
(2021) 10 OHC CK 0042
In the Orissa High Court
Case No : Writ Appeal No. 599, 600 Of 2021

Hritika Mitra

APPELLANT

Vs

Registrar, Ravenshaw University, College Square, Cuttack And
Others

RESPONDENT

Date of Decision : 07-10-2021

Acts Referred:

Citation : (2021) 10 OHC CK 0042

Hon'ble Judges : S.K. Mishra, J;Savitri Ratho, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. This matter is taken up through Hybrid mode.

2. In these two Intra Court Appeals, the Appellant being a aspirant to take admission in the Ravenshaw University has assailed the order passed by the learned Single Judge in W.P.(C) No.8537 of 2021 on 25.06.2021 and in Review Petition No.115 of 2021 disposed of on 16.07.2021. The original Writ Application filed by the Appellant was dismissed by the Hon'ble Chief Justice sitting single holding that the Appellant violated admission condition on counseling dated 18.10.2020, and therefore, there is automatic forfeiture for non-submission of the original document. Such order passed on 25.06.2021 in W.P.(C) No.8537 of 2021 was challenged in a SLP No.11149-50 of 2021 before the Hon'ble Supreme Court by the sole Appellant, whereas, the Hon'ble Supreme Court held that the Appeal is without merit and the same was dismissed. Thereafter, the Appellant filed the Review Petition No.115 of 2021 which came before the Hon'ble Chief Justice which was dismissed on 16.07.2021 holding that no ground is made to review the judgment passed on 25.06.2021 in W.P.(C) No.8537 of 2021.

In the Second Writ Intra Court Appeal i.e. W.A. No.599 of 2021, the order passed in the Review Application has been challenged. First of all, we put the question to Mr. Biswajit Das, learned counsel for the Appellant through virtual mode about

the maintainability of the Writ Intra Court Appeal in view of the fact that Appellant has already availed herself an opportunity of assailing the order impugned before the Hon'ble Supreme Court. The learned counsel for the Appellant submits that when the SLP No.11149-50 of 2021 was dismissed at the stage of admission without discussion of the merits of the case, then the order passed by the original court does not merge with the Appeal. Hence, a Second Appeal in the shape of a Letters Patent Appeal or a Writ Appeal as being termed these days is maintainable. He relied upon several judgments, namely, Kunhayammed and Others vs. State of Kerala and Others, (2000) 6 SCC 359, Oil & Natural Gas Corporation Ltd. vs. SBI, Overseas Branch, Bombay, (2000) 6 SCC 385, Khoday Distilleries Limited (now known as Khoday India Limited) and Others vs. Sri Mahadeshwara Sahakara Sakkare Karkhane Limited, Kollegal, (2019) 4 SCC 376. We have gone through all the judgments and in none of the judgment referred to above, the question of maintainability of an Intra Court Appeal or a Letters Patent Appeal against the order passed by the learned Single Judge is held to be maintainable even when the Appeal preferred to the Hon'ble Supreme Court has been dismissed. Though, at the stage of fresh admission, Mr. Biswajit Das, learned counsel for the Appellant also admitted that he made a thorough search and could not get a covering judgment for that and urged this Court to hold that an Intra Court Appeal is maintainable, even when the order impugned therein has been Appealed against to the Hon'ble Supreme Court and the Hon'ble Supreme Court is not entertained the SLP.

3. We are of the opinion that multiplicity of proceedings should be always avoided. It is in the nature of public policy and moreover when the Appeal is preferred to the Hon'ble Supreme Court, which is the Apex Court of the Country and such court have not found any merit in a Appeal filed against the order of the learned Single Judge, it would not be proper, expedient and in the interest of justice to entertain an Appeal against the same impugned judgment or order. So, in our opinion the Writ Appeal is not maintainable. Accordingly, W.A. No.600 of 2021 is dismissed. We have not given any finding on the merits of the factual aspects of the case.

4. As far as W.A. No.599 of 2021 is concerned, the sole Appellant has challenged the order passed by the Hon'ble Chief Justice holding a Single Bench dismissing the application for review. It is well settled principles of law that Review Application has a limited scope under Order XLVII Rule 1 of Code of Civil Procedure, 1908. It reads as follows:

"1. Application for review of judgment-(1) Any person considering himself aggrieved-

(a) by a decree or order from which an appeal is allowed, but from which no appeal has been preferred;

(b) by a decree or order from which no appeal is allowed; or

(c) by a decision on a reference from a Court of Small Causes; and who, from

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 decree was passed or order made, or on account of some mistake or error apparent on the face of the record, or for any other sufficient reason, desires to obtain a review of the decree passed or order made against him, may apply for a review of judgment to the Court which passed the decree or made the order".

5. A plain reading of the aforesaid provision leaves no doubt in our mind that a Review Application can be entertained and allowed on the following three grounds, namely (1) when certain materials or evidences was not placed before the court passing the order sought to be reviewed because of ignorance and inspite of due diligence exercise by the review petition, (2) There is an error apparent on the face of the record the order sought to be reviewed, (3) for any other substantial reasons.

6. Having gone through the pleadings in the Review Application we find that the appellant has not sought to review the Writ Application by asserting that certain materials or evidences could not be placed before the court original passing the order sought to be reviewed despite of exercising due diligence. He does not specifically plead that there is any error apparent on the face of the record. The entire Writ Application is based on a plea to grant a relief to the Appellant because of the extreme distress and mitigating circumstances. In paragraph-3 of the Review Petition, the Appellant stated that impugned order suffers from error apparent on the face of the record which is discernible from the 'Comparative Table' annexed thereto. We are of the opinion that the alleged improper appreciation of materials on record is not a reasonable ground to hold that it is an apparent error on the face of the record requiring inference in a review application. We find no substantial ground as has been held by the learned Single Judge in holding that there is no ground made out to review the judgment passed in original writ petition.

7. Hence, the W.A. No.599 of 2021 is without any merit, and hence, there is no need to interfere with the order passed by the learned Single Jude in the review application. The Writ Appeal is dismissed.

8. Urgent certified copy of this order be granted as per rules.

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