SUPREME COURT OF INDIA

Delhi Pradesh Regd. Med. Prt. Assn.

Vs.

Union of India & Ors.

(2011) 4 SCC 0296

(Dr. B.S.Chauhan and Swatanter Kumar,JJ.,)

11.03.2011

ORDER

1. This Review Petition has been preferred by the applicant on the ground that when the matter was heard, its counsel was not present and therefore, the judgment has been rendered against the applicant in flagrant violation of the principles of natural justice and this Court must entertain the Review Petition recalling its judgment and order impugned herein and decide the matter afresh after giving an opportunity of hearing to the applicant.

2. In fact, this case has arisen out of the judgment and order dated 19.11.2008 passed by Delhi High Court dismissing the Writ Petition No.1999 of 1998 rejecting the claim of the applicant and its members that they are entitled to practice in the field of Medical Sciences on the basis of the qualification of Ayurveda Rattan & Vaid Visharad awarded by the Hindi Sahitya Sammellan, Allahabad.

3. The appeal of the applicant came for hearing alongwith a bunch of matters, i.e., Civil Appeal Nos.5324 of 2007; 5325 of 2007; 4758 of 2010; and 4759 of 2010, wherein the similar issues were involved. The matter had been argued at length by a large number of advocates in the other appeals and all the appeals were dismissed by an elaborate impugned judgment and order dated 1.6.2010, i.e. Rajasthan Pradesh V.S. Sardarshahar & Anr. v. Union of India & Ors., AIR 2010 SC 2221, wherein this Court reached the following conclusions:-

> "a. Hindi Sahitya Sammelan is neither a University/Deemed University nor an Educational Board.
>
> b. It is a Society registered under the Societies Registration Act.
>
> c. It is not an educational institution imparting education in any subject inasmuch as the Ayurveda or any other branch of medical science.

d. No school/college imparting education in any subject is affiliated to it. Nor is the Hindi Sahitya Sammelan affiliated to any University/Board.

e. Hindi Sahitya Sammelan has got no recognition from the Statutory Authority after 1967.No attempt has ever been made by the Society to get recognition as required under Section 14 of the Act, 1970, and further did not seek modification of entry No.105 in II chedule to the Act, 1970.

f. Hindi Sahitya Sammelan only conducts examinations without verifying as to whether the candidate has some elementary/basic education or has attended classes in Ayurveda in any recognized college.

g. After commencement of Act, 1970, a person not possessing the qualification prescribed in Schedule II, III & IV to the Act, 1970 is not entitled to practice.

h. Mere inclusion of name of a person in the State Register maintained under the State Act is not enough to make him eligible to practice.

i. The right to practice under Article 19(1)(g) of the Constitution is not absolute, and thus, is subject to reasonable restrictions as provided under Article 19(6) of the Constitution.

j. Restriction on the right to practice without possessing the requisite qualification prescribed in Schedule II, III & IV to the Act, 1970 is not violative of Article 14 or ultra vires to any of the provisions of the State Act.

4. When the Review Petition of the applicant came before the Court by circulation on 27.1.2011, the Court passed the following order:-

"It may be desirable that before we entertain/ consider the review petition, the learned counsel for the applicant may explain as to whether the advocate, other than the Advocate-on-Record at the time of the disposal of the case, can file a review petition in the light of the judgment reported in *Tamil Nadu Electricity Board & Anr. vs. N. Raju Reddiar & Anr*[1]*.,* and further when the Court has heard a bunch of petitions, and disposed them all by a common judgment, whether review by the parties in one of the case can be filed on the ground that its lawyer could not make submissions. List after two weeks."

5. The applicant filed a reply to the same contending that the aforesaid judgment referred to by this Court in Tamil Nadu Electricity Board & Anr. (supra) has no application in this case for the reason that litigant is free to change his advocate when he feels that the advocate retained cannot espouse his cause efficiently or for any other reason and to substantiate its case, the applicant relied upon the judgments of this Court in *R.D. Saxena v. Balram Prasad Sharma*[2]*, and C.S. Venkatasubramanian v. State Bank of India*[3]*,* It has further been submitted that a party is free to retain any advocate if it feels that its erstwhile advocate has not

contested the case efficiently and effectively, and it was wrong to dismiss the petition in absence of its counsel. It has further been submitted in response to our earlier order as under:-

> "That it is respectfully submitted that the review petitions were filed in all the appeals which were disposed of on 21.10.2010 by this Hon'ble Court passed in Review Petition (C) No.1741/2010, Review Petition (C) No.1742/2010, Review Petition (C) No.1743/2010 & Review Petition (C) No.1744/2010"

6. In view of the submissions made herein we thought it proper to hear the learned counsel of the applicant in open Court and thus, the matter came today for hearing.

7. Shri Fakhruddin, learned Senior Advocate appearing for the applicant was explained that though the counsel for the applicant was not present when other connected appeals were heard and decided, he may point out as what is the material in his possession to show that any of the findings recorded by us and quoted hereinabove is factually incorrect. Shri Fakhruddin could not point out any material on the basis of which any of the findings so recorded can be held to be worth reconsideration. Not a single member of the applicant's Association has filed any document to show as what was the minimum qualification to join the course; what was its duration; where such members have completed their course and training; and when they passed the examination and what were the marks secured by them.

8. In fact, as nothing has been argued before us today in support of the review petition and it has been submitted by Shri Fakhruddin, learned senior counsel appearing for the applicant that as the matter stands squarely covered by the judgment of this Court in Rajasthan Pradesh V.S. Sardarshahar (supra), he has nothing to add. The review petition cannot be argued merely on technicalities that applicant's counsel remained absent on the day the connected matters involving same questions of fact and law had been argued and decided. Thus, Shri Fakhruddin has fairly conceded that the review petition is nothing, but purely an academic exercise as nothing can be argued against the impugned judgment dated 1.6.2010.

9. As is evident from the above that entertaining the review petition is proved not only a futile exercise but sheer wastage of judicial time. Applicant has not disclosed anywhere as to whether any grievance has ever been raised by it against the counsel who remained negligent and did not render any service to it. Reply to our first order dated 27.1.2011 has been filed urging that Court is bound to give way to the entitlements of litigants. We are of the considered opinion that such conduct of the litigant has not only been reprehensible but is tantamount to abuse of the process of the court. We are not able to appreciate as to whether the petition was filed to satisfy the ego of the litigant or the litigant was ill-advised by the members of the Bar just for petty pecuniary gain. The petition has been filed without realizing that the courts are over burdened and no litigant should mis-use the forum of the court merely because litigation is a luxury for him. The review application has been filed on frivolous grounds as neither in the petition, nor during the course of hearing could the error/mistake in the judgment either on law or on facts be pointed out.

10. In Dr. Buddhi Kota Subbarao v. K. Parasaran & Ors., AIR 1996 SC 2687, this Court has observed as under: 7 "No litigant has a right to unlimited drought on the Court time and public money in order to get his affairs settled in the manner he wishes. However, access to justice should not be misused as a license to file misconceived and frivolous petitions."

11. In view of the above, we are of the view that the review application has been filed without any sense of responsibility. We do not find appropriate words to deprecate such a practice adopted by the litigants and the members of the Bar. Grounds taken in the application are preposterous. The review petition hopelessly lacks merit and is accordingly dismissed.

Judgment Referred.

[1]*AIR 1997 SC 1005*
[2]*(2000) 7 SCC 0264*
[3]*(1997) 1 SCC 0254*