

SUPREME COURT OF PAKISTAN

(Review Jurisdiction)

Present:

Mr. Justice Anwar Zaheer Jamali, CJ
Mr. Justice Gulzar Ahmed
Mr. Justice Tariq Parvez

Civil Review Petition No.142 of 2015

[For review of Judgment dated 08.01.2015
passed by this Court, in Constitution Petition
No.104 of 2011 etc]

IN

Constitution Petition No.104 of 2011

Engineers Study Forum (Registered) & another

Petitioner(s)

VERSUS

The Federation of Pakistan, etc

Respondent(s)

For the Petitioner(s) : Mr. A.K. Dogar, Sr. ASC
Mian Ghulam Hussain, AOR (Absent)

For the Respondent(s) : N.R.

Date of Hearing : 18.07.2016

JUDGMENT

GULZAR AHMED, J.—By this Civil Review Petition, the petitioners namely Engineers Study Forum (Regd) and another have sought review of the judgment dated 08.01.2015 passed in C.P.No.32/1996, 45/1998, 37/2000, 44/2002, 39/2005, 104/2011, Civil Petition No.887/2008 and Crl. Org. Petition No.91/2006. This Review petition has been filed only by the petitioners of C.P.No.104/2011.

2. On 18.7.2016 this Review Petition had come up for hearing before the Court. Learned Sr. ASC for the review petitioners was heard and that after having heard the learned Sr. ASC for review petitioners at sufficient length, the Court passed the order of reserving the judgment and asked the learned Sr. ASC for petitioners to file written submissions, which the learned Sr. ASC for the review petitioners has filed. He has also filed a CMA No.5135/2016 praying for grant of adequate opportunity of hearing.

3. We have considered the submissions of Mr. A.K.Dogar, learned Sr. ASC for the review petitioners.

4. We would first take up CMA No.5135 of 2016 of review petitioners in which their counsel purports to seek opportunity of adequate hearing as he has asserted in the application that his 90% arguments remained unheard by the Court and has referred to the case of Imranullah v. The Crown [PLD 1954 FC 123]. The case cited is altogether distinguishable from the features of present case as it related to the hearing of Criminal Appeal before the High Court and it was complained by the counsel for appellant that he was not given opportunity of hearing by the High Court. Their lordships in the Federal Court gave hearing to the counsel for the appellant and ultimately dismissed the appeal and maintained the judgment of High Court. The present case before us is under review jurisdiction of this Court and looking at the limited scope of review jurisdiction the Court has given to the review petitioners adequate opportunity of hearing and though the Court has reserved the judgment but has also allowed the petitioners' counsel to give written submissions which opportunity of filing of written submissions has been availed and thus there is hardly any justification or cause left for the review petitioners to claim grant of adequate hearing through their counsel. The Court is not bound to give indefinite hearing to the counsel appearing for a party before it nor the counsel can claim privilege of hearing him by the Court to his heartfelt satisfaction. It is the function of Court to regulate hearing of the matters fixed before it and at the same time to ensure that it has given adequate time to the counsel for hearing in a given case. What is the adequate time for hearing of a given case, it is not for the counsel appearing for a party before the Court to decide rather it is more a function of the Court. There is no concept in the Court of law of allowing a counsel for a party to hear infinitum or to his heartfelt satisfaction nor any rule in this regard was cited before us. It is true that while hearing a case before it, the Court has to keep into consideration well enshrined and celebrated principle of *Audi Alteram Partem* (no man should be condemned unheard) and the Court was well informed of this principle while hearing a matter before it. The counsel for the review petitioners has been given adequate time and opportunity of hearing and his written submissions (*which the Court has allowed him to file*) have also been taken on record and considered by the Court. The CMA No.5135 of 2016 is, therefore, dismissed.

5. In respect of the main review petition, learned Sr. ASC for the review petitioners has contended that the constitution petition filed by the petitioners was for the enforcement of fundamental rights as enshrined in Articles 9 and 157 of the Constitution of Islamic Republic of Pakistan, 1973. In the written submissions, the learned Sr. ASC has urged the grounds of error on the face of record, giving effect to the decisions of CCI dated 16.09.1991 and 09.05.1998, the judgment of Lahore High Court reported in PLD 2013 Lahore 659, exercise of jurisdiction by the Court under Article 184(3) of the Constitution, involvement of political question and misreading of judgment by this Court in the case of Dossani Traders (Pvt.) Limited, the learned Sr. ASC has also relied upon some case law.

6. We have given our due consideration to the arguments and submissions of the learned Sr. ASC for the review petitioners. We may note that this Court has power to review its own judgment under Article 188 of the Constitution and such power is to be exercised under Order XXVI of the Supreme Court Rules, 1980 which adopts the provision of Order XLVII Rule 1 CPC providing for the grounds of review. The grounds available for review are of errors in the judgment/order which would justify the review and which are self-evident found floating on the surface of record and has material bearing on the final result of the case. The review jurisdiction does not allow re-hearing of a decided cases more so when the Court has given conscious and deliberate decision on the point of law as well as of fact while disposing of the constitution petition before it. Similarly, the grounds not urged or raised at the time of hearing of constitution petition cannot be allowed to be raised in the review proceeding. We have noted that the arguments advanced by the learned Sr. ASC for the review petitioners and the written submissions filed by him do not figure-in as a ground provided for review of the judgment in that the Court has already considered and examined them while passing the judgment under review by giving elaborate and conscious judgment and it is also worth-noting here that the Court at the time of handing over the judgment under review was fully conscious of its implications and had in mind all the issues which are raised by the learned Sr. ASC for the review petitioners. Reference in this regard is made to the cases of Mian Rafiq Saigol and another v. Bank of Credit & Commerce International (Overseas) Ltd. and another [PLD 1997 Supreme Court

865], Majid Mahmood v. Muhammad Shafi [2008 SCMR 554] and Mst. Ghulam Fatima through L.Rs. and others v. Farzand and others [2008 SCMR 1590]. The Review Petition accordingly is not maintainable, which is dismissed.

Chief Justice

Judge

Bench-I
Islamabad
APPROVED FOR REPORTING
Hashmi

Judge

Announced in open Court on 24.08.2016

Judge