

IN THE SUPREME COURT OF PAKISTAN
(Appellate/Review Jurisdiction)



Bench-I:

Mr. Justice Syed Mansoor Ali Shah, HACJ
Mr. Justice Muhammad Ali Mazhar
Mr. Justice Shahid Bilal Hassan

C.R.P. 5/2023 IN C.P.L.A. 448-P/2017 and

C.R.P. 6/2023 IN C.P.L.A. 651-P/2019 and

C.R.P. 7/2023 IN C.P.L.A. 655-P/2019 and

C.R.P. 8/2023 IN C.P.L.A. 658-P/2019 and

C.R.P. 9/2023 IN C.P.L.A. 666-P/2019 and

(Against the judgment dated 29.09.2022 passed by this Court)

and

C.P.L.A No. 402-P of 2023

(Against the judgment dated 17.03.2023 passed by the Peshawar High Court,
Peshawar in W.P. No. 4180-P/2022)

District Education Officer (Female), Charsadda, etc (C.R.P. 5/2023)
Secretary S.S.D., FATA Secretariat, FATA, Peshawar (Secretary
Elementary and Secondary Education, Khyber Pakhtunkhwa, Peshawar)
and others (C.R.P. 6/2023)
Government of Khyber Pakhtunkhwa through Secretary, Elementary &
Secondary Education, Peshawar and others (C.R.Ps 7-9/2023)
Director Education Officer (Female), Peshawar, etc (CPLA-402-P/2023)

... Petitioner(s)

Versus

Sonia Begum	(C.R.P. 5/2023)
Shakila Chaman	(C.R.P. 6/2023)
Saira Amin	(C.R.P. 7/2023)
Syed Amjad Rauf Shah	(C.R.P. 5/2023)
Raz Muhammad	(C.R.P. 9/2023)
Mehak Sajawal	(C.P.L.A 402-P/2023)

.... Respondent(s)

For the petitioner(s): Mr. Shah Faisal Ilyas, Addl. AG, KPK

For the respondent(s): N.R.

Assisted by: Mr. Umer A. Ranjha, Judicial Law Clerk and Ms.
Uzma Zahoor, Research Officer, Supreme Court
of Pakistan.

Date of hearing: 25.04.2025

JUDGMENT

C.R.Ps 5 to 9/2023

Syed Mansoor Ali Shah, ACJ.- Through the present petitions, the petitioners seek review of the judgment of this Court dated

29.02.2022. This Court upheld the judgments of the Peshawar High Court, Peshawar in the impugned judgment under review (reported as *Director Education Officer (Female) Charsadda and others v. Sonia Begum and others* (2023 SCMR 217) whereby challenges brought by candidates who had been denied appointments as Primary School Teachers ("PSTs") due to discrepancies between their domicile certificates and CNIC addresses were dismissed. The Court affirmed that under Section 3 of the Khyber Pakhtunkhwa (Appointment, Deputation, Posting and Transfer of Teachers, Lecturers, Instructors and Doctors) Regulatory Act, 2011, it is the domicile certificate, and not the CNIC address, that determines a candidate's permanent residence for employment purposes. It further cautioned that relying solely on CNIC addresses would undermine the value of domicile certificates and unfairly disadvantage otherwise qualified applicants. Recognizing the distinction between "domicile" and "residence" and invoking the doctrine of legitimate expectation, the Court held that candidates who had successfully passed competitive examinations and possessed valid domicile certificates could not be denied appointments on technical grounds. Consequently, leave to appeal was refused. Hence, these instant review petitions.

2. At the very outset, we deem it necessary to express our concern regarding the growing trend of filing review petitions in a casual and mechanical manner, often as a veiled attempt to reargue matters already conclusively adjudicated. While the right of access to courts is a cornerstone of our constitutional framework, it is not an unqualified or limitless right. Such access must be exercised with due responsibility and in a manner that upholds the dignity and finality of judicial proceedings. When litigants such as the petitioners before us initiate repetitive and meritless petitions, or employ tactics aimed at delaying the conclusion of proceedings, they erode the integrity of the judicial process. In light of these concerns, it is necessary to restate the settled and narrow contours of the Court's review jurisdiction.

Scope of Review Jurisdiction

3. It must be noted that Article 188 of the Constitution of the Islamic Republic of Pakistan, 1973 ("Constitution") empowers the Supreme Court to review any judgment pronounced or order made by it. Article 188 provides:

Review of judgments or orders by the Supreme Court. — The Supreme Court shall have power, subject to the provisions of any Act of Majlis-e-Shoora (Parliament) and of any rules made by the Supreme Court, to review any judgment pronounced or any order made by it.

