

State Of Up And 3 Others vs Committee Of Management, Hanuman ... on 30 April, 2025

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Neutral Citation No. - 2025:AHC:68343-DB

Chief Justice's Court

Case :- CIVIL MISC REVIEW APPLICATION No. - 122 of 2025

Applicant :- State of UP and 3 Others

Opposite Party :- Committee of Management, Hanuman Prasad Poddar, Old Secondary School a

Counsel for Applicant :- Manish Goyal (AAG), Ratandeep Mishra, Abhishek Srivastava, C.S.

Counsel for Opposite Party :- Vishal Tandon

Hon'ble Arun Bhansali,Chief Justice

Hon'ble Vikas Budhwar,J.

1. This review has been applied qua the order dated 15.05.2024 passed by this Court in Special Appeal No. 387 of 2020, whereby the appeal filed by the State against the order dated 22.11.2019 passed in Writ-C No. 41768 of 2018, was dismissed.

2. The review petition is barred by 294 days.

3. An application under Section 5 of the Limitation Act seeking condonation of delay in filing the review petition has been filed supported by an affidavit of Block Education Officer, Block Khajni, District Gorakhpur.

4. It is inter alia claimed in the affidavit that the delay in filing the review petition is not deliberate but forced by circumstances, which can be said to be procedural delay/administrative exigencies.

Whereafter in six paragraphs, circumstances have been indicated claiming the same as sufficient cause for approaching the Court with the delay, which read as under:

"3. That the impugned order was passed by the Division Bench of this Hon'ble Court in Special Appeal No. 387 of 2020 on 15.05.2024.

4. That thereafter, the Special Leave Petition against the judgment and order dated 15.05.2024 has been preferred by the Department before Hon'ble Apex Court.

5. That the Hon'ble Apex Court vide order dated 13.09.2024 dismissed the Special Leave to Appeal (C) No. 19643 of 2024 (State of U.P. & Others Vs. Committee of Management, Hanuman Prasad Poddar Purva Madhyamik Vidyalaya & Another) in limine.

6. That a Contempt Petition No. 5208 of 2020 (C/M Hanuman Prasad Poddar Purva Madhyamik And Another Vs. Dr. Renuka Kumar, Additional Chief Secretary) is pending before the Hon'ble Court, in which the next date fixed is 07.04.2025 for framing of charge of Principal Secretary, Basic Education, U.P., Lucknow if the order passed in Writ Petitions is not complied.

7. That thereafter, a legal opinion was sought from the office of the Chief Standing Counsel, Allahabad High Court which was given on 01.04.2025 opining for filing Review Petition before the Hon'ble Division Bench as the Special Leave Petition has been dismissed in limine and Writ Court order shall cause acute financial burden on the exchequer specially so if such directions as given in the order of the Writ Court is passed in other such Petitions.

8. That the permission for filing Review Petition was provided on 02.04.2025 thereafter, the Review Petition is being filed."

5. A perusal of the above contents of the affidavit would reveal that against the order dated 15.05.2024 passed by this Court in the special appeal, special leave petition was preferred before Hon'ble Supreme Court, which was dismissed in limine on 13.09.2024.

6. As to what prompted the respondents in seeking review of the order, after dismissal of the SLP by Hon'ble Supreme Court, which facts/circumstances were not in existence at the time of passing of the order dated 15.05.2024 and/or the same arose/sprang up after dismissal of the SLP have not been indicated.

7. A reference has been made to a pending contempt petition seeking enforcement of the order passed by the learned Single Judge, which was upheld in the special appeal by the Division Bench indicating that the next date fixed is 07.04.2025 for framing of charge if the order passed, is not complied with. It is claimed that after contempt petition was fixed for framing of charge 'thereafter a legal opinion was sought from the office of the Chief Standing Counsel which was given on

01.04.2025 opining for filing review petition before the Division Bench'.

8. The trigger sought to be set up for the purpose of filing the review petition, i.e. the date having been fixed by the Court dealing with the contempt petition for framing of charge, by itself, cannot be a sufficient ground for seeking condonation of delay as apparently, the status post passing of the order passed by the learned Single Judge, dismissal of the special appeal by this Court and dismissal of special leave petition by Hon'ble Supreme Court has not changed.

9. The further cause indicated that the order passed by the writ court would cause acute financial burden on the exchequer specially so if such directions as given in the order of writ court is passed in other such petitions, also cannot be a reason enough to seek condonation of delay as the said aspect, was well known to the review applicants ever since the passing of the order by the learned Single Judge.

10. Learned Additional Advocate General attempted to make submissions seeking to indicate the implications of the order passed by the learned Single Judge, however, failed to indicate whether the said implications were presented after the date was fixed for framing of the charge and whether the said aspect was not raised in the special leave petition filed before Hon'ble Supreme Court.

11. The order dated 13.09.2024 passed by Hon'ble Supreme Court, reads as under:

"1. We are not inclined to interfere with the impugned judgment and order passed by the High Court. The special leave petition is, accordingly, dismissed.

2. Pending application(s), if any, shall stand disposed of."

12. Apparently no liberty was sought even from Hon'ble Supreme Court for filing the review petition before this Court which necessarily means that issues as raised in the special leave petition, were fully pressed.

13. Be that as it may, we do not find that the review applicants have set up any sufficient cause for condonation of the delay of 294 days in filing the present review petition. The application seeking condonation of delay, apparently has no substance, the same is, therefore, dismissed.

14. Learned AAG attempted to question the observations made in para 10 of the judgement, wherein the Division Bench had specifically turned down the plea as raised and noticed in para 4 of the judgement pertaining to financial burden and that the learned Single Judge not being justified in directing payment of grant-in-aid from the date of application, i.e. from the year 2006, submissions made at the relevant time were specifically noticed and turned down on merit.

15. Seeking to question the said directions now by way of review petition, even otherwise cannot be countenanced, which essentially is in relation to the merit of the order passed and cannot be said to be an error apparent on the face of record so as to maintain the review petition.

16. In view of above discussions, the review petition is dismissed as barred by limitation/merit.

Order Date :- 30.4.2025

RK

(Vikas Budhwar, J) (Arun Bhansali, CJ)