
(2012) 02 MP CK 0089

In the Madhya Pradesh High Court

Case No : Review Petition No. 331 of 2011

Pratap Wahini Samaj Kalyan Sansthan,Gwalior and Another	APPELLANT
Vs	
Jay Narayan Chouksey and Others	RESPONDENT

Date of Decision : 02-02-2012

Acts Referred:

Citation : (2012) 02 MP CK 0089

Hon'ble Judges : Sujoy Paul, J

Bench : Single Bench

Judgement

Hon"ble Shri Justice Sujoy Paul

1. By this review petition, petitioners are seeking review of the order passed by this Court in Writ Petition No. 7144/2011 dated 25.11.2011.

2. Shri V.K. Bharadwaj, learned senior counsel submits that the original petitioner misrepresented his case before this Court and obtained an order which, on the face of it, appears to be innocuous but was totally unwarranted and it has caused great prejudice to the petitioners. To elaborate, Shri Bharadwaj submits that the original petitioner by placing reliance on Annexure P/8 (with the writ petition), stated before this Court that his complaint for the purpose of conducting enquiry is not decided by the said authority and, therefore, this Court permitted the same by passing the order which is sought to be reviewed. He heavily relied on para 10 of the representation dated 27.4.2011 (Annexure P/8 with the writ petition). He submits that the petitioner has stated incomplete facts in his representation. By drawing the attention of this Court on the representation, Annexure P/8, learned senior counsel submits that the writ petitioner only disclosed about the order dated 7.11.2009 issued by the State Government in his favour but deliberately suppressed this fact in his representation (Annexure P/8) that the said order of State Government dated 7.11.2009 was put to test by Ram Singh Dhakre and others before this Court in Writ Petition No. 6019/2009 and this Court has allowed the petition on 22.11.2010 and quashed and set aside the said order of the State Government.

The factum of filing of writ petition and setting aside of order dated 7.11.2009 is not mentioned in the representation (Annexure P/8), although judgment was filed along with the writ petition. In absence of disclosure of complete facts in Annexure P/8, the writ petitioner succeeded to pursue this Court that a legitimate representation is pending which needs consideration by the authorities and on perusal of the same only this Court has passed the said order. Learned senior counsel submits that since the order dated 7.11.2009 is already quashed by the writ court, it will be a futile exercise to proceed further. He relied on certain Supreme Court judgments to submit that once the validity of order dated 7.11.2009 is already decided by the writ court, it constitutes *res judicata* and no further direction even for decision on representation should have been passed by this Court.

3. Per Contra, Shri K.N.Gupta, learned senior counsel assisted by Shri Anil Mishra, submits that after the direction of this Court, the competent authority has already issued an order dated 22.12.2011 and present petitioners have filed Writ Petition No. 96/2012 against the said order. Learned senior counsel submits that no interference is warranted in this review petition.

4. I have heard the parties and perused the record. I find force in the argument of Shri Bharadwaj, learned senior counsel, that in Annexure P/8, the basic document on which the petitioner placed heavy reliance at the time of argument of writ petition, it is deliberately suppressed by the petitioner that the order dated 7.11.2009 was subject matter of challenge in the aforesaid writ petition and the same is quashed. The writ petitioner was well aware of this fact being a party to said proceedings.

5. In this view of the matter, I find force in the argument of the present review petitioners that writ petitioner has made an effort to misrepresent his case before the authorities by preferring Annexure P/8 to the extent he did not disclose about the judgment of this Court quashing the order dated 7.11.2009. This is settled in law that one has to approach the authorities, quasi-judicial authorities and courts with clean hands, clean mind, clean heart and clean objectives.

6. Since, this Court has made it clear in the order dated 25.11.2011 itself that this Court has not expressed any opinion on the merits of the case, I do not propose to deal with the rival contentions of the parties on the merits of the matter. More so when, admittedly, Writ Petition No. 96/2012 is filed by the present review petitioners before this Court challenging the order passed by the authority dated 22.12.2011. I find force in the argument of Shri K.N.Gupta, learned senior counsel, that the present review petitioners are free to attack the validity, legality and propriety of the order dated 22.12.2011 in Writ Petition No. 96/2012. In other words, present review petitioners are free to challenge the validity of the order dated 22.12.2011 wherein the present respondents will be able to show whether the order passed by the authority dated 22.12.2011 is mechanically passed by quoting the order of this Court or there was some

application of mind and facts of the case necessitated the said authority to pass such an order. I am afraid that all this can not be gone into in a review petition.

7. So far the judgments cited by Shri Bharadwaj are concerned, the said judgments have no application in the facts and circumstances of the present case. This Court has not opined anything about the validity of the order dated 7.11.2009 and, therefore, the question of res judicata does not arise.

8. There is no error apparent on the face of record which warrants interference in this review petition. Review Petition is disposed of with the aforesaid observation.