

(2012) 07 DEL CK 0218

In the Delhi High Court

Case No : Review Application No. 354 of 2008 in LPA No.417 of 2007

Delhi Development Authority

APPELLANT

Vs

M/s Marble Point and Ors

RESPONDENT

Date of Decision : 06-07-2012

Acts Referred:

Constitution of India, 1950 — Article 32

Citation : (2012) 191 DLT 514

Hon'ble Judges : Veena Birbal, J;Anil Kumar, J

Bench : Division Bench

Advocate : Jayant Bhushan, Mr. Rajiv Bansal, Mr. Shanti Bhushan and Mr. Manish Bishnoi, for the Appellant; B.S. Mann, for the Respondent

Final Decision : Dismissed

Judgement

Veena Birbal, J.—This order shall dispose of the application of Shri Jayant Bhushan Sr. Advocate against the order dated 20th August, 2008 disposing of the Letters Patent Appeal of the appellant and seeking review/recall of order by which order this court had also observed without referring the matter to Bar Council for appropriate action against applicant and without imposing any penalty or punishment that in all fairness, the applicant should not have appeared on behalf of the writ petitioners/respondents in the LPA as he had appeared on behalf of DDA/Appellant in the earlier writ petition filed by the same writ petitioners in respect of allotment of alternative sites to them in Marble Market Papankala under the Scheme of Rehabilitation of Marble Traders who had been removed from the place of their business. The factual matrix leading to this present application is detailed hereinafter. The respondents in the present LPA were carrying on the business of marble trading at Mehrauli- Badarpur Road since 1988. They were removed from their respective sites on 14th February, 1995 by the appellant/Delhi Development Authority on the ground that they were encroachers on public property. Subsequently, on 26th March, 1996, pursuant to the orders passed by the Supreme Court in M.C. Mehta v. U.O.I & Ors., 94

marble traders operating from the same locality were removed by the appellant. These 94 traders who were removed pursuant to the orders of the Supreme Court were allotted alternate sites by the appellant under the Scheme of Rehabilitation of Marble Traders in Pappankalan, however, the respondents herein were denied allotment.

2. The respondents preferred a writ petition being WP(C) 1674/1997 (earlier writ petition) seeking a writ of mandamus to DDA to allot alternate shops or sites to them on the terms and conditions as applicable to the other 94 persons who had been found to be eligible for allotment of sites. The prayer clause (in WP(C) No. 1674/1997) filed by the respondents was as follows -

(a) Issue a writ of mandamus commanding the respondent to allot the alternative shop/plot to the petitioners on the terms and conditions as applicable to the other equally placed 94 persons alleged to be eligible for allotment by the DDA in the marble market at Papankala under the Scheme of Rehabilitation of the Marble traders removed/uprooted from Central South Ridge, Mehrauli-Badarpur Road in the scheme framed by the respondents and published in the Hindustan Times dated 7.3.1997.

3. The earlier writ petition filed by the respondents was contested by the Delhi Development Authority and a counter affidavit dated 13th April, 1998 of the Director (CL) was filed by the applicant, Shri Jayant Bhushan Advocate. The writ petition was contested by the applicant on behalf of Delhi Development Authority contending inter alia that the respondents are not entitled for allotment of alternative sites at the reserved price. The relevant portion of the affidavit filed on behalf of the DDA through the counsel/applicant is as under:

10. It is submitted that the petitioners, who are rank encroachers cannot take advantage of their own wrongs and claim allotment of alternative plots in view of their unauthorized encroachments. In any case, the petitioners cannot be equated with those who were removed after 26.3.1996 in pursuance of the directions of the Hon'ble Supreme Court and therefore, are not entitled to alternative allotment at reserved price.

In the writ petition, the plea of allotment at reserved price was contested by the Delhi Development Authority through its Counsel, Shri Jayant Bhushan Advocate/applicant.

4. The said writ petition was, however, disposed of by an order dated 2nd April, 2003, the relevant portion of which is as follows -

In view of the aforesaid, it is directed that the petitioners should make application on the proper format used to make the application by those 94 persons and cases of the petitioners shall be considered on pari materia basis within a maximum period of three months from today. It is made clear that only those of the petitioners, who fulfill the said parameters and eligibility criteria would be entitled to the alternative allotment. The writ petition is disposed of

with the aforesaid directions.