The aforesaid provision empowers the Supreme Court to review its judgment under Article 188 of the Constitution, subject to the provisions of any Act of Parliament, and of any rules made by this Court. The procedure governing the exercise of review jurisdiction is further elaborated in the Supreme Court Rules, 1980 (“Rules”). Order XXVI, Rule 1 of the Rules stipulates that a review petition may be filed on grounds similar to those mentioned in Order XLVII, Rule 1 of the Code of Civil Procedure, 1908 (“CPC”), which provides that a review may be sought where there is (1) discovery of new and important matter or evidence which, after the exercise of due diligence, was not within knowledge of, or could not be produced by, the third party seeking review at the time when the decree was passed or order made; (2) some mistake or error apparent on the face of the record, and (3) any other sufficient reason.¹

4. The term “mistake or error apparent on the face of the record” cannot be defined with precision or exhaustiveness, and there would always remain an element of indefiniteness inherent in its very nature.² It is to be determined in each case on the basis of its own peculiar facts. Such an error may involve a question of law or fact; however, the critical condition is that it must be self-evident, immediately apparent, and not require extensive discussion or reasoning.³ If an error is not self-evident and its detection demands prolonged debate or analysis, it cannot be classified as an error apparent on the face of the record. A decision, order, or judgment cannot be corrected simply because it is erroneous in law, or because a different view could have been taken by the court or tribunal on a point of law or fact.⁴ It is important to note that a party filing a review petition cannot be allowed to repeat previously overruled arguments in an attempt to reopen the conclusions reached in the judgment.⁵ It is well established law that the power of review should not be confused with the appellate power, which permits a superior court to correct errors made by

¹ Justice Qazi Faez Isa v. President of Pakistan PLD 2022 SC 119; M/s Habib and Co. v. Muslim Commercial Bank PLD 2020 SC 227; Engineers Study Forum v. Federation of Pakistan 2016 SCMR 1961; Government of Punjab v. Aamir Zahoor-ul-Haq PLD 2016 SC 421; Haji Muhammad Boota v. Member (Revenue) BOR 2010 SCMR 1049 and Mehdi Hassan v. Province of Punjab 2007 SCMR 755.

² Anwar Husain v. Province of East Pakistan PLD 1961 Dacca 155 (per Hamoodur Rehman J).

³ Ghulam Murtaza v. Abdul Salam Sheikh 2010 SCMR 1883.

⁴ Haji Muhammad Boota v. Member (Revenue) BOR 2010 SCMR 1049; Abdul Rauf v. Qutab Khan 2006 SCMR 1574 and Nawabzada Muhammad Amir Khan v. Controller of Estate Duty PLD 1962 SC 355.

⁵ Pakistan International Airlines v. Inayat Rasool 2004 SCMR 1737; Nook Hassan Awan v. Muhammad Ashraf 2001 SCMR 367; Kalsoom Malik v. Assistant Commissioner 1996 SCMR 710 and Abdul Majeed v. Chief Settlement Commissioner 1980 SCMR 504.

a subordinate court.⁶ Review proceedings are distinct from appeals and must be strictly confined to the scope and parameters outlined in Order XLVII Rule 1 of the CPC.

5. In view of the aforesaid, the upshot of the discussion is that the power of review, as articulated in Article 188 of the Constitution and governed by the Rules and the CPC, is not an open invitation to revisit judgments merely on the basis of dissatisfaction with the outcome. It is a limited jurisdiction, exercised with great caution and circumspection. The conditions for filing a review petition are specifically enumerated, and they do not extend to re-arguing points of law or fact that have already been conclusively determined.

6. We have heard the learned Additional Advocate General, Khyber Pakhtunkhwa at some length, gone through the impugned judgment, record of the case and the law on the subject. It becomes evident that these petitions seek to rehear matters already settled in the judgment under review. These petitions do not disclose any new or important evidence, nor do they point to any error that is apparent on the face of the record. In fact, the issues raised in the review petitions appear to be a mere reiteration of arguments that have already been considered and rejected by this Court. Therefore, we find that there is no ground made out for the review of the impugned judgment and are of the view that the present petitions are completely frivolous and vexatious.

