

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI**

R.A. No.29 of 2018
IN
O.A. No.1448 of 2017

This the 30th day of August 2019

Hon'ble Ms. Nita Chowdhury, Member (A)
Hon'ble Mr. S.N. Terdal, Member (J)

1. Mrs. Naseema,
W/o Mohd. Rais Khan,
R/o H.No.876, Street No.30/3,
Jafrabad, New Seelampur,
Delhi-110053.
2. Mrs. Rehana,
W/o Shri Jeaur Rehman,
R/o H.No.1094, Gali No.39/1,
Near Kuan Wali Masjid, Jafrabad,
Seelampur, Delhi-110053.
3. Mrs. Khadija,
W/o Mohd. Feroj,
R/o B-46, Welcome,
Seelampur, Delhi-110053.

... Review Applicants

(None present even on revised call)

Versus

1. Govt. of NCT of Delhi,
Through Chief Secretary,
Delhi Secretariat,
I.P. Estate, New Delhi-110002.
2. Director of Education,
(Through its Principle Secretary),
Govt. of NCT of Delhi,
Delhi Secretariat,
I.P. Estate, New Delhi-110002.
3. Urdu Academy,
Through its Secretary, CPO Building,
Kashmiri Gate, Delhi-110006.

.... Review Respondents

(By Advocate : Shri Amit Yadav)

O R D E R (Oral)

Ms. Nita Chowdhury, Member (A):

Today when this matter was taken up for hearing, nobody appeared for the applicants even on revised call and since the issue involved in this Review Application is confined only to the question of jurisdiction of this Tribunal to decide this matter, we proceed with this matter by invoking the provisions of Rule 15 of the CAT (Procedure) Rules, 1987. Accordingly, we heard learned counsel for the respondents.

2. In this review application, the applicants are seeking the review of the Order of this Tribunal dated 15.1.2018 in OA 1448/2017 vide which this Tribunal dismissed the said OA with the following observations:-

“2. With the consent of both parties, the main OA itself is taken up for final disposal.

3. Since the applicants are admittedly working under the 4th respondent - Sir Syed Memorial School, being run by Sir Syed Educational and Social Welfare Society, and as this Tribunal in OA No.3903/2013 in the similar circumstances has already held that the 4th respondent school is a society registered under the Societies 3 OA No.1448/2017 Registration Act, which has not yet been notified under Section 14 of the Administrative Tribunals Act, 1985, the instant OA is also dismissed for want of jurisdiction. However, the applicants are at liberty to avail their remedies, in accordance with law, before an appropriate legal forum, if they are so advised. No costs.”

3. In the Review Application, the review applicants sought the review of the said Order only on the ground that the OA was dismissed on the ground of jurisdiction but the fact that applicants in the said OA have already filed the amended

Memo of Parties vide filing no.5793 on 24.7.2017 by which Sir Syed Memorial School, which was arrayed as respondents in the OA was deleted from the array of parties. The review applicants further pleaded that they are seeking the benefits of Orders passed by the Hon'ble High Court of Delhi in WP(C) No.13296, filed by Durrej Fatima Naqvi Vs. Govt. of NCT & others and WP(C) No.2221/2010 filed by Ms. Ishrat Jamal and others vs. Govt. of NCT & others and they further pleaded that the said judgments of the Hon'ble Delhi High Court were followed by this Tribunal in OA 1875/2012 (***Ms. Sureiya Khatoon & Ors.***).

4. During the course of hearing, counsel for the review respondents submitted that applicants were engaged by the Respondent no.4, i.e., Sir Syed Memorial School. Counsel further submitted that the said OA was rightly dismissed by this Tribunal on the ground of jurisdiction as Sir Syed Memorial School, who was arrayed as respondent no.4 in the OA is a society not amenable to the jurisdiction of this Tribunal. Counsel also stated that cases relied upon by the review applicants have no precedential value over the instant case as the facts and circumstances of the cited cases are entirely different from the present matter.

5. We have heard learned counsel for the respondents and perused the pleadings available on record as also the Order under Review very carefully. The aforesaid grounds, as noted above, taken in the present Review Application are not based on any error apparent on the face of record. In fact, the review

applicants is questioning the conclusion arrived at by this Tribunal in the said Order. If we agree to their prayer, we would be going into the merits of the case again and re-writing another judgment of the same case. By doing so, we would be acting as an appellate authority, which is not permissible in review. In the case of ***Aribam Tuleshwar Sharma vs. Aribam Pishak Sharma***, [AIR 1979 SC 1047], the Hon'ble Supreme Court has observed as follows:-

"It is true as observed by this Court in *Shivdeo Singh v. State of Punjab*, AIR 1963 SC 1909, there is nothing in Article 226 of the Constitution to preclude a High Court from exercising the power of review which is inherent in every Court of plenary jurisdiction to prevent miscarriage of justice or to correct grave and palpable errors committed by it. But, there are definitive limits to the exercise of the power of review. The power of review may be exercised on the discovery of new and important matter or evidence which, after the exercise of due diligence was not within the knowledge of the person seeking the review or could not be produced by him at the time when the order was made; it may be exercised where some mistake or error apparent on the face of the record is found; it may also be exercised on any analogous ground. But, it may not be exercised on the ground that the decision was erroneous on merits. That would be the province of a Court of appeal. A power of review is not to be confused with appellate power which may enable an Appellate Court to correct all matters or errors committed by the Subordinate Court."