5. Pursuant to the above said directions, the appellant/DDA constituted a committee to look into the matter of the entitlements of the respondents for alternate allotment, which committee submitted a report before the competent authority on 21st October, 2004 recommending allotment of the alternative plots to the respondents. The said recommendation was also approved by the Lt. Governor. Thereafter, the appellants vide letter dated 12th July, 2006 asked the respondents to deposit a sum of Rs.33,47,663/- as the initial amount constituting 35% of the premium of the alternative plot within 60 days of the issuance of the letter.

6. Aggrieved by the said letter the respondents preferred a writ petition being WP(C) No. 12038-47/2006 seeking a writ of certiorari to quash the letter dated 12th July, 2006 issued by the appellant to the extent that it raised a demand for the alternative plots allotted to the respondents at the rate of Rs.38,259/- per sq. m, on the ground that the 94 marble traders who were similarly placed as the respondents were allotted similar plots for Rs.5200/- per sq. m. in 1997.

7. By an order dated 6th February, 2006 the learned single Judge quashed the demand letter dated 12th July, 2006 and held that the respondents were entitled to the allotment and the grant of leasehold rights @ Rs.5200/- per sq. m. By a subsequent order dated 21st February, 2006 the learned Judge had also directed the appellant to conduct draw of lots and to allot plots to the respondents within 8 weeks.

8. The appellant had impugned these two orders dated 6th February, 2006 and 21st February, 2006 in the present appeal. A Division Bench of this court by judgment dated 20th August, 2008 had dismissed the appeal. While pronouncing the judgment, it had come to the notice of the Court that Shri Jayant Bhushan, Senior Advocate who had been appearing for the respondents had filed an affidavit on behalf of the DDA/appellant in WP(C) No. 1674/1997, earlier writ petition. As mentioned before the said writ petition had been filed by the respondents herein against the DDA/appellant herein, seeking a writ of mandamus to DDA to allot alternate shops or sites to them on the terms and conditions as applicable to the other 94 marble traders who had been found to be eligible for allotment of sites. The DDA had contested the allotment of alternative plots at reserve price to the respondents through the applicant.

9. This had prompted the Hon"ble judges to record a separate order, along with the judgment dated 20th August, 2008, remarking

In our view, in all fairness, Mr. Jayant Bhusan should not have appeared on behalf of the respondents in this case especially when Mr. B. S. Mann claims that the factum of his having filed an affidavit on behalf of DDA had been brought to his notice.

It is this above mentioned observation in the order dated 20th August, 2008 that

the applicant wants recalled/reviewed.

10. The applicant has sought review/recall of the order, on the ground that the two writ petitions were different as the LPA that was being heard by the Division Bench was against order passed in WP(C) No. 12038-47, whereas the applicant had appeared for the appellant/DDA in a totally different writ petition, being WP(C) No. 1674/97 titled as M/s Marble Point & ors. Vs Lt. Governor & Delhi Development Authority

11. It had been contended by the applicant that the issues involved in the two writ petitions were totally different. According to the applicant, the earlier writ petition was concerned with the entitlement of the respondents for allotment of alternative plots whereas the second writ petition was concerned with the rate at which the alternative plot was allotted to the respondents. The applicant alleged that there were no rules which prevented a counsel from appearing for opposite parties in different litigations. It has been asserted by the applicant that the Rule 33 of the Standards of Professional Conduct and Etiquette framed by the Bar Council of India is applicable only when an advocate appears in the very same suit or appeal for opposite parties, in which suit or appeal the counsel had drawn pleadings or acted for the different party. It has also been contended that none of the parties had objected to his appearing on behalf of the respondents in the present Letters Patent Appeal though he had been contesting the plea of respondents to allot them alternative plots at reserve price in the earlier writ petition on behalf of Delhi Development Authority which writ petition was filed by the respondents. According to applicant since no party was aggrieved by the appearance of the applicant, there was no occasion for the Court to consider the propriety of the applicant appearing in the matter on behalf of the respondents though he had appeared on behalf of appellant/Delhi Development Authority in the earlier writ petition contesting the plea of respondents for allotment of alternative plot at reserve price.

12. The learned counsel has relied on (2005) 12 SCC 238, Krishna Kumar Mittal Vs Parameshwar Dayal Gupta. The counsel for the applicant has contended that in this case a lawyer had appeared in the same case for opposite parties. The bar Council had exonerated him of professional misconduct and the Supreme Court had also concurred with the view of bar Council and therefore the remarks about the petitioner should be expunged.