Frivolity of the Petitions

7. Frivolous claims serve no purpose other than to waste the Court's time and resources. The repeated filing of such petitions, especially when the issues have already been conclusively settled, clutters the judicial process with baseless assertions. This compels the Court to divert its valuable time and attention to matters devoid of merit. Frivolous litigation is costly not only for the judicial system but also for litigants.⁷ Such cases consume limited court resources and require parties to expend substantial time and financial resources defending unwarranted claims. This imposes an undue burden on both the judiciary and the litigants, leading to avoidable expenses and procedural delays. Moreover, frivolous litigation

⁶ Inter Quest Informatics Services v. Commissioner of Income Tax 2025 SCMR 257; Mukhtar Mai v. Abdul Khalil 2019 SCMR 1302; Zakaria Ghani v. Muhammad Ikhlaq Memon PLD 2016 SC 229 and Jamshoro Joint Venture v. Khawaja Muhammad Asif 2014 SCMR 1858.

⁷ Suja A Thomas, 'Frivolous Cases' (2010) 59(2) DePaul Law Review 633.

delays justice for deserving litigants by diverting the Court's focus from meritorious cases⁸, thereby disrupting the efficient administration of justice and impeding the timely resolution of genuine disputes.

8. It is pertinent to highlight that over 2.2 million cases are currently pending before courts across Pakistan, including approximately 56,635 cases before this Court alone.⁹ A proportion of these consist of review petitions.¹⁰ Frivolous, vexatious, and speculative litigation contributes substantially to this backlog, artificially inflating dockets and obstructing the expeditious adjudication of legitimate claims. The misuse of judicial processes not only squanders finite judicial resources but also undermines public confidence in the justice system. Frivolous and vexatious litigation has become a serious menace, choking and clogging the judicial machinery. Resources, both human and material that ought to be deployed toward resolving genuine disputes are instead wasted on these baseless claims.¹¹ This form of litigation must be unequivocally discouraged and systematically eliminated. As Justice Bowen famously remarked, "I have found in my experience that there is one panacea which heals every sore in litigation and that is costs."¹² The imposition of costs, as authorized under Order XXVIII, Rule 3 of the Rules¹³, serves as a critical deterrent against the abuse of judicial process. It reinforces judicial discipline, promotes expeditious adjudication, and protects the integrity of the legal system. By ensuring that only bona fide claims occupy the Court's time, cost sanctions not only preserve judicial resources but also enhance broader access to justice.

Imposition of Costs

9. The imposition of costs functions as a crucial corrective mechanism within the justice system, simultaneously deterring meritless claims and preserving court access for genuine litigants.¹⁴ As Professor Sanford

⁸ Cooter & Gell v. Hartmax Corp 496 U.S. 384 (1990).

⁹ Summary Statement of Case Institution, Disposal and Pendency (April 15, 2025). Supreme Court of Pakistan <https://www.supremecourt.gov.pk/downloads_judgements/all_downloads/Fortnightly_Disposal_Report.pdf> accessed 29 April 2025; Judicial Statistics, 3rd Bi-Annual Report (January-June 2024) Law and Justice Commission <<http://www.ljcp.gov.pk/reports/3bar.pdf>> accessed 29 April 2025.

¹⁰ The total number of these review petitions is 2628. These include Civil Review Petitions (2504), Criminal Review Petitions (111) and Suo Motu Review Petitions (13).

¹¹ Lepucki v. Van Wormer, 765 F.2d 86 (7th Cir. 1985).

¹² Cropper v. Smith (1884) 25 Ch D 700 (affirmed in Prince Abdulaziz v. Apex Global Management Ltd [2014] UKSC 64) (per Lord Neuberger).

¹³ Order XXVIII, Rule 3 provides. "Where it appears to the Court that an Advocate or a party seeks adjournment for which sufficient cause is not shown, the Court may impose compensatory costs on the Advocate or, as the case may be, the party seeking such adjournment. Costs may also be imposed on a party who files false or vexatious appeal or other proceedings and thereby wastes the time of the Court."

¹⁴ De Cruz Lee v. Lee 2015 ONSC 2012; Irmya v. Mijovick 2016 ONSC 5276 and British Columbia (Minister of Forests) v Okanagan Indian Band, 2003 SCC 71.

