**THE HIGH COURT OF ORISSA AT CUTTACK**

**RVWPET No.160 of 2025**

In the matter of an application under Order 47 Rule 1 read with Section 114 of the Code of Civil Procedure, 1908.

Registrar General of the
Hon'ble High Court of Orissa,
Cuttack and others ..... Petitioners

-Versus-

Malaya Ranjan Dash
and another ..... Opposite Parties

For the Petitioners: - Mrs. Pami Rath
(Senior Advocate)
Mr. Pratyasish Mohanty
Advocate

For the Opp. Party No.1: - Mr. Budhadev Routray
(Senior Advocate)
Mr. J. Biswal, Advocate

For the Opp. Party No.2: - Mr. Aurobinda Mohanty
Addl. Standing Counsel

**CORAM:**

**THE HONOURABLE SHRI JUSTICE S.K. SAHOO**

**AND**

**THE HONOURABLE SHRI JUSTICE SIBO SANKAR MISHRA**

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Date of Hearing: 01.09.2025 Date of Judgment: 17.09.2025

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**S.S. Mishra, J**. Although the petitioners in the present Review Petition have assailed the final judgment of this Court dated 02.05.2025 passed in W.P.(C) No.28874 of 2023, however, prayer is being made by the petitioners attempting to explore the following relief:-

> *"(a) allow the Review Petition;*
>
> *(b) Restore the original writ petition and to re-hear the original writ petition taking into consideration the grounds mentioned in the review petition;*
>
> *(c) And pass any other/further Order(s) as this Hon'ble Court may deem fit and proper in the interest of justice."*

**2.** Heard Mrs. Pami Rath, learned Senior Advocate appearing for the petitioners and Mr. Budhadev Routray, learned Senior Advocate appearing for the opposite party No.1.

**3.** The main ground on the basis of which the Review Petition has been instituted, is that this Court, while passing the judgment under challenge has relied upon a fabricated set of documents furnished before it, which led to the error apparent on record.

Mrs. Rath, learned Senior Advocate appearing for the petitioners emphatically contended that, in fact, a fabricated and

parallel file was created and the said fabricated documents were placed before this Court to persuade this Court to pass the impugned judgment. Had the Court looked into the original record; the result of the writ petition would have been different. By taking us to the 'so called fabricated records' placed with this Review Petition at Annexure-16 series, Mrs. Rath, has pointed out the following error stated to be apparently crept on record, which is reproduced herein under:

- *"The Order dated 04.04.2025 in the present writ petition indicates that the Court had taken note of the original and fabricated records under Sealed Cover. But it has referred to the fabricated records which do not contain the real facts.*
- *Because of which it missed out the Order dated 09.09.2021 found in the original order sheet of the suo motu writ petition disposing of the suo motu writ petition No.7943/2021 wherein it was clearly indicated by the three Judges that all the three orders were dated 24.02.2021 i.e. the Order of the Hon'ble Presiding Judge, the dissenting order of the Hon'ble 2nd Judge and the combined order referring the matter to the then Hon'ble Chief Justice were unsigned even as on 09.09.2021.*
- *Had the same been taken note of which is a judicial finding, the Court could not have relied upon Order dated 07.04.2021*

*passed in W.P.(C) No.11802 of 2020 or any other order to come to the findings on facts.*

- *In any view of the matter the finding of the Three-Judge Bench was binding on the Writ Court."*

In view of the aforementioned highlighted error, Mrs. Rath, learned Senior Advocate has vehemently argued that the writ petition needs to be re-heard and re-appreciated with reference to the sequence of events in the light of the original record pertaining to the registration of the Suo Motu Proceeding.

**4.** Before adverting to the various documents sought to be relied upon by the learned Senior Advocate stating those to be the original record, it would be apt to look into the proceeding of this Court in the writ petition being W.P.(C) No.28874 of 2023, which eventually led to passing of the final judgment on 02.05.2025. On 31.01.2025, this Court has passed the following order:

> *"After hearing the matter for some time, we feel it necessary to peruse all the original records in connection with case.*
>
> *Let the learned counsel for the State keep ready with all the original records in connection with this case in a sealed cover and produce the same for our perusal as and when required."*

On 07.02.2025, when the matter was again heard, the following order was passed:

> *"As per order dated 31.01.2025, learned counsel for the State produced the documents in sealed cover before us. The sealed cover was opened in open Court and we perused the same.*
>
> *During the course of such perusal, we find that the complete records of Suo Motu W.P.(C) No. 7943 of 2021 is not available and accordingly, we sent instruction to the learned Registrar General of the Court to come. We asked the learned R.G. to submit the entire case records of Suo Motu W.P.(C) No.7943 of 2021. He sought for time to provide the same in sealed cover through the learned counsel for the State.*
>
> *Learned Advocate General submitted that he wants to peruse the entire records pertaining to the cases and one of the officers in the rank of Registrar of this Court may be asked to produce the records before him for his perusal in order to address the Court on the next date.*
>
> *In view of such submission, we direct the learned Registrar General to produce the relevant records pertaining to the writ petitions in sealed covers either by himself or by a responsible officer of the Court in the rank of Registrar, who is duly acquainted with the case before the learned Advocate General on his prior intimation for perusal and then keep the same in sealed cover.*
>
> *On consensus of all the parties, list this matter on 21st February 2025. The matter will be taken up at 10.30 a.m.*


> *The documents produced in sealed covers, which were opened today in Court for our perusal, be re-sealed and handed over to the learned counsel for the State, who in turn shall handover the same back to the learned Registrar General. The learned counsel for the State shall keep all the original records in connection with this case ready in sealed covers and produce the same for our perusal as and when required."*

In view of the above referred proceedings preceding the final judgment, the plea of the review petitioners that the impugned judgment has blindsided by the original record holds no water.

Again the proceeding went on and on 21.03.2025 this Court passed the following order:

> *"During course of argument, Mr. Routray, learned Senior Advocate for the petitioner placed a short note of submissions which is filed by him in Court today and taken on record. In paragraph no.7 of the note, he has stated and also urged before us that there is no such rule/law/procedure/standing order regarding permission of the Hon'ble Chief Justice for registration of suo motu case basing on an order passed by the Hon'ble Court.*
>
> *In this connection, we find that Mr. Suman Kumar Mishra, the then Registrar (Judicial) was examined as Department Witness No.1 on 16th*

*July 2022 and in paragraph no.36 of his deposition, he has stated as follows:-*

> *"36. It is a fact that no codified procedure or rule is there requiring prior intimation of the Hon'ble Chief Justice before approving the note of D.R. (Judicial) by the Registrar, General....."*

*In the inquiry report, in paragraph no.11, the Inquiring Authority has also mentioned as follows:*

> *"11.....Usually a suo Moto Writ Proceeding is initiated by the order of the Chief Justice or a Bench consisting of the Chief Justice as one of the member. As stated by Department Witness No.1, who is the Registrar (Judicial) of the Court, no such precedence is there where a Suo Moto Writ Proceeding was initiated by a Bench other than the Chief Justice……."*

*Let the Special Officer (Administration), High Court of Orissa, Cuttack, who has filed the counter affidavit on behalf of the opp. party nos.2, 3 and 4 in this writ petition, file an affidavit indicating specifically as to whether there is any rule/law/procedure/standing order regarding permission of the Hon'ble Chief Justice for registration of suo motu case basing on an order passed by the Hon'ble Court.*

*Hearing is closed.*

*List this matter along with W.P.(C) No.28873 of 2023 on 25.03.2025 under the heading of "To*

*be mentioned" for the purpose of filing an affidavit as directed."*

**5.** Pursuant to the order dated 21.03.2025, the Special Officer (Administration), High Court of Orissa, Cuttack filed an affidavit.

The aforementioned proceedings indicate that before this Court passed the final order, repeated directions were made to the Review Petitioners to file the original documents in a sealed cover. It was also directed that the entire documents put in a sealed cover should be shown to the learned Advocate General and appropriate instruction should be furnished to him.

**6.** Subsequent thereto, the records were placed before us in a sealed cover. We have perused those documents and persuaded ourselves to pass the impugned judgment. That apart, in the writ petition, a detailed counter affidavit was filed by the Special Officer (Administration), High Court of Orissa, Cuttack. In the entire counter affidavit, there is not a single whisper regarding existence of such parallel record. Even though the same Officer pursuance to our order dated 21.03.2025 has filed the affidavit, in the said affidavit as well, there is not a single whisper regarding existence of such 'parallel records' on which much importance was placed.

We have also perused the article of charges and the enquiry report as well as all other related documents pertaining to the departmental enquiry. In the entire documents and pleadings, nowhere it has come on record regarding existence of such parallel record. It is for the first time in the Review Petition that this point has been urged, on the basis of which, the Review of the final judgment dated 02.05.2025 has been sought for.

**7.** Mrs. Pami Rath, learned Senior Advocate appearing for the petitioners has urged that the impugned judgment suffers from errors apparent on the face of the record as it failed to appreciate the factual sequence in proper prospective. She submitted that on 24.02.2021, the Division Bench assembled, and the learned Presiding Judge directed initiation of a Suo Motu proceeding. The learned 2nd Judge immediately expressed his reservations in the open Court and refused to sign the order. This is borne out by the note-sheet of the then Hon'ble Chief Justice as well as the subsequent letter dated 10.05.2021 written by the learned 2nd Judge to the Hon'ble Chief Justice.

