

**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CIVIL APPELLATE JURISDICTION**

**REVIEW PETITION NO. 1 OF 2026
IN
WRIT PETITION NO. 7024 OF 2022**

Anand Ramling Tanavade
Age: 48 years, Occ. Agriculturist,
R/o At Post Shirwa, Taluka- Akkalkot,
Dist. Solapur.

...Review Petitioner

VERSUS

1. The State of Maharashtra
Through Principal Secretary,
Department of Rural Development
2. The Additional Divisional Commissioner
Pune Division, Pune.
3. Sharanbasappa Kalanappa Birajdar
Age: Adult, Occ. Not known,
R/o. At Post Shirwal, Taluka- Akkalkot,
Dist. Solapur

.....Respondents

Mr. V.D. Salunke a/w Ms. Vrushali L. Maindad, Mr. Mayur Salunke, Ms. Shivani Veer and Ms. Gayatri Kulkarni, Advocates for the review petitioner
Mr. S.D. Rayarikar, AGP for State
Mr. Shekhar Jagtap, Advocate for respondent No. 3

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CORAM : NITIN B. SURYAWANSHI, J.

DATE : 20th JANUARY, 2026

ORDER :

1. By this review petition, petitioner seeks review of the judgment and order dated 15.12.2025 passed in Writ Petition No. 7024 of 2022.
2. Heard learned advocate for the review petitioner, learned

advocate for respondent No. 3 and learned AGP for the State. Perused the record.

3. By placing reliance on the decision of the Apex Court in ***Khoday Distilleries Ltd and Others Vs. Mahadeshwara S.S.K. Ltd., 2019 (4) SCC 376***, learned advocate for the petitioner submits that, though Special Leave Petition filed by the petitioner challenging the judgment under review is dismissed by the Apex Court, still the present review petition is maintainable. He also submits that this Court (Coram: Dr. D.Y. Chandrachud, J.) by order dated 15.10.2000 passed in Writ Petition No. 4351 of 2000, has allowed the writ petition of similarly circumstanced petitioner therein and set aside the Additional Commissioner's order of disqualifying the petitioner therein. He submits that even if the argument of respondent No. 3 is accepted, still petitioner had incurred disqualification before filing of his nomination, therefore, this could have been a matter of election petition and could not have been considered under Section 40 of the Maharashtra Zilla Parishad and Panchayat Samiti Act, 1961.

4. Learned advocate for respondent No. 3 submits that Special Leave Petition filed by the petitioner challenging the order under review is dismissed by the Apex Court on 05.01.2026 and immediately on 13.01.2026 present review petition is filed, which is liable to be dismissed on that ground alone. He submits that, the said decision of

the learned Single Judge relied upon by the Petitioner has no application to the facts of the present case. Section 16 (1) (n) which provides for disqualification if the person has more than 2 children born after the cutoff date, is inserted in the Act of 1961 after the said decision was rendered. He submits that no error apparent on the face of record is pointed out by the Petitioner. Merely because Advocate is changed, review petition cannot be filed and entertained.

5. Learned AGP supported the order under review and he submitted that no case is made out by the petitioner to entertain the review petition.

6. In paragraph No. 28 of ***Khoday Distilleries Ltd*** (supra), it is held by three Judges' Bench of the Hon'ble Supreme Court as follows:

“Since special leave petition was dismissed in limine without giving any reasons, the review petition filed by the appellant in the High Court would be maintainable and should have been decided on merits..... In this Case, we find that the special leave petition was dismissed with the following order passed on January 05, 2012:

‘We find no ground to interfere with the impugned order. The Special leave petition is dismissed.’

Here also, special leave petition was dismissed in limine and without any speaking order. After the dismissal of the special leave petition, the respondent in this appeal had approached the High Court with review petition. Said review petition is allowed by passing order dated December

12, 2012 on the ground of suppression of material facts by the appellant herein and commission of fraud on the Court. Such a review petitioner was maintainable. Therefore, the High Court was empowered to entertain the same on merits.”

7. Relying on the aforesaid observations, learned Advocate for the Petitioner submits that, though the SLP filed by the Petitioner is dismissed, as no case to interfere with the impugned judgment is made out, however since the question of law is kept open, present review petition is maintainable.

8. I do not agree with the interpretation of the Apex Court order sought to be advanced by the learned Advocate for the Petitioner. The question of law raised in the special leave petition is kept open by the Hon'ble Apex Court to be considered in the appropriate matter and not by the High Court in the present review petition, as is being propounded by the Petitioner. This is not a case wherein the Petitioner is claiming that the order under review is liable to be reviewed on the ground of suppression of material facts and commission of fraud on the court.

9. The main ground pressed into service by the learned Advocate for the Petitioner is that, whether section 40 of the Act of 1961 can be invoked in the present matter. Even this argument was advanced, it was considered and negated by this Court, by observing that:-

“Lastly, Mr. Kulkarni submits that pre-election disqualification cannot be taken up under Section 40 of the Act of 1961. However, such submission cannot be countenanced for simple reason that Section 16 (1) (n) of Act of 1961 prescribes disqualification if person has more than two children born after cut off date. If such disqualification is noticed after election of petitioner, it cannot be subjected to Election Petition. It is not case of petitioner that aforesaid disqualification was raised before Returning Officer or his nomination was accepted de-hors such disqualification. Therefore, in such cases Election Petition under section 27 of Act of 1961 cannot be remedy. Once disqualification is disclosed, it can be definitely raised before Competent Authority under section 40 of Act of 1961.”

10. The review petition filed by the Petitioner appears to be an appeal in disguise. All the arguments advanced seeking review were advanced in the Writ Petition and they were considered and dealt with by this Court in the judgment under review.

11. The Hon’ble Apex Court in **“Kamlesh Verma V/s Mayawati and Others” (2013) 8 SCC 320** has held:

“19. Review proceedings are not by way of an appeal and have to be strictly confined to the scope and ambit of Order 47 Rule 1 CPC. In review jurisdiction, mere disagreement with the view of the judgment cannot be the ground for invoking the same. As long as the point is already dealt with and answered, the parties are not entitled to challenge the impugned judgment in the guise that an alternate view is possible under the review jurisdiction.”

12. The Petitioner has failed to show any error apparent on the face of record. In **“State of West Bengal and Others V/s Kamal**

Sengupta and Another” (2008) 8 SCC 612, it is held :

“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 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 fact or law. In any case, while exercising the power of review, the court/tribunal concerned cannot sit in appeal over its judgment/decision.”

13. In the light of the above legal principles, the judgment under review cannot be corrected merely because, according to the Petitioner it is erroneous in law or a different view could have been taken by this court. This Court cannot sit in appeal over its own judgment while exercising the power of review.

14. It is necessary to mention here that, the Writ Petition was filed and argued by another Advocate and the present review petition is filed through another Advocate and argued by different Advocate. This practice is deprecated by the Apex Court in **“T. N. Electricity Board**

and Another V/s V. N. Raju Reddiar and Another” AIR 1997 SC 1005.

15. For the aforesaid reasons, there is no merit in the review petition and same is therefore dismissed.

(NITIN B. SURYAWANSHI, J.)