13. The Counsel for the applicant has vehemently argued that it is a basic principle of justice that no adverse order should be passed against a party without hearing him. It is contended that before deprecating the conduct of the applicant, he ought to have been heard by the Court. Reliance was placed on 2009 (1) SCALE 745, Asit Kumar Kar Vs State of West Bengal. The learned counsel for the applicant has also contended that as a general principle for the proper administration of justice, derogatory remarks ought not to be made against counsel or against a person whose conduct comes into consideration, unless it is absolutely necessary. The learned counsel has referred to A.M. Mathur

Vs. Pramod Kumar Gupta, A.M. Mathur Vs Pramod Kumar Gupta. The learned counsel for the applicant has also relied on The State of Uttar Pradesh Vs. Mohammad Naim,

14. The application is contested by the DDA/non-applicant contending that the issue in both the writ petitions is inextricably inter-linked and overlapping to a large extent, if not the same. Relying on the prayer clauses of both the writ petitions it has been averred that the issue in the first writ petition was whether the respondents were entitled to allotment of alternative plot and the price at which the allotment was to be made and the issue in the second writ petition was whether the respondents would be entitled to allotment at pre-determined price at which the allotment had been made to the other 94 marble traders. The non applicant/ Delhi Development Authority has also contended that the Court, in order dated 20th August, 2008, was merely expressing an opinion, which cannot be construed as castigating or chastising the applicant and therefore, there was no requirement to give notice to the applicant before recording the said observation. The prayer clause in WP(C) No. 1674/1997, earlier writ petition is as follows: -

(a) Issue a writ of mandamus commanding the respondent to allot the alternative shop/plot to the petitioners on the terms and conditions as applicable to the other equally placed 94 persons alleged to be eligible for allotment by the DDA in the marble market at Papankala under the Scheme of Rehabilitation of the Marble traders removed/uprooted from Central South Ridge, Mehrauli-Badarpur Road in the scheme framed by the respondents and published in the Hindustan Times dated 7.3.1997

Whereas the prayer clause in WP(C) No. 12038-47/2006, subsequent writ petition is as follows:-

A. Issue an appropriate writ(s), order(s) or direction(s) in the nature of the certiorari quashing/setting aside letter dated 12.7.2006 (Annexure P-1 collectively) issued by the respondent to the petitioners to the extent of demand of the cost of the alternative plots @ Rs.38,259/- (Provisional)per sq. mtr. In respect of the alternative plots for which the petitioners have been found to be eligible on the same parameters and criteria at which allotment has already been made to the other traders in lieu of the removal of the respective marble shops of the petitioners by the respondent.

B. Issue an appropriate writ(s), order(s) or direction(s) in the nature of mandamus, directing the respondent to allot the alternative plots measuring 250 sq. mtr. to each of the petitioners in Sector 20 Dwarka at the same pre-determined rate @ Rs.5200/- per sq. mtr at which the allotment has been made to other similarly situated traders.

15. The learned counsel for the DDA has relied on Chandra Shekhar Soni Vs. Bar Council of Rajasthan and Others, ; (2004) 10 SCC 148, Roshan Deen Vs. Preeti Lal, in support of the contention of the Delhi Development Authority that the

remarks made against the counsel/applicant who had earlier been representing appellant /DDA and later on he appeared on behalf of the private respondent are not liable to be expunged as has been sought by him.

16. The learned counsel for the appellant/DDA has also contended that the observation made against the applicant is not liable to be expunged on the ground that no notice was given to him. He has contended that though notice was not given to him, however, pursuant to the application of the applicant, he has been heard and he has not been able to justify that the two matters were not substantially different. Rather the cause of action of two matters in which the applicant had appeared, first for DDA and thereafter for private respondents was substantially the same. The applicant despite being cautioned about it by the briefing counsel had appeared for the opposite party and he has not been able to justify his misconduct. In the circumstances, it is contended that the applicant is not entitled for review/recall of observations made against him and observations made against the applicant should not be expunged by this Court. The learned counsel for the appellant/DDA has also relied on R.K. Anand Vs. Registrar, Delhi High Court, Delhi High Court.