Learned Senior Advocate argued that on 26.02.2021, despite the absence of a signed or authenticated order, the Deputy Registrar (Judicial) placed a note-sheet accompanied by

an unauthenticated paper purporting to be the order of the Division Bench. Acting upon such a document, *Suo Motu W.P.(C) No.7943 of 2021* was registered, though the roster for Public Interest Litigations was vested solely with the then Hon'ble Chief Justice. On 01.03.2021, an unsigned order which also omitted the dissent of the learned 2nd Judge was served upon Mr. Manoranjan Mohanty, learned Senior Advocate appointed as one of the Amicus Curiae. On 02.03.2021, the then Hon'ble Chief Justice, upon being informed, took custody of the original file and directed that no further steps be taken in the Suo Motu matter.

Learned Senior Advocate further submitted that on 07.04.2021, while hearing W.P.(C) No. 11802 of 2020, the Division Bench of this Court adverted to the Suo Motu Writ Petition and relied upon a fabricated order-sheet. The learned 2nd Judge being unaware that the original record was with the Hon'ble Chief Justice, was misled into signing his dissenting order. On 10.05.2021, the learned 2nd Judge wrote a letter to the Hon'ble Chief Justice narrating the events of 24.02.2021, 26.02.2021 and 07.04.2021, reiterating that he had reserved his view on the Suo Motu Proceedings in open Court and refused to sign on 24.02.2021. On 20.05.2021, the Hon'ble Chief Justice

issued a further note-sheet confirming the existence of fabricated records and clarifying that W.P.(C) No.11802 of 2020 was wholly unrelated. Finally, on 09.09.2021, a Three-Judge Bench disposed of *Suo Motu W.P.(C) No. 7943 of 2021*, holding that in view of unsigned and differing orders dated ought not to have been registered.

Basing upon such factual foundation, learned Senior Advocate contended that the judgment under review erred in recording that there was no dissent by the learned 2nd Judge. The available record, the note-sheets of the Hon'ble Chief Justice and the learned 2nd Judge's letter dated 10.05.2021, conclusively show that dissent was expressed. The order dated 24.02.2021 was not a judicial pronouncement but an administrative direction. It is settled that the Hon'ble Chief Justice is the master of the roster, and registration of a Suo Motu Petition in the nature of a PIL could only have been placed before the Bench presided over by the Hon'ble Chief Justice.

In support of this submission, reliance was placed on ***State of Rajasthan -Vrs.- Prakash Chand***[1], wherein the Hon'ble Supreme Court has observed as follows:

[1] (1998) 1 SCC 1

*"59. From the preceding discussion, the following broad CONCLUSIONS emerge. This, of course, is not to be treated as a summary of our judgment and the conclusions should be read with the text of the judgment:*

*(1) That the administrative control of the High Court vests in the Chief Justice alone. On the judicial side, however, he is only the first amongst the equals.*

*(2) That the Chief Justice is the master of the roster. He alone has the prerogative to constitute benches of the court and allocate cases to the benches so constituted.*

*(3) That the puisne Judges can only do that work as is allotted to them by the Chief Justice or under his directions.*

*(4) That till any determination made by the Chief Justice lasts, no Judge who is to sit singly can sit in a Division Bench and no Division Bench can be split up by the Judges constituting the bench themselves and one or both the Judges constituting such bench sit singly and take up any other kind of judicial business not otherwise assigned to them by or under the directions of the Chief Justice.*

*(5) That the Chief Justice can take cognizance of an application laid before him under Rule 55 (supra) and refer a case to the larger bench for its disposal and he can exercise this jurisdiction even in relation to a part-heard case.*

*(6) That the puisne Judges cannot "pick and choose" any case pending in the High Court and assign the same to himself or themselves for*


> *disposal without appropriate orders of the Chief Justice.*
>
> *(7) That no Judge or Judges can give directions to the Registry for listing any case before him or them which runs counter to the directions given by the Chief Justice…..”*

Learned Senior Advocate contended that in the impugned judgment, reliance was placed on ***Surendra Singh -Vrs.- State of UP***[2] and ***Vinod Kumar Singh -Vrs.- Banaras Hindu University***[3] was wholly misplaced. Those decisions arose in circumstances where lis existed and rights of parties were finally determined. The present case involved neither parties nor adjudication of rights but merely an administrative instruction. In this regard, reliance was placed on ***Shankarlal Aggarwala -Vrs.- Shankarlal Poddar***[4], wherein the Hon’ble Supreme Court explained the distinction:

> *“……It is perhaps not possible to formulate a definition which would satisfactorily distinguish, in this context, between an administrative and a judicial order. That the power is entrusted to or wielded by a person who functions as a Court is not decisive of the question whether the Act or decision is administrative or judicial. But we conceive that an administrative order should be one which is directed to the regulation or supervision of matters as distinguished from an*

[2] AIR 1954 SC 194
[3] (1988) 1 SCC 80
[4] 1963 SCC OnLine SC 80


> *order which decides the rights of parties or confers or refuses to confer rights to property which are the subject of adjudication before the Court. One of the tests would be whether a matter which involves the exercise of discretion is left for the decision of the authority, particularly if that authority were a Court, and if the discretion has to be exercised on objective, as distinguished from a purely subjective consideration, it would be a judicial decision. It has sometimes been said that the essence of a judicial proceeding or of a judicial order is that there should be two parties and a lis between them which is the subject of adjudication, as a result of that order or a decision on an issue between a proposal and an opposition. No doubt, it would not be possible to describe an order passed deciding a lis before the authority, that it is not a judicial order but it does not follow that the absence of a lis necessarily negatives the order being judicial.……There were thus two points of view presented to the Court by two contending parties or interests and the Court was called upon to decide between them. And the decision vitally affected the rights of the parties to property. In this view, we are clearly of the opinion that the order of the Court was, in the circumstances, a judicial order and not an administrative one and was, therefore, not inherently incapable of being brought up in appeal."*

It was urged by the learned Senior Advocate Mrs. Rath that the order dated 07.04.2021 in W.P.(C) No.11802 of 2020 cannot be relied upon as it is founded on fabricated records. Going by the settled principle, fraud vitiates everything,


such an order is a nullity in law. Reliance was placed on ***A.V. Papayya Sastry -Vrs.- Govt. of A.P.***[5], wherein it was held thus:

> *"21. Now, it is well-settled principle of law that if any judgment or order is obtained by fraud, it cannot be said to be a judgment or order in law. Before three centuries, Chief Justice Edward Coke proclaimed:*
>
> *"Fraud avoids all judicial acts, ecclesiastical or temporal."*
>
> *22. It is thus settled proposition of law that a judgment, decree or order obtained by playing fraud on the court, tribunal or authority is a nullity and non-est in the eyes of the law. Such a judgment, decree or order by the first court or by the final court has to be treated as nullity by every court, superior or inferior. It can be challenged in any court, at any time, in appeal, revision, writ or even in collateral proceedings.*
>
> *23. In the leading case of Lazarus Estates Ltd. v. Beasley [(1956) 1 All ER 341 : (1956) 1 QB 702 : (1956) 2 WLR 502 (CA)] Lord Denning observed : (All ER p. 345 C)*
>
> *"No judgment of a court, no order of a Minister, can be allowed to stand if it has been obtained by fraud."*
>
> *24. In Duchess of Kingstone, Smith's Leading Cases, 13th Edn., p. 644, explaining the nature of fraud, de Grey, C.J. stated that though a judgment would be res judicata and not*

[5] (2007) 4 SCC 221

*impeachable from within, it might be impeachable from without. In other words, though it is not permissible to show that the court was "mistaken", it might be shown that it was "misled". There is an essential distinction between mistake and trickery. The clear implication of the distinction is that an action to set aside a judgment cannot be brought on the ground that it has been decided wrongly, namely, that on the merits, the decision was one which should not have been rendered, but it can be set aside, if the court was imposed upon or tricked into giving the judgment.*

*25. It has been said : fraud and justice never dwell together (fraus et jus nunquam cohabitant); or fraud and deceit ought to benefit none (fraus et dolus nemini patrocinari debent).*

*26. Fraud may be defined as an act of deliberate deception with the design of securing some unfair or undeserved benefit by taking undue advantage of another. In fraud, one gains at the loss of another. Even most solemn proceedings stand vitiated if they are actuated by fraud. Fraud is thus an extrinsic collateral act which vitiates all judicial acts, whether in rem or in personam. The principle of 'finality of litigation' cannot be stretched to the extent of an absurdity that it can be utilised as an engine of oppression by dishonest and fraudulent litigants."*

Mrs. Rath, learned Senior Advocate has pointed out that review jurisdiction is not barred merely because of

concession by counsel and she relied on ***Shivdev Singh -Vrs.- State of Punjab***[6], wherein it was observed as under:

> *"10.....It is sufficient to say that there is nothing in Article 226 of the Constitution to preclude a High Court from exercising the power of review which inheres in every court of plenary jurisdiction to prevent miscarriage of justice or to correct grave and palpable errors committed by it....."*

In the case of ***Union of India -Vrs.- S.C. Parashar***[7], on which reliance was placed, it is held as follows:

> *"13. However, there cannot be any doubt whatsoever that the Disciplinary Authority never intended to impose a minor penalty. The concession of the learned Counsel appearing for the appellant before the High Court was apparently erroneous. It is now well-settled that wrong concession made by a counsel before the court cannot bind the parties when statutory provisions clearly provide otherwise. [See **Union of India and Ors. -Vrs.- Mohanlal Likumal Punjabi : (2004) 3 SCC 628**]"*

Further reliance was placed in the case of ***Yashwant Sinha -Vrs.- CBI***[8], wherein the Hon'ble Supreme Court underscored:

> *"54. It will be noticed that in criminal matters, review lies on an error apparent on the face of*

[6] AIR 1963 SC 1909
[7] (2006) 3 SCC 167
[8] (2020) 2 SCC 338

*record being established. However, it is necessary to notice what a Constitution Bench of this Court laid down in* ***P.N. Eswara Iyer -Vrs.- Registrar, Supreme Court of India : (1980) 4 SCC 680****.*

> *"34. The Rule [Ed.: Order 40, Rule 1 of the Supreme Court Rules], on its face, affords a wider set of grounds for review for orders in civil proceedings, but limits the ground vis-a-vis criminal proceedings to "errors apparent on the face of the record". If at all, the concern of the law to avoid judicial error should be heightened when life or liberty is in peril since civil penalties are often less traumatic. So, it is reasonable to assume that the framers of the Rules could not have intended a restrictive review over criminal orders or judgments. It is likely to be the other way about. Supposing an accused is sentenced to death by the Supreme Court and the "deceased" shows up in court and the court discovers the tragic treachery of the recorded testimony. Is the court helpless to review and set aside the sentence of hanging? We think not. The power to review is in Article 137 and it is equally wide in all proceedings. The Rule merely canalises the flow from the reservoir of power. The stream cannot stifle the source. Moreover, the dynamics of interpretation depend on the demand of the context and the lexical limits of the test. Here "record" means any material which is already on record or may, with the permission of*


*the court, be brought on record. If justice summons the Judges to allow a vital material in, it becomes part of the record; and if apparent error is there, correction becomes necessitous.*

*35. The purpose is plain, the language is elastic and interpretation of a necessary power must naturally be expansive. The substantive power is derived from Article 137 and is as wide for criminal as for civil proceedings. Even the difference in phraseology in the Rule (Order 40 Rule 2) must, therefore, be read to encompass the same area and not to engraft an artificial divergence productive of anomaly. If the expression "record" is read to mean, in its semantic sweep, any material even later brought on record, with the leave of the court, it will embrace subsequent events, new light and other grounds which we find in Order 47 Rule 1, Code of Civil Procedure. We see no insuperable difficulty in equating the area in civil and criminal proceedings when review power is invoked from the same source.*

*xx xx xx*

*67. The foundations, which underlie the review jurisdiction, has been examined by this Court at some length in the judgment in* ***S. Nagaraj and Ors. -Vrs.- State of Karnataka and Anr. : 1993 Supp (4) SCC 595****:*

*"18. Justice is a virtue which transcends all barriers. Neither the*

*Rules of procedure nor technicalities of law can stand in its way. The order of the Court should not be prejudicial to anyone. Rule of stare decisis is adhered for consistency but it is not as inflexible in Administrative Law as in Public Law. Even the law bends before justice. Entire concept of writ jurisdiction exercised by the higher courts is founded on equity and fairness. If the Court finds that the order was passed under a mistake and it would not have exercised the jurisdiction but for the erroneous assumption which in fact did not exist and its perpetration shall result in miscarriage of justice then it cannot on any principle be precluded from rectifying the error. Mistake is accepted as valid reason to recall an order. Difference lies in the nature of mistake and scope of rectification, depending on if it is of fact or law. But the root from which the power flows is the anxiety to avoid injustice. It is either statutory or inherent. The latter is available where the mistake is of the Court. In Administrative Law, the scope is still wider. Technicalities apart, if the Court is satisfied of the injustice then it is its constitutional and legal obligation to set it right by recalling its order. Here as explained, the Bench of which one of us (Sahai, J.) was a member did commit an error in placing all the stipendiary graduates in the scale of First Division Assistants due to State's failure to bring correct facts on record. But that obviously cannot stand in the*

