

Deepa Chhibber & Ors vs Dayanand Adarsh Vidyalaya & Ors on 10 March, 2025

Author: Jyoti Singh

Bench: Jyoti Singh

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IN THE HIGH COURT OF DELHI AT NEW DELHI

W.P.(C) 5053/2020

DEEPA CHHIBBER & ORS.

Through: Ms. Asha Jain Mada
Mukesh Jain, Advocates.

DAYANAND ADARSH VIDYALAYA & ORS.Re

Through: Mr. Manish Gupta,
Verma, Mr. Prateek Gupta,
Ms. Payal Singh and Mr. Ra
Respondent No.1.
Mr. Yeeshu Jain, ASC with
Advocate for Respondents/

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

OR

% 10.03.2025

1. This Review Petition is preferred on behalf of Respondent No.1/Dayanand Adarsh Vidyalaya (School) under Section 114 read with Order XLVII CPC for review of order dated 23.12.2024 passed by this Court. By order dated 23.12.2024, Court had directed the School to release the salaries and emoluments of the Petitioners for a period of six months purely as an interim arrangement and without prejudice to rights and contentions of the respective parties.

2. Learned counsel for the School submits that there is an error apparent on the face of order dated 23.12.2024 inasmuch as Court has placed reliance on order dated 01.06.2021 passed in W.P.(C) 5403/2021, which was a This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 11/03/2025 at 22:40:11 separate and independent writ petition preferred by few students of this School and paragraph 5 of the said order only directed that until next date of hearing, School will promote the students to the next classes as appropriate and provide them e-books for the promoted classes and thus, this order had no relevance with the salaries of the teachers. It is further urged that an impleadment application bearing CM APPL. No. 9904/2021 was filed by students but no notice was issued and

subsequently CM APPL. No. 14507/2021 was preferred in the present petition on 13.04.2021 by the same counsel but was dismissed as withdrawn on 15.04.2021 with liberty to take recourse to appropriate remedies for the simple reason that W.P.(C) 5403/2021 was for a different cause of action. Learned counsel further submits that there was no material on record to even remotely indicate that Petitioners had been taking classes and in the absence of any such material, Court ought not to have directed payment of salaries even for six months. In this light, learned counsel prays that order dated 23.12.2024 be recalled.

3. Having heard learned counsel for the School and Ms. Madan for the Petitioners, who strenuously opposes the review petition, I am of the view that there is no merit in the review petition as learned counsel for the School has been unable to point out an error apparent on the face of order dated 23.12.2024. Before proceeding to examine the contentions raised by the School, it would be pertinent to delineate the scope and ambit of interference by a Court at the time of deciding the review petition and for this I may first refer to the judgment of the Supreme Court in *S. Nagaraj and Others v. State of Karnataka and Another*, 1993 Supp (4) SCC 595, wherein the Supreme Court held that review literally and even judicially means re-consideration/re-examination and primarily the philosophy inherent in a This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 11/03/2025 at 22:40:11 review is the universal acceptance of human fallibility, yet in the realm of law, Courts have leaned strongly in favour of finality of decisions which are legally and properly delivered. Supreme Court also noted that exceptions, both statutorily and judicially, have been carved out to correct accidental mistakes or miscarriage of justice. In *Lily Thomas and Others v. Union of India and Others*, (2000) 6 SCC 224, the Supreme Court while affirming that power of review can be exercised for correction of mistakes, penned a word of caution that it cannot be used as a tool to substitute a view and review proceedings cannot be decided as an appeal in disguise. The Supreme Court also ruled that mere possibility of two views on the subject is not a ground for review and analysed the provisions of Order XLVII Rule 1 CPC, which provides that any person aggrieved by a judgment/order/decree from which no appeal is allowed or where appeal is allowed but has not been preferred, can be filed by any person aggrieved and who from the discovery of new and important matter or evidence which, after exercise of due diligence was not within his knowledge or could not be produced by him at the time when judgment/decree/order was passed or on account of some mistake or error apparent on the face of the record or for any other sufficient reason, desires to obtain a review of the decree or order made against him, may apply for a review of the judgement to the Court which passed the decree or made the order. The expression 'any other sufficient reason' was interpreted to mean a reason sufficient on grounds mentioned or at least analogous to those specified under Order XLVII Rule 1 CPC, as held in *Chhajju Ram v. Neki and Others*, AIR 1922 PC 112.