17. This Court has heard the learned counsel for the parties. On perusal of the above extracted prayer clauses, it is apparent that the issues in the two writ petitions cannot be said to be different as claimed by the applicant. In WP(C) No. 1674/1997 the respondents herein had not sought allotment of alternative plots, but had also sought allotment on the same terms and conditions as had been applicable to the other 94 marble traders who had been allotted alternative sites by the appellant/DDA. The Delhi Development Authority through the applicant had contested the pleas of the respondents and had contended that the respondents are not entitled for allotment of alternative plots at reserve price. The issue agitated by the respondents in WP(C) No. 12038-47/2006, the petition out of which the present appeal arose, was that they had been allotted alternative plots at a rate much higher than the rates at which alternative plots were allotted to the other 94 marble traders. It is evident that the matter agitated in the second writ petition was also substantially in issue in the first writ petition, rather the issue of price was the same in both the writ petitions filed by the respondents.

18. From the record it is apparent that in the earlier writ petition which was filed by the private respondents, the applicant was the counsel for DDA and he had settled the counter affidavit dated 13th April, 1998. In the said counter affidavit in para 10 it was categorically asserted that the private respondents are not entitled to alternative allotment at reserve price. Thus, the issue in earlier writ petition was also whether the private respondents were entitled to allotment of alternative plot at reserve price or not. After the alternative allotment was made to private respondents, the dispute again had arisen whether the private respondents were liable to pay the rate at which alternative plots were allotted to them or they were liable to pay reserve price only, as was claimed from other

marble dealers. In the circumstances the plea of the applicant that the subsequent writ petition filed by private respondents was entirely different from the first writ petition which was filed by them, cannot be accepted in the present facts and circumstances.

19. Perusal of the precedents relied on by the learned counsel for the applicant shows that they are apparently distinguishable. In *Krishna Kumar Mittal* (supra) an advocate after a number of years had appeared in the same litigation of the same property for the opposite party and consequently a complaint for professional misconduct for changing sides was filed. The advocate had withdrawn on behalf of opposite party as soon as it was pointed out by the complainant and consequently the Bar Council had exonerated the advocate from the charges of professional misconduct. The Supreme Court also did not interfere with the decision of the Bar Council in the facts and circumstances. However in the present case review applicant, even after it was brought to his notice that he was the counsel for the DDA and had opposed the pleas of the respondents for allotment of alternative plots at reserve price, insisted on appearing for the private respondents on the plea that earlier writ petition was different. The applicant persisted that he can represent the opposite party/private respondents on the tenuous ground that the matter pertains to different aspect of the same subject matter. In the review/recall application also the applicant has not shown any remorse or has sought indulgence of this Court. In the circumstances, the applicant cannot rely on the ratio of the *Krishna Kumar Mittal* (supra) where the counsel on realizing his mistake immediately had withdrawn and had stopped representing the opposite party. In the said case counsel had appeared on behalf of the opposite party after considerable time in contradistinction to the present case, where the briefing counsel of the respondents had even brought it to the notice of the applicant.

20. The Supreme Court in *Asit Kuamr Kar* (supra) relied on by the applicant had held that there is a distinction between a petition under article 32, a review petition and a recall petition. It was held that while in a review petition the court considers on merits whether there is an error apparent on the face of the record, in a recall petition the Court does not go into the merits but simply recalls the order which is passed without giving an opportunity of hearing to an affected party. In this case the order passed cancelling the licenses of various persons without giving any opportunity to them, was recalled. However, in the present case on an application by the applicant, his counsel has been heard extensively on various dates. In the circumstances on the basis of the ratio of the said case, the observation made by this Court on 20th August, 2008 against the applicant are not liable to be recalled nor the said order is liable for review as has been sought by the applicant in the facts and circumstances and a futile attempt has been made by the applicant to contend that the subject matter of two cases had been entirely different.

21. In *A.M. Mathur* (supra) relied on by the applicant, the Court while dismissing

a review petition had observed that Advocate General of the state did not act honestly and bona fide in briefing the then Chief Minister. It was also remarked that he did not act befitting his status and he did not have the courage to face the situation in the Court. It was held that since the High Court had no jurisdiction to entertain the review petition, the judge ought not to have commented on the professional conduct of the advocate general and that too without an opportunity to him. It was further observed that judicial restraint and discipline are necessary for orderly administration of justice and this should be the constant theme of judges. With these observations the remarks against the Advocate General were expunged. However, in the instant case the Court had made observation against the counsel/applicant while disposing of the Letters Patent Appeal. It cannot be contended by the applicant that the Court was not competent to decide the Letter Patent Appeal in contradistinction to the case relied on by the applicant in which remarks were made against the Advocate General in a review petition which could not be entertained. If the Court has observed the breach of a Rule, the applicant cannot contend that the Court ought not to have mentioned about it.