*way of the Court correcting its mistake. Such inequitable consequences as have surfaced now due to vague affidavit filed by the State cannot be permitted to continue.*

*19. Review literally and even judicially means re-examination or re-consideration. Basic philosophy inherent in it is the universal acceptance of human fallibility. Yet in the realm of law, the courts and even the statutes lean strongly in favour of finality of decision legally and properly made. Exceptions both statutorily and judicially have been carved out to correct accidental mistakes or miscarriage of justice. Even when there was no statutory provision and no Rules were framed by the highest court indicating the circumstances in which it could rectify its order the courts culled out such power to avoid abuse of process or miscarriage of justice. In* ***Prithwi Chand Lal Choudhury -Vrs.- Sukhraj Rai : AIR 1941 FC 1****, the Court observed that even though no Rules had been framed permitting the highest Court to review its order yet it was available on the limited and narrow ground developed by the Privy Council and the House of Lords. The Court approved the principle laid down by the Privy Council in* ***Rajunder Narain Rae -Vrs.- Bijai Govind Singh [(1836) 1 Moo PC 117 : 2 MIA 181 : 1 Sar 175]*** *that an order made by the Court was final and could not be altered:*

> *"....nevertheless, if by misprision in embodying the judgments, by errors have been introduced, these Courts possess, by Common law, the same power which the Courts of record and statute have of rectifying the mistakes which have crept in.... The House of Lords exercises a similar power of rectifying mistakes made in drawing up its own judgments, and this Court must possess the same authority. The Lords have however gone a step further, and have corrected mistakes introduced through inadvertence in the details of judgments; or have supplied manifest defects in order to enable the decrees to be enforced, or have added explanatory matter, or have reconciled inconsistencies."*

*Basis for exercise of the power was stated in the same decision as under:*

> *"It is impossible to doubt that the indulgence extended in such cases is mainly wing to the natural desire prevailing to prevent irremediable injustice being done by a Court of last resort, where by some accident, without any blame, the party has not been heard and an order has been inadvertently made as if the party had been heard."*

Lastly, reliance was placed on ***Sanjay Kumar Agarwal -Vrs.- State Tax Officer (1) and another***[9], wherein

[9] (2024) 2 SCC 362

the Hon'ble Supreme Court summarised the principles of review thus:

> *"16. The gist of the afore-stated decisions is that:*
>
> *16.1 A judgment is open to review inter alia if there is a mistake or an error apparent on the face of the record.*
>
> *16.2 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.*
>
> *xxx xxx xxx xxx*
>
> *16.7 An error on the face of record must be such an error which, mere looking at the record should strike and it should not require any long-drawn process of reasoning on the points where there may conceivably be two opinions."*

**8.** Thus, the core submission of Mrs. Rath, learned Senior Advocate appearing for the petitioners was that the order dated 24.02.2021 was merely administrative; the registration of the *Suo Motu* Writ Petition without the Hon'ble Chief Justice's approval was impermissible; the judgment under review wrongly recorded absence of dissent by the learned 2nd Judge; and reliance on fabricated records and misplaced precedents has led to a miscarriage of justice which calls for correction in review.

**9.** On the contrary, Mr. Budhadev Routray, learned Senior Advocate appearing for opposite party No.1, contended that the review petition is not maintainable and the grounds urged therein are untenable in law. He submitted that the petitioners are seeking to create a new case in review, which is beyond the limited scope of jurisdiction under Order 47 Rule 1 C.P.C.

With regard to the plea of oral dissent by the Hon'ble 2nd Judge on 24.02.2021, it was argued that such a ground has been taken for the first time in the Review Petition. It was never part of the charge against the writ petitioner, nor raised in counter affidavit or during arguments, and cannot now be pressed in review. The letter dated 10.05.2021 of the Hon'ble 2nd Judge, relied upon by the review petitioners, does not disclose that the learned 2nd Judge orally dissented in open Court. On the contrary, the learned 2nd judge has stated that he penned down his dissenting opinion on 26.02.2021. Even in para-12-D of the Review Petition, the petitioners admit that there is no evidence on record to show what transpired in Court on 24.02.2021.

As regards the order dated 09.09.2021 in *Suo Motu W.P.(C) No.7943 of 2021*, Mr. Routray, learned Senior Advocate argued that there is no conflict between the said order and the impugned judgment dated 02.05.2025. The Three-Judge Bench was concerned only with the issue whether the Suo Motu Writ Petition was correctly registered, whereas the present writ petition relates to the disciplinary proceeding (D.P. No.3 of 2021) against the petitioner. The question of misconduct by the writ petitioner was never considered by the Three-Judge Bench. Further, no binding ratio was laid down therein to govern the present case. Reliance was placed on ***Central Board of Dawoodi Bohra Community -Vrs.- State of Maharashtra***[10], that the law laid down by a larger Bench is binding, but an observation not amounting to ratio does not bind any subsequent Bench of lesser or co-equal Bench. He also cited ***Goodyear India Ltd. -Vrs.- State of Haryana***[11] to submit that a decision on a point not argued cannot be treated as precedent.

