IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Review Petition No.110 of 2026 in
CWP No.5590 of 2023
Decided on: 06.11.2026

Pradeep Thakur ... Review Petitioner

Versus

State of Himachal Pradesh and others ... Respondents

Coram
Hon'ble Mr. Justice Ajay Mohan Goel, Judge.
Hon'ble Mr. Justice Yogesh Jaswal, Judge.
Whether approved for reporting?[1]Yes

For the Review petitioners:	Mr. Mohan Jain, Senior Advocate, with M/s Gurinder Singh, Divay Gupta, Arshdeep Singh Sandhawalia, Sejal and Haibhi Jit Singh Bola, Advocates.
For the respondents:	Mr. Anup Rattan, Advocate General Mr. Sushant Kaprate, Additional Advocate General.

Ajay Mohan Goel, Judge (Oral)

By way of this review petition, the petitioner is seeking the review of judgment dated 29.09.2026, passed by this Court in CWPs No.5590 of 2023, titled Pradeep Thakur Versus State of Himachal Pradesh and others and other connected matters, in terms whereof, all the writ petitions assailing the enhancement of the minimum guaranteed quota by the respondent-Department vide communication dated 27.03.2023 were dismissed on the ground of acquiescence and estoppel.

2. Learned Senior Counsel for the review petitioner argued that as the impugned act of the Department, which was under

[1] *Whether reporters of the local papers may be allowed to see the judgment?*

challenge in the said writ petitions was contrary to the law declared by the Hon'ble Supreme Court of India, meaning thereby that the same was arbitrary and not sustainable in law, therefore, as this aspect of the matter was ignored by this Court, the same calls for the review of the judgment. Learned Senior Counsel further submitted that the judgments of the Hon'ble Supreme Court of India were binding on all the Courts and as the judgments of the Hon'ble Supreme Court in this regard stood ignored by this Court, therefore also, the judgment needs to be reviewed. Learned Senior Counsel referred to the following judgments in the course of his arguments:-

> "*1. Punjab National Bank Versus Kalyani Transco, (2025) Law Finder (SC) 1626.*
> *2. Kerala Samsthana Chethu Thozhilali Union Versus State of Kerala & Ors. 2006 (4) SCC 327.*
> *3. Sanjeev Bhandari Versus State of Punjab & others, CWP No.3628 of 2004, judgment decided by the Hon'ble High Court of Punjab & Haryana on 31.03.2004,*
> *4. Judgment of the Hon'ble Delhi High Court in Oberoi Clarks Versus Excise Taxation Officer (Delhi), 1970 Law Finder (Delhi) 163.*"

No other point was urged.

3. It is settled law that review of a judgment can be sought if there is an error apparent on the face of the record. For that, of course, it has to be demonstrated that there is an error apparent in the judgment in reference to the pleadings in the petition.

4. During the course of his submissions, learned Senior Counsel for the petitioner did not refer to the pleadings in the writ petition of the petitioner at all vis-à-vis the judgment, review of

which has been sought, to demonstrate that there indeed was an error apparent on the face of record in the judgment.

5. Relevant portion of the judgment, review of which is being sought, is quoted herein below:-

> "*...39. This Court is of the considered view that as the petitioners acquiesced to the enhancement of the Minimum Guaranteed Quota by the Department by not protesting to the enhancement thereafter in terms of Annexure P-4 dated 27th March, 2023, they are estopped from filing and maintaining these writ petitions.*
> *40. The vends in issue are allotted to a successful party for a period of one year from the month of April of the year concerned up to the 31st March of the forthcoming year. Thus, the life of the acceptance of the bid of the successful bidder is twelve months.*
> *41. In the present case, the petitions have been filed by the petitioners in the month of July, 2023 and thereafter against the enhancement of the Minimum Guaranteed Quota, which was done by the Department in the month of March 2023. Thus, there is a delay of three and a half months, at least, in assailing this act of the State, which period, according to us, in the peculiar facts of this case, is fatal.*
> *42. Though, at the first blush, the filing of a writ petitions against a notification issued by the Government just after three months of its issuance does seem to be a challenge with due diligence, but herein, as the life of the vend allotted to the petitioners is twelve months, this means that the petitions were filed before this Court, assailing the enhancement of the Minimum Guaranteed Quota by the State after one-third of the period of the licenses was over.*
> *43. In other words, if we construe that the vend was allotted to the petitioners for a period of 100 years, then the petitioners approached this Court assailing the enhancement in the Minimum guaranteed quota undertaken by the Government after about 30 years as from the date of the enhancement under challenge and also from the date when the bids of the petitioners were accepted.*
> *44.Therefore, in a case where the life period of the tender*

itself is twelve months, approaching a Court of law after one-third of the currency of the license is over, obviously amounts to delay.