Levinson has aptly observed, cost sanctions serve as an economic check on frivolous litigation, discouraging litigants from misusing judicial processes for vexatious purposes.¹⁵ Any meaningful reform aimed at reducing case pendency, promoting alternative dispute resolution, or streamlining civil justice will be ineffective without robust and enforceable provisions on the imposition of costs.¹⁶ This Court has consistently emphasized that frivolous litigation results in an unjustified waste of judicial time perpetuated in part by the absence of meaningful financial repercussions for filing baseless claims.¹⁷ Such litigation not only delays the resolution of valid disputes but also misappropriates public resources, including funds, facilities, and manpower. These are financed by taxpayers and must be judiciously utilized.¹⁸ Cost sanctions in frivolous and vexatious matters are thus essential to fulfilling the constitutional mandate of a fair trial under Article 10A of the Constitution of the Islamic Republic of Pakistan, 1973 (“Constitution”). Failure to impose costs effectively denies genuine claimants access to justice under Article 9 and impairs the constitutional goal of expeditious justice outlined in Article 37(d) of the Constitution. In recognition of this, the Supreme Court has consistently directed all tiers of the judiciary to impose appropriate costs to check the abuse of process, prevent unwarranted adjournments, curb procedural delinquency, and preserve the judiciary’s efficiency and integrity.¹⁹

10. The legal framework governing the imposition of costs in Pakistan is rooted in both statutory law and procedural rules. In addition to Order XXVIII, Rule 3 of the Rules, Section 35 of the CPC empowers courts to determine by whom and to what extent costs are to be paid. Section 35-A further authorizes compensatory costs against parties who raise false or vexatious claims or defences. More recently, the Costs of Litigation Act, 2017 enacted for the Islamabad Capital Territory has fortified the cost regime by mandating the imposition of compensatory, special, and adjournment costs. This transforms cost sanctions from a discretionary tool into a mandatory judicial duty. Although this statute currently applies

¹⁵ Sanford Levinson, ‘Frivolous Cases: Do Lawyers Really Know Anything at All?’ (1986) 24(2) Osgoode Hall LJ 353.

¹⁶ Sanjeev Kumar Jain v. Raghbir Saran Charitable Trust 2012 (1) SCC 455

¹⁷ Bakht Biland Khan v. Zahid Khan PLD 2024 Supreme Court 1273 and S.M. Sohail v. Sitara Kabir-ud-Din PLD 2009 Supreme Court 397.

¹⁸ Lutfullah Virk v. Muhammad Aslam Sheikh PLD 2024 Supreme Court 887; National Highway Authority, Islamabad v. Messrs Sambu Construction 2023 SCMR 1103 and Capital Development Authority v. Ahmed Murtaza 2023 SCMR 61.

¹⁹ Javed Hameed v. Aman Ullah 2024 SCMR 89 and Lutfullah Virk v. Muhammad Aslam Sheikh PLD 2024 Supreme Court 887 and Zakir Mehmood v. Secretary, Ministry of Defence 2023 SCMR 960.

only in the Islamabad Capital Territory, it offers a viable legislative model for adoption across provinces to standardize and strengthen deterrence against frivolous litigation nationwide.

11. One of the central challenges in curbing frivolous litigation is the absence of a universally accepted definition of a “frivolous suit.” As Professor Suja A. Thomas has observed that there is considerable disagreement about what exactly qualifies as frivolous.²⁰ In this context, courts may consider a set of non-exhaustive factors to assess whether a case is frivolous. These *inter alia* include: (i) Conduct of the parties: Any behaviour that unnecessarily prolongs or delays the proceedings²¹, (ii) Margin of success or failure: Whether the claim was reasonably arguable or plainly untenable from the outset²², (iii) Falsehood or fraud: If a party or its witnesses lied under oath or submitted forged or fabricated document²³, (iv) Compliance with legal obligations: Whether the party has scrupulously complied with the Code of Civil Procedure, the Evidence Act, and other applicable substantive or procedural laws²⁴, (v) Unnecessary denials: If a party refused to admit facts or documents that ought reasonably to have been admitted²⁵, and (vi) Violation of court processes: Failure by a party or its legal representative to comply with court rules, practice directions, or lawful court orders.²⁶

12. In various jurisdictions, including the United States²⁷, lawyers are ethically and procedurally obligated to certify, before filing a case, that the action is not initiated for improper purposes such as to harass, delay, or increase litigation costs unnecessarily. They must also certify that the claims, defences, and legal contentions are warranted by existing law and that factual contentions are supported by evidence. Courts have the discretion to penalize not only litigants but also legal representatives who violate these duties. This reinforces professional accountability and deters frivolous litigation. In Pakistan, a similar obligation exists specifically in

²⁰ Suja A Thomas, ‘Frivolous Cases’ (2010) 59(2) DePaul Law Review 633.