22. While disposing of a criminal appeal, sweeping and general observations were made against the entire police force though the case related to only one police officer, in *The State of Uttar Pradesh Vs. Mohammad Naim*, In the said case it was held that it is judicially recognized that in the matter of making disparaging remarks against the persons or authorities whose conduct comes into consideration before Courts of law, in cases to be decided by them, it is relevant to consider (a) whether the party whose conduct is in question is before the Court and he has an opportunity of explaining or defending himself; (b) whether there is evidence on record bearing on the conduct justifying the remarks; and (c) whether it is necessary for the decision of the case, as an integral part thereof, to comment or observe on that conduct. It was also held that judicial pronouncement must be judicial in nature and should not normally depart from sobriety, moderation and reserve. The applicant was before the Court and had appeared on behalf of private respondents on 18th September, 2007; 24.3.2008; 28.7.2008; 6.8.2008. On 11.8.2008 the applicant again argued the matter on behalf of the private respondents and after hearing him the order was reserved in the matter. Therefore, it cannot be held that the applicant was not before the Court. Thereafter, orders were pronounced on 20th August, 2008 and the observation which is impugned by the applicant, was also made on the same date. There has been breach of Rule 33 of Standards of Professional Conduct and Etiquette framed by Bar Council of India which is as under:

Rule 33: An advocate who has, at any time advised in connection with the institution of a suit, appeal or other matter or has drawn pleadings or acted for a party, shall not act, appear or plead for the opposite party.

In the circumstances of the present case it was necessary for the Court to observe about the breach of Rule by the counsel for the respondents, present

applicant. The case of the applicant in the facts and circumstances is conspicuously distinguishable from the case relied on by the applicant.

23. The ratio of any decision must be understood in the background of the facts of that case. What is of the essence in a decision is its ratio and not every observation found therein nor what logically follows from the various observations made in it. It must be remembered that a decision is only an authority for what it actually decides. It is well settled that a little difference in facts or additional facts may make a lot of difference in the precedential value of a decision. The ratio of one case cannot be mechanically applied to another case without having regard to the fact situation and circumstances in two cases. The Supreme Court in *Bharat Petroleum Corporation Ltd and Anr. v. N.R. Vairamani and Anr.* (AIR 2004 SC 778) had held that a decision cannot be relied on without considering the factual situation. In the judgment the Supreme Court had observed:-

Court should not place reliance on decisions without discussing as to how the factual situation fits in with the fact situation of the decision on which reliance is placed. Observations of Courts are neither to be read as Euclid's theorems nor as provisions of the statute and that too taken out of their context. These observations must be read in the context in which they appear to have been stated. Judgments of Courts are not to be construed as statutes. To interpret words, phrases and provisions of a statute, it may become necessary for judges to embark into lengthy discussions but the discussion is meant to explain and not to define. Judges interpret statutes, they do not interpret judgments. They interpret words of statutes; their words are not to be interpreted as statutes.

24. An advocate who switches sides, commits professional misconduct. Taking money from the client, for bribing an official also tantamount to professional misconduct. While dealing with the case of a junior lawyer, the Supreme Court had declined to interfere with the punishment awarded by the State bar Council and affirmed by the bar Council of Chandra Shekhar Soni Vs. Bar Council of Rajasthan and Others, . However considering that the advocate was a junior lawyer his suspension, from three years was reduced to one year. The applicant is not a junior lawyer. No disciplinary proceedings have been initiated against the applicant nor any punishment has been awarded to him. The applicant will be entitled for notice in case any disciplinary proceedings are initiated against him by the Bar Council, in case any complaint is filed by the appellant. However, he cannot contend that in view of his conduct, this Court could not make observations about him. If the applicant was of the opinion that subsequent proceedings initiated by private respondents were different and distinct, the least the applicant could do in the facts and circumstances, was to file an appropriate application seeking indulgence of the Court and clarification to allow him to appear on behalf of private respondents, as in the earlier writ petition pertaining to same alternative allotment of plots and their reserve price, he had been appearing on behalf of DDA and had been contesting allotment at reserve price.