Again in the case of ***Ajit Kumar Rath vs. State of Orissa and others***, 1999 (9) SCC 596, the Hon'ble Supreme Court has observed as follows:-

"The provisions extracted above indicate that the power of review available to the Tribunal is the same as has been given to a court under Section 114 read with Order 47 CPC. The power is not absolute and is hedged in by the restrictions indicated in Order 47. The power can be exercised on the application of a person on 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 order was made. The power can also be exercised on account of some mistake or error apparent on the face of the record or for any other sufficient reason. A review cannot be claimed or asked for merely for a fresh hearing or arguments or correction of an erroneous view taken earlier, that is to say, the power of review can be exercised only for correction of a patent error of law or fact which stares in the face without any elaborate argument being needed for establishing it. **It may be pointed out that the expression "any other sufficient reason" used in Order 47 Rule 1 means a reason sufficiently analogous to those specified in the rule.**

Any other attempt, except an attempt to correct an apparent error or an attempt not based on any ground set out in Order 47, would amount to an abuse of the liberty given to the Tribunal under the Act to review its judgment."

[Emphasis added]

In the case of ***Gopal Singh vs. State Cadre Forest Officers' Assn. and others***, (2007 (9) SCC 369), the Hon'ble Supreme Court observed as follows:-

"The learned counsel for the State also pointed out that there was no necessity whatsoever on the part of the Tribunal to review its own judgment. Even after the microscopic examination of the

judgment of the Tribunal we could not find a single reason in the whole judgment as to how the review was justified and for what reasons. No apparent error on the face of the record was pointed, nor was it discussed. Thereby the Tribunal sat as an appellate authority over its own judgment. This was completely impermissible and we agree with the High Court (Justice Sinha) that the Tribunal has traveled out of its jurisdiction to write a second order in the name of reviewing its own judgment. In fact the learned counsel for the appellant did not address us on this very vital aspect."

6. Thus, on the basis of the above citations and observations made hereinabove, we come to the conclusion that it was not open to the review applicants to question the decision taken by this Tribunal. In fact, they could have only pointed out any error apparent on the face of record, which has not been done in any of the grounds taken in the Review Application rather the review applicants in the garb of present review application is trying to re-argue the whole case, which is not permissible in view of the aforesaid observations of the Hon'ble Supreme Court.

7. It is further observed that they were admittedly working with Sir Syed Memorial School and the said School, being a Society, is not shown or established to have been within the territorial jurisdiction of this Tribunal despite the fact that earlier OA, being OA No.3903/2013, of these very applicants was allowed to be dismissed as withdrawn with the following observations:-

“When this matter was taken up for hearing, the learned counsel for the applicant having noticed that the 4th respondent (Sir Syed Memorial School) against which the present OA is filed, is a Society registered under the Societies Registration Act, which has not yet been notified under Section 14 of the Administrative Tribunals Act, 1985, he seeks leave of this Tribunal to withdraw the OA with a liberty to approach the appropriate forum, in accordance with law.

2. Accordingly, the OA is dismissed as withdrawn with liberty as aforesaid. No costs.”

8. The Order under review vide which OA 1448/2017 was dismissed on the ground that Sir Syed Memorial School, being run by Sir Syed Educational and Social Welfare Society, and the name of the said Institution/Society is not listed in the names of Institution/Society as notified by the Government under Section 14 of the Administrative Tribunals Act, 1985 whose cases can be adjudicated by this Tribunal on merit and the said OA was dismissed only on the ground of lack of jurisdiction and hence, in the absence of jurisdiction over the said Institution/Society, we are unable to go into the merits of this case.

9. Although the review applicants pleaded that they have filed amended Memo of Parties in this case, but the same has not been filed in accordance with the rules and procedure for this purpose as the review applicants were given adjournment to enable them to take appropriate steps for seeking amendment of Memo of Parties vide order dated 18.7.2017 passed in the OA and not as if this Tribunal straightway permitted them to file amended Memo of Parties. As such the

said plea taken in this RA is not sustainable in this matter whereas the review applicants ought to have moved an application and waited for the outcome of the said application. However, the Tribunal passed the Order dated 15.1.2018 in OA 1448/2017 after considering all the facts prevailing on that day. Hence, we do not find any reasons to accept the RA in this matter. It is further to be noted that while passing the aforesaid Order dated 15.1.2008, this Tribunal specifically observed that the cause of the applicant of the OA do not come within the jurisdiction of this Tribunal in view of Section 14 of the Administrative Tribunals Act, 1985.

10. In view of the above and for the foregoing reasons, we find that the preset Review Application is devoid of merit and the same is accordingly dismissed. There shall be no order as to costs.

(S.N. Terdal)
Member (J)

(Nita Chowdhury)
Member (A)

/ravi/