²¹ According to the Halsbury’s Laws of England (4th edn, 1973) vol 10, para 17, the conduct of the parties includes: (a) Conduct before, as well as during, the proceedings and in particular the extent to which the parties followed any relevant pre-action protocol, (b) Whether it was reasonable for a party to raise, pursue or contest a particular allegation or issue, (c) The manner in which a party has pursued or defended his case or a particular allegation or issue, and (d) Whether a claimant who has succeeded in his claim, in whole or in part, exaggerated his claim.

²¹ Rule 57 of Canadian Civil Procedure and Section 131, Courts of Justice Act, 2021.

²² Lucian Arye Bebchuk and Howard F. Chang, ‘An Analysis of Fee-Shifting Based on the Margin of Victory: On Frivolous Suits, Meritorious Suits, and the Role of Rule 11’ (1994) NBER Working Paper No 4731 https://www.nber.org/system/files/working_papers/w4731/w4731.pdf accessed 29 April 2025.

²³ Pirbhai v. Singh 2011 ONSC 1366.

²⁴ Vinod Seth v. Devinder Bajaj (2010) 8 SCC 1.

²⁵ Rule 57 of Canadian Civil Procedure and Section 131, Courts of Justice Act, 2021.

²⁶ Part 44-General Rules about Costs, Civil Procedure Rules in England and Wales, 1997.

²⁷ Rule 11, Federal Rules of Civil Procedure (adopted by the Supreme Court of the United States in 1937).

the context of review petitions. Under the Rules, it is mandatory that the Advocate signing the review application briefly state the precise grounds on which the review is sought.²⁸ Furthermore, the Advocate must provide a reasoned certificate affirming that, in their professional opinion, the case warrants review. This safeguard ensures the limited jurisdiction of review is not misused, thereby conserving judicial time for matters of genuine substance.

13. Another significant obstacle in addressing frivolous litigation is the difficulty in determining what constitutes “reasonable” litigation costs. As emphasized by Sir Rupert Jackson and the Manitoba Law Reform Commission, cost regimes should be proportionate, comprehensible, and flexible enough to deliver justice in individual cases.²⁹ Token or nominal costs fail to deter luxury or baseless litigation. The Supreme Court of India has advocated for the imposition of punitive, rather than merely compensatory costs to effectively discourage frivolous claims.³⁰ Courts must therefore impose costs that are realistic and proportionate not only to disincentivize meritless litigation but also to encourage the use of alternative dispute resolution mechanisms, all while safeguarding access to justice for those with legitimate grievances.

14. The consistent imposition of meaningful and proportionate costs rooted in statutory authority, judicial discipline, and constitutional imperatives is essential to deter abuse of process and restore procedural integrity. It is imperative that courts across all tiers actively embrace cost sanctions as a necessary tool for judicial economy, procedural fairness, and the delivery of timely and effective justice. Only by weeding out vexatious and baseless claims can the judiciary ensure that its limited resources are directed toward those causes that truly deserve legal redress.

15. In view of the aforesaid, these civil review petitions are accordingly dismissed, with costs of Rs. 100,000/- (Rupees One Hundred Thousand only) imposed under Order XXVIII, Rule 3 of the Supreme Court Rules, 1980, for being frivolous and for having squandered the valuable time of

²⁸ Order XXVI, Rule 4 of the Rules.

²⁹ Ministry of Justice, Proposals for Reform of Civil Litigation Funding and Costs in England and Wales: Implementation of Lord Justice Jackson’s Recommendations (Consultation Paper CP 13/10, Cm 7947, November 2010)<https://assets.publishing.service.gov.uk/media/5a7c19b240f0b61a825d673d/7947.pdf> accessed 29 April 2025 and Manitoba Law Reform Commission, Costs Awards in Civil Litigation (Report No 111, September 2005) https://manitobalawreform.ca/pubs/pdf/fullreports/111-full_report.pdf accessed 29 April 2025.

³⁰ Pandurang Vithal Kevne v. Bharat Sanchar 2024 INSC 1051, Vinod Seth v. Devinder Bajaj (2010) 8 SCC 1 and Ashok Kumar Mittal v. Ram Kumar Gupta (2009) 2 SCC 656.

the Court. The costs shall be deposited within fifteen (15) days with any charitable institution recognized under the Thirteenth Schedule to the Income Tax Ordinance, 2001. Proof of such deposit must be placed on the record of this case. In the event of non-compliance, the office shall place the matter before the appropriate Bench for further orders.