In the first writ petition he contended before the Court that the alternative plots could not be allotted at reserve price, whereas in the present appeal his stand on behalf of the opposite parties is that the alternative plots should be allotted at reserve price which was charged from other marble dealers.

25. In 2004 (10) SCC 148, Dayashankar Vs O.T. Aldons, relied on by the counsel for DDA, an advocate appeared in a suit on behalf of Mrs. Theresa Brown where plaintiff's son Mr. Rozar was a defendant and no relief was claimed against him. In a subsequent suit he appeared on behalf of Mr. Rozer Brown and his mother Mrs. Theresa Brown. The earlier suit was withdrawn where no relief had been claimed against Mr. Rozer Brown. Disciplinary Authority, however, found the advocate guilty of professional misconduct but let him off with reprimand. Against the decision of Bar Council, it was held by the Supreme Court that it was not proper for the advocate to have filed a second suit, after having filed the first suit on behalf of the mother in which the plaintiff of the second suit was a defendant himself. It was held that the Advocate's conduct was improper.

26. The Supreme Court had suo motu directed the initiation of an enquiry against an advocate where allegations of fraud and cheating had been made against the advocate by a severely injured workman who had sought compensation under Roshan Deen Vs. Preeti Lal,

27. From the perusal of the application seeking review/recall of the remarks, it is apparent that the briefing counsel for the private respondents Sh. Maan had pointed out to the applicant that the counter affidavit was filed by him on behalf of DDA in the earlier writ petition No.1674/1997. The plea of the applicant that he considered the matter and as in his opinion the litigation was different and the orders were different in the two cases, he accepted the brief and appeared on behalf of private respondents though in the earlier writ petition he had appeared on behalf of Delhi Development Authority where the issue involved was not only about the entitlement to the alternative plot but also whether the private respondents were entitled for allotment of reserve price which is apparent from the counter affidavit which is settled by the applicant in the earlier writ petition dated 18th April, 1998. The conduct of the applicant is in apparent breach of Rule 33 of the Standards of Professional Conduct and Ethics framed by the Bar Council of India. The said rule contemplates that if an advocate has at any time in connection with the matter has drawn pleadings or pleaded for a particular party, he shall not appear or plead for the opposite party. The applicant advised DDA about the alleged claim of the private respondents not only about the entitlement of alternative allotment but whether they are entitled for alternative plot at the reserve price or not. After drawing affidavit on behalf of Delhi Development Authority and appearing on behalf of the said organization and pleading their case against the private respondents, the applicant could not have appeared on behalf of private respondents to contend that they are entitled for allotment of alternative plots at reserve price. The contention of the applicant that Rule is applicable only when an advocate appears in the very same suit or

appeal for one side in the facts and circumstances cannot be accepted nor this Court is bound by such an opinion of the applicant which is ex-facie not acceptable and is an attempt by the applicant about his lapse. The act of the applicant is in apparent violation of Rule 33 and in the circumstances while deciding the Letters Patent Appeal filed by the Delhi Development Authority, if the observation had been made by the Court that in all fairness the applicant should not have appeared on behalf of respondents especially when the briefing counsel had brought to his notice that he had filed the affidavit on behalf of DDA, the observation of the Court cannot be termed to be unwarranted nor it is liable to be reviewed or recalled in the present facts and circumstances.

28. The plea of the applicant that he was not heard before the observation was made by the Court will also be not sufficient in the facts and circumstances to expunge the observation dated 20th August, 2008 made by this Court. Pursuant to the application for recalling the order the applicant has been heard at length and there are no grounds to recall or review the said order. In the totality of facts and circumstances, therefore, there are no grounds to recall/review the observations made by this Court on 20th August, 2008. The application of the applicant seeking recall/review is without any merit and it is, therefore, dismissed.

Veena Birbal, J.

I agree with the conclusion of my learned brother Hon''ble Mr.Justice Anil Kumar in dismissal of review application as no ground for review/recall is made out.

The record shows that the applicant had appeared in the appeal on behalf of the respondents number of times and the appellant/DDA had never raised any objection on his appearance. Even in reply to the review application, no explanation has been given by the appellant as to why objection was not raised.

In any view of the matter, it is clarified that remarks made in the order dated 20.8.2008 for which review has been sought will not prejudice the applicant in any manner.