45. No plausible explanation was given by the petitioners as to why there was no challenge to the increase in the Minimum Guaranteed Quota at the time when the same was done by the Government.

46. The contention of the learned counsel, generally was, that at the relevant time, taking into consideration the business as it was, the petitioners were under the bona fide belief that they would be in a position to lift the Minimum Guaranteed Quota. They submitted that as later on, on account of natural calamities etc., they were not able to lift the Minimum Guaranteed Quota, it was in these circumstances that they approached the Court of Law seeking the setting aside of the enhancement of the quota.

47.This Court is of the considered view that not challenging the enhancement of the Minimum Guaranteed Quota immediately after the enhancement was done by the Department, which enhancement was before the bids of the petitioners were accepted, has to be construed that the petitioners were not indeed aggrieved by the said enhancement in the Minimum Guaranteed Quota, otherwise, at least some amongst them should and would have approached the Court at the relevant time. They approached the Court only after they were unable to lift the minimum guaranteed quota.

This, according to us, is no reason to entertain belated petitions, wherein the petitioners are otherwise barred from assailing the notification on account of their own act of acquiescence and estoppel.

48. Therefore, in light of above discussions, as according to us, these petitions are not maintainable, as the petitioners are estopped by their act of acquiescence and are hence estopped from filing these petitions, the same are dismissed. Same is the fate of other petitions also, in which, the petitioners have assailed the notice and subsequent orders passed by the Authorities, as all of them owe their foundation to Notification dated 27.03.2023 (Annexure P-4), with which, the Court has not interfered in these petitions. Interim orders, if any, stand vacated. Pending Miscellaneous applications, if any, also stand disposed of."

6. Having heard learned Senior Counsel for the review petitioner and having gone through the grounds of review petition as also the judgments relied upon by learned Senior Counsel and also the judgment, review of which is sought by the petitioner, we are of the considered view that there is no merit in the present review petition.

7. While deciding the writ petition, this Court took into consideration the conduct of the parties and as this Court was of the considered view that the parties had acquiesced to the communication dated 27.03.2023, by not assailing the same when it was issued and thereafter, by acting upon it, the writs were not maintainable on account of the principle of acquiescence and estoppel.

8. In this backdrop, this Court did not go into the legality of the communication, because as per this Court, the writs were not maintainable. During the course of his submissions, learned Senior Counsel for the petitioner could not point out from the pleadings that the findings returned by this Court while dismissing the writ petitions on the ground of acquiescence and estoppel were contrary to the pleadings and thus, there was any error apparent on the face of the record.

9. The thrust of the arguments of the learned Senior Counsel was that as communication dated 27.03.2023, issued by

the Department was bad in law, therefore, the judgment calls for review.

10. We reiterate that in light of the fact that this Court had not gone into the legality of the communication of the State and had rejected the petitions on the ground of acquiescence and estoppel, the judgments being relied upon on behalf of the petitioners do not convince us that the judgment under challenge suffers from any error apparent on the face of the record and it seeks a recall on that account.

11. In fact, the crux of the arguments of the learned Senior Counsel was that the impugned communication of the Department was against the settled principles of law declared by the Hon'ble Supreme Court of India. We reiterate that neither did we go into the legality of the communication, nor have made any observation regarding the correctness of the communication in the judgment. We dismissed the petitions on account of the acquiescence and estoppel, based on the conduct of the petitioners.

12. As far as said findings returned by us are concerned, it could not be pointed out during the course of arguments that there was any error apparent in the judgment delivered by us on said count.

13. We reiterate that during the course of his submissions learned Senior Counsel for the review petitioner did not refer to the

pleadings at all so as to point out as to what was the error apparent on the face of the judgment in relation to the pleadings contained in the writ petition. Learned Senior Counsel only referred to the judgments mentioned by us hereinabove to substantiate his contention. In fact, none of these judgments were otherwise cited before us when the writ petitions were heard.