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16. This petition is barred by limitation, having been filed with a delay of thirteen (13) days. The application for condonation of delay (C.M.A. No. 600-P/2023) fails to disclose any sufficient cause warranting condonation and is, therefore, dismissed. Even otherwise, the petition seeks to agitate the same issue which has already been conclusively adjudicated in *Director Education Officer (Female) Charsadda and others v. Sonia Begum and others* (2023 SCMR 217). We see no justification to depart from the earlier view taken by this Court. Accordingly, this petition is dismissed both on the ground of limitation and on merits.

I have appended my
Additional Note.

Islamabad,
25th April, 2025.

Approved for reporting
Sadaqat

Additional Note

Muhammad Ali Mazhar-J. The judgment authored by one of us, which has been sought to be reviewed [Director Education Officer (Female) Charsadda and others v. Sonia Begum and others (2023 SCMR 217)] resonates that all the questions raised by the parties, both for and against, were properly discussed and answered *in extenso*. Since no plausible or reasonable ground, including any error apparent on the face of the record, was accentuated, therefore, all review petitions were dismissed with cost by means of the judgment authored by my learned brother, Justice Syed Mansoor Ali Shah. As the filing of review petitions has become an increasing trend, often resorted to as a matter of course rather than as a means to correct errors apparent on the face of the record as a legal necessity or propriety, I also feel it is my utmost responsibility to contribute an additional note on this crucial issue.

2. No doubt, this Court has been conferred the powers to review its judgment under Article 188 of the Constitution of the Islamic Republic of Pakistan (“Constitution”), but this is subject to the provisions of any Act of Parliament and of the rules made by this Court. In this background, Order XXVI of the Supreme Court Rules, 1980 (“Rules”), is also quite pertinent, wherein it is expounded that, subject to the law and practice, the Supreme Court may review its judgment or order on grounds similar to those mentioned in Order XLVII, Rule 1, of Code of Civil Procedure, 1908 (“CPC”), and in a criminal proceeding, on the ground of an error apparent on the face of the record. The precondition and yardstick for filing a review application is that the Advocate signing the application shall specify, in brief, the points upon which the prayer for review is based, and shall add a certificate in the form of a reasoned opinion that review would be justifiable in that particular case.
3. While recognizing the right to file a review petition within the framework and scope of review jurisdiction in the aforesaid rules, a penal clause is also embedded; that in case the Court concludes that the Review Application was vexatious or frivolous, the Advocate or the Advocate-On-Record drawing the application shall render himself liable to disciplinary action.

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4. The survey of Order XLVII, Rule 1, CPC, divulges that an aggrieved person may file an application for review of the judgment or order on the ground of the discovery of new and important information or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the decree was passed or order made, or on account of some mistake or error apparent on the face of the record, or for any other sufficient reason. So, for all intents and purposes, the review of judgment or order may be entreated only in instances of errors in the judgment or order floating on the surface of the record with a substantial impact on the final outcome of the *lis*. However, it does not connote or entail a right of rehearing of a decided case, especially where there has been a mindful and thoughtful decision on the point of law as well as fact. In my view, every judgment rendered by a court of law is presumed to be a solemn and conclusive determination of all points arising out of the *lis*. Irregularities, if any, which have no significant effect or impact on the outcome, would not be sufficient to warrant review. However, if the incongruity or ambiguity is of such a nature as to transmute the course of action from being one in aid of justice to a process of injustice, then, obviously, a review petition may be instituted for redressal, to demonstrate the error if it is found floating conspicuously on the surface of the record, but a mere desire for rehearing of the matter cannot constitute sufficient ground for the grant of review, which, by its very nature, cannot be equated with the right or remedy of appeal. The clemency afforded by review exists to nip in the bud an irreversible injustice, if any, done by a court, such as misconstruction of law, misreading of evidence, or non-consideration of pleas raised, which would amount to an error floating on the surface of the record. However, where the court has taken a conscious and deliberate decision on a point of fact or law, a review petition will not be competent. The review jurisdiction of the court is neither commensurate with a right of appeal nor an opportunity of rehearing, nor can a judgment or order be reviewed merely because a different view could have been taken.

