

Firm Nandkishor Kushwah Having Through ... vs The State Of Madhya Pradesh Through ... on 3 October, 2024

Author: Vijay Kumar Shukla

Bench: Vijay Kumar Shukla

NEUTRAL CITATION NO. 2024:MPHC-IND:28927

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IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE
BEFORE
HON'BLE SHRI JUSTICE VIJAY KUMAR SHUKLA
&
HON'BLE SHRI JUSTICE DUPPALA VENKATA RAMANA
ON THE 3rd OF OCTOBER, 2024
REVIEW PETITION No. 860 of 2024
FIRM NANDKISHOR KUSHWAH HAVING THROUGH ITS PROP.
NANDKISHOR KUSHWAH
Versus
THE STATE OF MADHYA PRADESH THROUGH PRINCIPAL
SECRETARY AND OTHERS
Appearance:
Shri H.Y. Mehta, counsel for the petitioner.
Shri Shrey Raj Saxena, Deputy Advocate General for the
No.1 to 4/State.

ORDER

Per: Justice Vijay Kumar Shukla The present review petition has been filed by the review/petitioner for recalling of the order dated 16.07.2024 passed by Division Bench of this Court in Writ Petition No.5601 of 2024.

The petition filed by the petitioner challenging the rejection of E- Tender submitted by him in respect of supply of food grains, vegetables, sanitation, stationery, building construction materials and other materials etc in Central Jail, Indore and District Jail, Indore for the financial year 2023-2024 has been rejected on the ground of non-compliance of tender condition No.10(viii). The condition of Clause 10(viii) of Tender form requires the NEUTRAL CITATION NO. 2024:MPHC-IND:28927 2 RP-860-2024 Tenderer to submit the copy of valid license under the Food Safety and Standards Act, 2006.

A specific stand was taken by the respondents in their return along with E-Tender Form incomplete copy of the license was filed. There was no rebuttal to that and no assertion that the complete copy

of license was filed along with E-Tender. Further it is held in para 6 that word 'license' has to be interpreted to mean "complete copy of license."

Admittedly, only the first page of license was filed. Review/Recall is sought on the ground that the petitioner has handed over the complete copy of license to the counsel for petitioner but the same was not filed by the counsel and therefore the order requires to be reviewed or recalled. In respect of that, he has placed reliance over the judgment of Board of Control for Cricket in India vs. Netaji Cricket Club and Others reported in (2005) 4 Supreme Court Cases 741 (Para 90 & 93) and further the judgment of Division Bench of this Court in the case of Juber vs. The State of Madhya Pradesh and Others in Review Petition No.612 of 2021 decided on 17.08.2021. It is further submitted that Division Bench relying the judgment of Apex Court in the cases of Moinuddin and BCCI (supra).

Considering the aforesaid, we do not find any merit in the aforesaid contention firstly that there is no affidavit of counsel represented the petitioner in the writ petition and that the complete copy of license was handed over to the petitioner. Upon perusal of the review petition, we also do not find any averment that complete copy of license was filed along with E- Tender before the respondents. The judgment which has been relied by the NEUTRAL CITATION NO. 2024:MPHC-IND:28927 3 RP-860-2024 counsel for petitioner would not render any assistance to the facts of the present case. In the judgment of Moinuddin which has been relied by the Division Bench in the case of Juber has dealt with the case of Habeas Corpus petition and it is held that if there is insufficient pleading, the review can be entertained. The judgment passed in the case of BCCI (supra) in para 90, the Apex Court has considered the word "sufficient reason" for reviewing of the order and held that word 'sufficient reason' would depend on the facts of the present case.

Thus, we do not find any error apparent on the face of the record warranting any interference in exercise of review power. It is well settled that cases are heard and decided only once. To make a departure from this statutory rule, review application must strictly fall within the established parameters. In the light of settled principle of law in my considered opinion, there is no merit and substance in the review application as in a review, Court has very limited circumscribed by definitive limits.

Accordingly, the review application is dismissed.

(VIJAY KUMAR SHUKLA)
JUDGE

(DUPPALA VENKAT
JUDGE

Arun/-