14. Be that as it may, Hon'ble Coordinate Bench of this Court in Review Petition No.11 of 2019, titled UCO Bank and others Versus Chaman Singh, along with connected matter, decided on 05.08.2019, has held the following with regard to the parameters with regard to maintainability/non-maintainability of a review petition:-

> " ...7. Division Bench of this Court in Chet Ram & another:
> Gram Panchayat Thunag vs. State of Himachal Pradesh and others, Civil Review No. 7 of 2018 (in CWP No. 2135 of 2016), decided on 17.7.2018, wherein it was held as under:-6
> "20. The principles, on which "any person" "aggrieved from a decree or order", can seek review thereof, is now well settled. It has to be on the basis of statutory right under Order 47 Rule 1 and that being discovery of a new and important matter or evidence, which after exercise of due diligence was not within the knowledge or could be produced at the time of passing of the order, on account of (a) some mistake or error apparent on the face of record; or (b) for any other sufficient reason.
> 21. These principles can be culled out as under:
> **(A) Source**
> (i) The Court of review has only limited jurisdiction circumscribed by the definitive limits fixed by the language used in Order 47 Rule 1 of the Code of Civil Procedure. {Moran Mar Basselios Catholicos & another

v. Most Rev. Mar Poulose Athanasius & others, AIR 1954 SC 526 (Para-32) (Three-Judge Bench}.

(ii) Review proceedings are not by way of an appeal. {Meera Bhanja (Smt.) v. Nirmala Kumari Choudhury (Smt.), (1995) 1 SCC 170 (Para-8) (Two-Judge Bench)}.

(iii) Review is a creation of statute. { Patel Narshi Thakershi & others v. Shri Pradyumansinghji Arjunsinghji, (1971) 3 SCC 844 (Three-Judge Bench); and 7 6 SCC 224 (Para-52) (Two-Judge Bench) (Para-52)}.

(B) Grounds

(iv) Review is permissible only when circumstances of "substantial and compelling character" make it necessary to do so. {Sajjan Singh & others v. State of Rajasthan & others, AIR 1965 SC 845 (Para-21) (Five-Judge Bench); Lily Thomas (supra); {M/s Northern India Caterers (India) Ltd. v. Lt.Governor of Delhi, (1980) 2 SCC 167 (Para-8)
(Three-Judge Bench)}.

(v) Review is permissible only where there is glaring omission and patent mistake and like grave error has crept in by judicial fallibility. {Northern India Caterers (supra) (Para-8)}.

(vi) Error apparent on the face of record has to be decided on the facts of each case, for an erroneous decision, by itself, does not warrant review. {Akhilesh Yadav v. Vishwanath Chaturvedi & others, (2013) 2 SCC 1 (Para-1) (Two-Judge Bench); and Dr. Subramanian Swamy v. State of Tamil Nadu and others, (2014) 5 SCC 75 (Para-52) (Two-Judge Bench)}.

(vii) Error apparent is not which has to be fished out and searched. It must be an error of inadvertence. The power of review can be exercised for correction of a mistake but not to substitute a view. The mere possibility of two views on the subject is not a ground for review. {(Lily Thomas (supra)

(C) Error/Mistake

(viii) In Hari Vishnu Kamath v. Ahmad Ishaque & others, AIR 1955 SC 233 (Seven-Judge Bench), the Court expounded as to what can be an "error of law", "apparent on the face of record", in the following terms (Para-23):

"that no error could be said to be apparent on the face of the record if it was not self-evident, and if it required an examination or argument to establish it. This test

might afford a satisfactory basis for decision in the majority of cases. But there must be cases in which even this test might break down, because judicial opinions also differ, and an error that might be considered by one Judge as self -evident might not be so considered by another. The fact is that what is an error apparent on the face of the record cannot be defined precisely or exhaustively, there being an element of indefiniteness inherent in its very nature, and it must be left to be determined judicially on the facts of each case." (Emphasis supplied)

(ix) "Mistake apparent form the record" is different from "an error apparent on the face of record". {(ITO v. Ashok Textiles Ltd., AIR 1961 SC 699) (Three-Judge Bench)}.

(x) The 'mistake apparent on the face of record' must be obvious and patent. It must not be such, which can be established by long-drawn process of reasoning. {T.S. Balaram v. Volkart Bros, (1971) 2 SCC 526 (Para-5) (Two-Judge Bench)}. Such mistake should be "quite obvious" {Commissioner of Central Excise, Balapur, Mumbai v. RDC Concrete (India) Private Limited, (2011) 12 SCC 166 (Para-21) (Two-Judge Bench)}.