5. At present, it has become a custom or routine practice to file review applications unwarily and injudiciously, based on certificates issued by advocates that merely imitate the grounds already urged and decided in the main petition or appeal, without specifying any genuine error in the judgment or order which merits its reversal. It is high time that this practice be denounced

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and condemned, as it constitutes nothing but a waste and depletion of the precious time of the Court and places an unnecessary burden on its docket. Reiteration of the same arguments in a review application is not sufficient to prompt a different view. A review of a judgment or order is a substantial step and such a departure should only be resorted to when a patent mistake, inadvertence, or oversight appears on the record which cause a serious miscarriage of justice.

6. While adverting to the provision or construction of any law and/or the Constitution, some errors may be apparent on the face of the record which cause substantial injury which require some remedial measures to advance the cause of justice. This may include the discovery of new and important matter or evidence which, after the exercise of due diligence, was not within the knowledge of, or could not be produced by, the party seeking review at the time when the decree was passed or order made; some mistake or error apparent on the face of the record; or any other sufficient reason. The ground of error apparent on the face of the record, is common to review in both civil and criminal proceedings. For such review to be entertained, the specific ground must not only be mentioned in the certificate of the advocate, but also be conspicuously spotted in the review petition, rather than relying on sweeping or irrational grounds having no nexus with the case. Undoubtedly, it is the duty of the Judges of the apex Court to correct their errors, because the principles of law enunciated in their judgments are binding on all other courts in the country under Article 189 of the Constitution. Orders based on an erroneous assumption of material facts, or those made without adverting to a provision of law, or reflecting a departure from the undisputed construction of law and the Constitution, may amount to an error apparent on the face of the record and can be rectified. Earlier also, in my judgment in the case of Commissioner Inland Revenue Z-III, Corporate Regional Tax Office, Tax House, Karachi versus M/s MSC Switzerland Geneva & others (2023 SCMR 1011 = 2023 SCP 150), the review jurisdiction was discussed *in extenso*. With reference to the aforesaid judgment, the *rationes decidendi* deducible from a plethora of local and foreign dicta rendered time and again on the exercise of review jurisdiction are as under:

“1. Mistakes or errors which are self-evident and found floating on the face of the record, or the production of new and important evidence which was not in the knowledge of the applicant after the

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exercise of due diligence and which could not be produced at the time the order under review was made, which, if noticed earlier, would have material bearing on the final result of the case and, if not corrected, may perpetuate illegality and injustice

2. Orders based on an erroneous assumption of material facts, or without adverting to a provision of law, or a departure from undisputed construction of law and Constitution may amount to an error apparent on the face of the record. However, where there is a material irregularity but there is no substantial injury consequent thereon, the exercise of power to review to alter the judgment would not necessarily be required as the irregularity must be of such a nature as to convert the process from being one in the aid of justice to a process of gross injustice
3. Misconstruction of law, misreading of the evidence on record and non-consideration of pleas raised before a Court would amount to an error floating on the surface of record.
4. Where the Court has taken a conscious and deliberate decision on a point of fact or law, a review petition will not be competent.
5. Where two conclusions drawn simultaneously appear to be the outcome of banking upon a hyper technicality, with the consequence that both the views became destructive of each other, this by itself is a sufficient ground for review of the judgment
6. Where the judgment under review is found to have directed the doing of something which is in conflict with the Constitution or law, then it will be the duty of the Court to amend such error. However, it was observed on the scope of review that the incorrectness of a conclusion can never be a ground for review as it would amount to granting the Court a jurisdiction to hear appeals against its own judgments which is not permissible
7. If the conclusion is wrong because something manifest has been ignored by the Court or the Court has not considered an important aspect of the matter, a review petition would lie
8. A judgment cannot be reviewed merely because a different view could have been taken, rather a review petition would lie only when there is an alleged error in the judgment which is evident and can be established without elaborate arguments
9. The review petition would also be competent if some relevant evidence or question of fact or law has been overlooked which, had it been considered by the Court, might materially have affected the judgment of the Court.
10. Review jurisdiction does not allow the re-hearing of a decided case, more so when the Court has given a conscious and deliberate decision on the point of law as well as of fact while disposing of the

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constitution petition before it. Moreover, the grounds not urged or raised at the time or hearing the constitution petition cannot be allowed to be raised in the review proceedings

11. If the error in the judgment/order is so manifest and is floating on the surface, which is so material that had the same been noticed prior to the rendering of the judgment the conclusion would have been different, in such a case a review petition would lie. The Constitution does not place any restriction on the power of the Supreme Court to review its earlier decisions or even to depart from them nor the doctrine *stare decisis* will come in its way so long as review is warranted in view of the significant impact on the fundamental rights of citizens or in the interest of public good and the Court is competent to review its judgment/order *suo motu* without any formal application.