4. In *T.C. Basappa v. T. Nagappa and Another*, (1955) 1 SCR 250, the Supreme Court held that 'an error apparent on the face of the proceedings' is This is a digitally signed order.

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error which is based on clear ignorance or disregard of the provisions of law i.e. an error which is a patent error and not a mere wrong decision. This position was further reiterated and reaffirmed in *Hari Vishnu Kamath v. Syed Ahmad Ishaque and Others*, (1955) 1 SCR 1104, where the Supreme Court held that to seek review there should be something more than a mere error, it must be one which is manifest on the face of the record and no error could be an error apparent on the face of the record, if it is not self-evident and requires examination or argument to establish it.

5. It would be relevant to allude to the judgment of the Supreme Court in *M/s Northern India Caterers (India) Ltd. v. Lt. Governor of Delhi*, (1980) 2 SCC 167, where the Supreme Court considered the powers of review under Order XLVII Rule 1 CPC and the relevant passage is as follows:-

"8. It is well-settled that a party is not entitled to seek a review of a judgment delivered by this Court merely for the purpose of a rehearing and a fresh decision of the case. The normal principle is that a judgment pronounced by the Court is final, and departure from that principle is justified only when circumstances of a substantial and compelling character make it necessary to do so: *Sajjan Singh v. State of Rajasthan* [AIR 1965 SC 845 : (1965) 1 SCR 933, 948 : (1965) 1 SCJ 377] . For instance, if the attention of the Court is not drawn to a material statutory provision during the original hearing, the Court will review its judgment:

G.L. Gupta v. D.N. Mehta [(1971) 3 SCC 189 : 1971 SCC (Cri) 279 : (1971) 3 SCR 748, 750] . The Court may also reopen its judgment if a manifest wrong has been done and it is necessary to pass an order to do full and effective justice: *O.N. Mohindroo v. Distt. Judge, Delhi* [(1971) 3 SCC 5 : (1971) 2 SCR 11, 27] . Power to review its judgments has been conferred on the Supreme Court by Article 137 of the Constitution, and that power is subject to the provisions of any law made by Parliament or the rules made under Article 145. In a civil proceeding, an application for review is entertained only on a ground mentioned in Order 47 Rule 1 of the Code of Civil Procedure, and in a criminal proceeding on the ground of an error apparent on the face of the record (Order 40 Rule 1, Supreme Court Rules, 1966). But whatever the nature of the proceeding, it is beyond dispute that a review proceeding cannot be equated with the original hearing of the case, and the finality of the judgment delivered by the Court will not be reconsidered except "where a glaring omission or This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 11/03/2025 at 22:40:12 patent mistake or like grave error has crept in earlier by judicial fallibility": *Sow Chandra Kante v. Sheikh Habib* [(1975) 1 SCC 674 :

1975 SCC (Tax) 200 : (1975) 3 SCR 933]."

6. On the aspect of scope of review, relevant would it be to refer to a judgment of the Supreme Court in *S. Madhusudhan Reddy v. V. Narayana Reddy and Others*, 2022 SCC OnLine SC 1034, wherein the Supreme Court referred to another judgment of the Supreme Court in *Kamlesh Verma v.*

Mayawati and Others, 2013 SCC OnLine SC 714, where the Supreme Court has succinctly culled out the principles for exercise of review jurisdiction, while discussing the confines and scope of Order XLVII Rule 1 CPC and I quote :-

"26. After discussing a series of decisions on review jurisdiction in *Kamlesh Verma v. Mayawati*, this Court observed that review proceedings have to be strictly confined to the scope and ambit of Order XLVII Rule 1, CPC. As long as the point sought to be raised in the review application has already been dealt with and answered, parties are not entitled to challenge the impugned judgment only because an alternative view is possible. The principles for exercising review jurisdiction were succinctly summarized in the captioned case as below:

"20. Thus, in view of the above, the following grounds of review are maintainable as stipulated by the statute:

20.1. When the review will be maintainable:

(i) Discovery of new and important matter or evidence which, after the exercise of due diligence, was not within knowledge of the petitioner or could not be produced by him;

(ii) Mistake or error apparent on the face of the record;

(iii) Any other sufficient reason.