(xi) There is a difference between a mere erroneous decision and a decision which could be characterized as vitiated by 'error apparent'. {Sasi (Dead) through Legal Representatives v. Aravindakshan Nair & others, (2017) 4 SCC 692 (Two-Judge Bench)}.

(D) Sufficient Reason

(xii) "Any other sufficient reason" must mean a reason sufficient on grounds, at least analogous to those specified in the Rule. {Moran Mar Basselios Catholicos (supra) (Para-32)}.

(xiii) Non-existence of a fact, leading to passing of an order, resulting into miscarriage of justice, is a reason sufficient enough for reviewing the same. {(Lily Thomas (supra)}.

(xiv) "Sufficient reason" would include misconception of fact or law by a Court or even an advocate. {Board of Control for Cricket in India & another v.Netaji Cricket Club & others, (2005) 4 SCC 741 (Para-90) (Two-Judge Bench)}.

(E) Power

(xv)While rectifying a mistake, an erroneous view of law or a debatable point cannot be decided.So also,incorrect application of law can also not be corrected.

{ ITO v. Ashok Textiles Ltd., AIR 1961 SC 699) (Three-Judge Bench}.
(xvi) Discovery of new material to be considered with great caution and order or review should not be granted very lightly. {Dr. Somayajulu, Secretary v. Attili Appala Swamy and others, (Para-20) (Three-Judge Bench)}. In a review petition, Court is not to reappreciate the evidence and reach at a different conclusion, even if it is so possible. { Kerala SEB v. Hitech Electrothermics & Hydropower Ltd., (2005) 6 SCC 651 (Para-10) (Two-Judge Bench)}.
(xvii) Review is not rehearing of original matter. {Jain Studios Ltd. v. Shin Satellite Public Co. Ltd., (2006) 5 SCC 501 (Para-11) (Single-Judge)(Chamber Judge)}.
22. We notice that the aforesaid principles also stand crystallized by the Apex court in Kamlesh Verma v. Mayawati & others, (2013) 8 SCC 320, as under:
“20. Thus, in view of the above, the following grounds of review are maintainable as stipulated by the statute:
20.1 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 has been interpreted in Chhajju Ram vs. Neki, 1922 AIR(PC) 112 and approved by this Court in Moran Mar Basselios Catholicos vs. Most Rev. Mar Poulose Athanasius & Ors., 1955 1 SCR 520, 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 vs. Sandur Manganese & Iron Ores Ltd. & Ors., (2013) 8 SCC 337.
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 re-heard 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 negatived."
> 23. The aforesaid principles stand laid down, in the backdrop of different legislations.
> 24. However, we are of the considered view that in exercise of our power under Article 226 of the Constitution of India, nothing precludes us from exercising the power of review, which inheres in every Court of plenary jurisdiction, to prevent miscarriage of justice or to correct grave and palpable errors committed by it (Para-8). {(Shivdeo Singh & others v. State of Punjab & others, AIR 1963 SC 1909 (Five-Judge Bench)}.
> 25. We may not be misunderstood to mean that the principles culled out (supra), are not required to be adhered to. Definitely, exercise of power, under Article 226 of the Constitution, must be within the principles so enunciated {Usha Bhakti v. State of Uttar Pradesh & others, (2014) 7 SCC 663 (Two-Judge Bench)}, but then, what is important and significant is as to whether the judgment, subject matter of review, inter alia, has resulted into miscarriage of justice or not."

15. This Court again reiterates that in the course of the hearing of this review petition, it could not be pointed out at all on behalf of the petitioner that there indeed was a mistake or an error apparent on the face of the record and simply because the petitioner is not satisfied with the outcome of the writ petition, the same does not confer any right upon the petitioner to seek a review of the

judgment because remedy for that lies somewhere else. Review is meant for correction of an error apparent on the face of record and for correction of mistake, but not to substitute a view.

16. Therefore, in light of the above observations, the present review petition is dismissed. Pending miscellaneous application(s), if any also stand disposed of accordingly.

(Ajay Mohan Goel)
Judge

(Yogesh Jaswal)
Judge

November 06, 2026
(Rishi)