considered or those facts which ought to have been considered have not been considered, then a review application on said ground is not maintainable. Therefore, on both the counts, we do not find this to be a fit case to entertain the Civil Application as well as review petition. Hence, Civil Application and Review Petition stand dismissed.

(S.G. CHAPALGAONKAR, J.)

(SMT. VIBHA KANKANWADI, J.)

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