



**J U D G E M E N T**

The instant review petition has been filed praying inter alia :-

**“That this Application is made bonafide for the ends of justice.**

**In the above said circumstances your applicants humbly pray that your Lordships would graciously be pleased to review the Order dated 01-08-2018 in OA-351 of 2015 passed by this Hon’ble Tribunal and to modify the necessary part of the order after deleting paragraph 21 of the order which the Hon’ble Tribunal mainly shown the displeasure against the respondents And pass order/orders as your Lordships may deem fit and proper”.**

2. As per the applicants in the instant MA, there is an error apparent in paragraph-7 of the Judgement dated 01-08-2018, wherein this Court had observed that the Statements of the PWs listed in the statement of allegations were not supplied to the applicant despite repeated requests.

According to the applicants/respondents, they have enclosed certain documents and have submitted that out of 16 PWs 13 PWs were examined and the applicant was served with the statement of all 13 PWs (Annexure-R1). Therefore it is also error apparent in the face of the record for the purpose of review.

3. As per the respondents, CBI, SEB, Kolkata had started specific case against the incident took place under Lalgah Police Station under RC 3/S/2011-Kol dated 21-02-2011 and the report submitted by the CBI was a Preliminary Investigation Report, which cannot be equalized with the Preliminary Enquiry Report by the State Respondents.

Moreover, the applicants/ respondents have prayed for deleting the paragraph-21 of the Judgement dated 01-08-2018.

4. We have heard the parties and perused the records. After perusal of the grounds taken in the instant case, it is noted that in Para-7, this Tribunal did not make any observation rather submission made on behalf of the applicant has been recorded only. Therefore, it cannot be treated as observation of the Tribunal and therefore there is no question of error apparent on the face of record. With regard to the issue of supply of copy of statement of the PWs, wherein the applicants/respondents of instant MA has enclosed certain documents to prove untrue submission made by the applicant of the OA. But in view of the guidelines of the Hon'ble Apex Court, there is no scope of consideration of fresh evidence at the time of review, which was not available at the time of passing of the order. However, during the course of the hearing as well as in ground 3, the applicants themselves have admitted that there was an investigation report submitted by the CBI and according to them that cannot be treated as a Preliminary Enquiry Report of the State Respondents, whereas in the entire Judgement, this Tribunal never observed/recorded Preliminary Enquiry Report made by the respondents but it has only recorded the

Preliminary Enquiry if any, in that case the Preliminary Investigation Report submitted by the CBI also to be treated as Preliminary Enquiry Report.

Further in Para- 21, this Tribunal had clearly pointed out by enunciating the different situations, which prompted to create confusion and make belief on different situation by which the Tribunal was not properly assisted by the present applicant at the time of hearing of the original application as the representative of the present applicant on different stages make different contradictory submission, which has been actually admitted by them in Para-10 of the instant application.

5. In Parsion Devi and Others vs. Sumitri Devi and Others [1997 (8) SCC 715], Hon'ble Supreme Court has held as under:-

**"Under Order 47 Rule 1 CPC a judgment may be open to review inter alia if there is a mistake or an error apparent on the face of the record. An error which is not self-evident and has to be detected by a process of reasoning, can hardly be said to be an error apparent on the face of the record justifying the Court to exercise its power of review under Order 47, Rule 1 CPC. In exercise of the jurisdiction under Order 47, Rule 1 CPC it is not permissible for an erroneous decision to be "reheard and corrected". There is a clear distinction between an erroneous decision and an error apparent on the face of the record. While the first can be corrected by the higher forum, the latter only can be corrected by exercise of the review**

**jurisdiction. A review petition has a limited purpose and cannot be allowed to be "an appeal in disguise".**" [Emphasis added]

6. In the case of State of West Bengal Vs. Kamal Kumar Sengupta [ 2008(8) SCC 612] Hon'ble Supreme Court has held as under:-

“ The principles which can be culled out from the above noted judgments are :

**(i) The power of the Tribunal to review its order/decision under Section 22(3)(f) of the Act is akin/analogous to the power of a Civil Court under Section 114 read with Order 47 Rule 1 of CPC. (ii) The Tribunal can review its decision on either of the grounds enumerated in Order 47 Rule 1 and not otherwise. (iii) The expression "any other sufficient reason" appearing in Order 47 Rule 1 has to be interpreted in the light of other specified grounds. (iv) An error which is not self-evident and which can be discovered by a long process of reasoning, cannot be treated as an error apparent on the face of record justifying exercise of power under Section 22(3)(f). (v) An erroneous order/decision cannot be corrected in the guise of exercise of power of review.(vi) A decision/order cannot be reviewed under Section 22(3)(f) on the basis of subsequent decision/judgment of a coordinate or larger bench of the Tribunal or of a superior Court.(vii) While considering an application for review, the Tribunal must confine its adjudication with reference to material which was available at the time of initial decision. The happening of some subsequent event or**

**development cannot be taken note of for declaring the initial order/decision as vitiated by an error apparent. (viii) Mere discovery of new or important matter or evidence is not sufficient ground for review. The party seeking review has also to show that such matter or evidence was not within its knowledge and even after the exercise of due diligence, the same could not be produced before the Court/Tribunal earlier.”**

7. In a recent judgment, Hon'ble Apex Court in the matter of Union of India Vs. Sandur manganese Iron Ore Ltd. [ 2013 STPL (Web) 351 SC] has held that mere disagreement with a view of the judgment cannot be ground for interfering the same as long as points as already dealt with are answered, the parties are not entitled to challenge on the guise that alternative view can be taken.

8. In view of the above judgments as well as the grounds taken by the applicant, we are of the view that the applicant in the instant review application has tried to interpret the alternative view which cannot be entertained by the Tribunal sitting on review. As per aforementioned judgments, we have little scope to entertain the review application as we do not find any error apparent on the face of record. Accordingly, we reject the review application with no order as to costs.

**P. RAMESH KUMAR  
MEMBER (A)**

**URMITA DATTA (SEN)  
MEMBER (J)**