The words "any other sufficient reason" has been interpreted in *Chajju Ram v. Neki*, and approved by this Court in *Moran Mar Basselios Catholicos v. Most Rev. Mar Poulouse Athanasius* to mean "a reason sufficient on grounds at least analogous to those specified in the rule". The same principles have been reiterated in *Union of India v. Sandur Manganese & Iron Ores Ltd.,*

20.2. When the review will not be maintainable:

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- (i) A repetition of old and overruled argument is not enough to reopen concluded adjudications.
- (ii) Minor mistakes of inconsequential import.
- (iii) Review proceedings cannot be equated with the original hearing of the case.
- (iv) Review is not maintainable unless the material error, manifest on the face of the order, undermines its soundness or results in miscarriage of justice.
- (v) A review is by no means an appeal in disguise whereby an erroneous decision is re-heard and corrected but lies only for patent error. (vi) The mere possibility of two views on the subject cannot be a ground for review.
- (vii) The error apparent on the face of the record should not be an error which has to be fished out and searched.
- (viii) The appreciation of evidence on record is fully within the domain of the appellate court, it cannot be permitted to be advanced in the review petition.
- (ix) Review is not maintainable when the same relief sought at the time of arguing the main matter had been negated."

7. From a conspectus of the aforesaid judgments and the principles culled out by the Supreme Court which guide the Courts in deciding a review petition, it is luminously clear that a review petition is not an appeal in disguise and the Court in a review petition cannot be called upon to re-hear the matter and pass a fresh decision on merits.

8. Contention of the counsel for the School that Court has placed reliance on orders which are unconnected with the issues arising in the present writ petition for directing release of salaries of the Petitioners, is wholly misconceived. A bare reading of order dated 23.12.2024 shows that Court has only recorded the contention of Ms. Madan that in the order dated 01.06.2021 passed in W.P.(C) 5403/2021, Directorate of Education ('DoE') has taken a stand that prior permission of DoE is required under Rule 46 of This is a digitally signed order.

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today School cannot deny that no permission has been given by DoE for closure.

9. Additionally, Court had referred to order dated 29.03.2022, wherein Court had observed that both the petitions i.e., the present petition and W.P.(C) 5403/2021, reflect a sorry state of affairs and the illegal manner in which the School, on its own, has not only stopped imparting education to the students who were still on the rolls but had also simultaneously stopped paying salaries to the staff members, who continued to be in employment of the School without waiting for DoE's approval for closure. Referring to this order and looking at the backdrop that indeed that there was no approval granted by DoE for closure, this Court observed on 23.12.2024 that in light of Rule 46 of DSEAR, no Management Committee of a recognised School can close the School without approval of DoE and without giving full justification and therefore, School cannot take a stand that there was a lawful closure. Relying on the material placed on record by the Petitioners reflecting that they were taking classes, Court directed release of salaries. Be it noted that, as recorded in the order dated 23.12.2024, this was purely an This is a digitally signed order.

The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 11/03/2025 at 22:40:12 interim arrangement without prejudice to the rights and contentions of the respective parties and with a view to aid the petitioners to tide over their financial crunch since no salaries had been paid since 2019 despite this Court noting in orders dated 29.03.2022 and 25.04.2024 that the stand of the School could not be countenanced.

10. In my considered view, the review petition is bereft of merit and I may observe that this is yet another step by the School to stall granting salaries to the Petitioners and that too, only for a period of six months. Review petition is dismissed with a cost of Rs. 25,000/- to be paid by the School to the Petitioners in equal proportion.

JYOTI SINGH, J MARCH 10, 2025 B.S. Rohella This is a digitally signed order.

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