It was argued by Mr. Routray, learned Senior Advocate that the order dated 07.04.2021 in *W.P.(C) No. 11802 of 2020* was a judicial order, signed by both Judges, and formed part of the record in D.P. No.3/2021 without objection. The

[10] AIR 2005 SC 752
[11] AIR 1990 SC 781

review petitioners themselves did not dispute the downloaded copy in their counter affidavit, and even allowed the writ petitioner to rely upon it. Moreover, the order was never annulled by any Bench, even when the matter was later placed before the then Hon'ble Chief Justice. Hence, reliance on the order dated 07.04.2021 in the impugned judgment was proper.

On the applicability of ***Surendra Singh*** *(supra)* and ***Vinod Kumar Singh*** *(supra)*, Mr. Routray, argued that these decisions were applied correctly by this Court in its judgment dated 02.05.2025. He submitted that whether the order dated 24.02.2021 was judicial or administrative was never the issue; the only question was whether a judgment/order dictated in open Court becomes operative. This Court categorically held at paragraph-11 of its judgment that:

> "……If a judgment/order is dictated in the open Court by one of the Judges in a Division Bench and if the other Judge does not agree with the view expressed in open Court, he would have to pronounce his view/dissent immediately in the Court itself…."

Mr. Routray, learned Senior Advocate pointed out that the Hon'ble 2nd Judge in his own letter dated 10.05.2021 had referred to the order dated 24.02.2021 as a judicial order.

Therefore, the argument that it was merely administrative is contrary to record.

As to the plea of fabrication in relation to Annexure-16 series and the learned Advocate General producing the order dated 07.04.2021, Mr. Routray argued that these documents were never part of the charge, nor pleaded in counter affidavit, and is being raised for the first time in review. The writ petitioner had no role in the alleged fabrication of records. The attempt to introduce new documents at the stage of review is impermissible.

On the scope of review, Mr. Routray strongly relied on a catena of decisions:

- ***S. Murali Sundaram -Vrs.- Jothibai Kannan***[12],

> *"16. While considering the aforesaid issue two decisions of this Court on Order 47 Rule 1 read with Section 114 Code of Civil Procedure are required to be referred to? In the case of* ***Perry Kansagra*** *(supra), this Court has observed that while exercising the review jurisdiction in an application under Order 47 Rule 1 read with Section 114 Code of Civil Procedure, the Review Court does not sit in appeal over its own order. It is*

[12] (2023) 13 SCC 515

*observed that a rehearing of the matter is impermissible in law. It is further observed that review is not appeal in disguise. It is observed that power of review can be exercised for correction of a mistake but not to substitute a view. Such powers can be exercised within the limits of the statute dealing with the exercise of power. It is further observed that it is wholly unjustified and exhibits a tendency to rewrite a judgment by which the controversy has been finally decided.*

*17. After considering catena of decisions on exercise of review powers and principles relating to exercise of review jurisdiction under Order 47 Rule 1 Code of Civil Procedure this Court had summed upon as under: (**Perry Kansagra** case, SCC pp. 768-69, para 15.1)*

> *"15.1…'33…..**(i)** Review proceedings are not by way of appeal and have to be strictly confined to the scope and ambit of Order 47 Rule 1 Code of Civil Procedure.*
>
> ***(ii)** Power of review may be exercised when some mistake or error apparent on the fact of record is found. But error on the face of record must be such an error which must strike one on mere looking at the record and would not require any long-drawn process of reasoning on the points where there may conceivably by two opinions.*
>
> ***(iii)** Power of review may not be exercised on the ground that the decision was erroneous on merits.*
>
> ***(iv)** Power of review can also be exercised for any sufficient reason*

*which is wide enough to include a misconception of fact or law by a court or even an advocate.*

***(v)*** *An application for review may be necessitated by way of invoking the doctrine actus curiae neminem gravabit." (As observed in: Inderchand Jain v. Motilal, (2009) 14 SCC 663, p.675, para 33)".*

*It is further observed in the said decision that an error which is required to be detected by a process of reasoning can hardly be said to be an error on the face of the record.*