12. Mere desire of re-hearing of the matter cannot constitute sufficient ground for the grant of review. It is well settled by now that where petitioner took up all material grounds taken by him during the course of hearing of appeal and dealt with and decided in judgment under review and thus sought rehearing of arguments addressed by him at time of hearing and disposal of appeal and wished a different decision from one already given without satisfying jurisdictional requirement necessary for maintaining review petition.

13. Discovery of new and important matter or evidence which, after the exercise of due diligence, was not within knowledge of, or could not be produced by the party seeking review at the time when the decree was passed or order made; some mistake or error apparent on the face of the record; or any other sufficient reason and error apparent on the face of the record, are common grounds for review in both civil and criminal proceedings.

14. The expression, "error apparent on the face of the record" cannot be defined with precision or exhaustiveness, and there would always remain an element of indefiniteness inherent in its very nature. It is to be determined in each case on the basis of its own peculiar facts, whenever Judges of these courts are pointed out, in review jurisdiction conferred by the Constitution or law, something in their judgment or order that is in conflict with the Constitution or any law of the land, it becomes their duty to unhesitatingly correct that error. Duty of the Judges of the apex Court of the country is more thoughtful and profound in this regard, as there is no other court which can correct their error, and the principles of law enunciated in their judgments are, under Article 189 of the Constitution, binding on all other courts in the country.

15. An application to review a judgment is not to be lightly entertained and the Court could exercise its review jurisdiction only

when grounds are made out as provided. A review of a judgment is a serious step and reluctant resort to it is proper only where a glaring omission or patent mistake or like grave error has crept in earlier by judicial fallibility. A mere repetition, through different counsel, of old and overruled arguments, a second trip over ineffectually covered ground or minor mistakes of inconsequential import are obviously insufficient.

16. In a review petition, it is not open to the Court to reappreciate the evidence and reach a different conclusion, even if that is possible. Conclusion arrived at on appreciation of evidence cannot be assailed in a review petition unless it is shown that there is an error apparent on the face of the record or for some reason akin thereto. The power of review cannot be confused with appellate power which enables a superior court to correct all errors committed by a subordinate court.

17. A review is by no means an appeal in disguise whereby an erroneous decision is reheard and corrected, but lies only for patent error.

18. A review of a judgment is a serious step and reluctant resort to it is proper only where a glaring omission or patent mistake or like grave error has crept in earlier by judicial fallibility. It is neither fairness to the Court which decided nor awareness of the precious public time lost what with a huge backlog of dockets waiting in the queue for disposal, for counsel to issue easy certificates for entertainment of review and fight over again the same battle which has been fought and lost. The Bench and the Bar, we are sure, are jointly concerned in the conservation of judicial time for maximum use.

19. 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. 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.

20. Real distinction between a mere erroneous decision and a decision which could be characterized as vitiated by 'error apparent', and that a 'review' is by no means an 'appeal' in disguise. It has become almost an everyday experience that review applications are filed mechanically as a matter of routine and the grounds for review are a mere reproduction of the grounds of special leave. If parties file review petitions indiscriminately, the time of the court is unnecessarily wasted. Greater care, seriousness and restraint is needed in filing review applications".

C.R.P No. 5 to 9/2023 in CPLA 448-P/2017, 651-P, 655-P, 658-P & 666-P/2019

7. In light of the foregoing discussion, it is manifest that the review petitions under consideration were devoid of any merit, failed to disclose any error apparent on the face of the record, and did not meet the exacting standards prescribed under the Constitution, the Rules of this Court, or the settled jurisprudence. They represented, at best, a misguided attempt at re-agitating decided issues under the garb of review. The Court, therefore, has rightly dismissed the review petitions with costs. It is imperative to underscore that the sanctity and finality of judicial determinations must not be compromised by the mere persistence of litigants or mechanical issuance of advocate certificates. The review jurisdiction is not a fallback for unsuccessful litigants to reopen a *lis*, but a narrowly confined judicial tool intended to correct palpable and consequential mistakes.

Islamabasd

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Approved for reporting