*18. In the case of* ***Shanti Conductors (P) Ltd.*** *(supra), it is observed and held that scope of review Under Order 47 Rule 1 Code of Civil Procedure read with Section 114 Code of Civil Procedure is limited and under the guise of review, the petitioner cannot be permitted to reagitate and reargue questions which have already been addressed and decided. It is further observed that an error which is not self-evident and has to be detected by a process of reasoning, can hardly be said to be an error apparent on the face of record justifying the court to exercise its power of review Under Order 47 Rule 1 Code of Civil Procedure.*

*xx xx xx xx*

*23. From the aforesaid, it appears that the High Court has considered the review application as if it was an appeal against the order passed by the High Court in Writ Petition No.8606 of 2010. As observed hereinabove, the same is wholly impermissible while deciding the review application. Even if the judgment sought to*


*be reviewed is erroneous, the same cannot be a ground to review the same in exercise of powers under Order 47 Rule 1 Code of Civil Procedure. An erroneous order may be subjected to appeal before the higher forum but cannot be a subject matter of review Under Order 47 Rule 1 Code of Civil Procedure."*

- ***Shanti Conductors Pvt. Ltd. -Vrs.- Assam State Electricity Board***[13],

*"25. Insofar as other submissions of Dr. Singhvi that Act, 1993 is retroactive in nature and further amount due at the time of the commencement of the Act ought to attract interest of the Act, 1993, all these submissions have been elaborately considered in the judgment dated 23.01.2019, which have been considered on merits. The scope of review is limited and under the guise of review, the petitioner cannot be permitted to reagitate and reargue the questions, which have already been addressed and decided. The scope of review has been reiterated by this Court from time to time. It is sufficient to refer the judgment of this Court in* ***Parsion Devi and Ors. -Vrs.- Sumitri Devi and Ors.****, wherein in para 9 following has been laid down: (SCC p.719)*

*"9. Under Order 47 Rule 1 Code of Civil Procedure, a judgment may be open to review inter alia if there is a mistake or an error apparent on the face of the record. An error which is not self-evident and has to be detected by a process of reasoning, can*

[13] (2020) 2 SCC 677

*hardly be said to be an error apparent on the face of the record justifying the court to exercise its power of review under Order 47 Rule 1 Code of Civil Procedure. In exercise of the jurisdiction Under Order 47 Rule 1 Code of Civil Procedure, it is not permissible for an erroneous decision to be "reheard and corrected". A review petition, it must be remembered has a limited purpose and cannot be allowed to be "an appeal in disguise".*

- ***Pancham Lal Pandey -Vrs.- Neeraj Kumar Mishra***[14],

*"14. The provision of review is not to scrutinize the correctness of the decision rendered rather to correct the error, if any, which is visible on the face of the order/record without going into as to whether there is a possibility of another opinion different from the one expressed."*

- ***Shri Ram Sahu -Vrs.- Vinod Kumar Rawat***[15],

*"10. To appreciate the scope of review, it would be proper for this Court to discuss the object and ambit of Section 114CPC as the same is a substantive provision for review when a person considering himself aggrieved either by a decree or by an order of court from which appeal is allowed but no appeal is preferred or where there is no provision*

[14] 2023 SCC OnLine SC 143
[15] (2021) 13 SCC 1


*for appeal against an order and decree, may apply for review of the decree or order as the case may be in the court, which may order or pass the decree. From the bare reading of Section 114CPC, it appears that the said substantive power of review under Section 114CPC has not laid down any condition as the condition precedent in exercise of power of review nor the said section imposed any prohibition on the court for exercising its power to review its decision. However, an order can be reviewed by a court only on the prescribed grounds mentioned in Order 47 Rule 1CPC, which has been elaborately discussed hereinabove. An application for review is more restricted than that of an appeal and the court of review has limited jurisdiction as to the definite limit mentioned in Order 47 Rule 1CPC itself. The powers of review cannot be exercised as an inherent power nor can an appellate power be exercised in the guise of power of review.s of review are narrower than appeal; not an inherent power."*

- ***Haridas Das v. Usha Rani Banik***[16],

*"13. In order to appreciate the scope of a review, Section 114 CPC has to be read, but this section does not even adumbrate the ambit of interference expected of the court since it merely states that it "may make such order thereon as it thinks fit". The parameters are prescribed in Order 47 CPC and for the purposes of this lis, permit the*

[16] (2006) 4 SCC 78

*defendant to press for a rehearing "on account of some mistake or error apparent on the face of the records or for any other sufficient reason". The former part of the rule deals with a situation attributable to the applicant, and the latter to a jural action which is manifestly incorrect or on which two conclusions are not possible. Neither of them postulate a rehearing of the dispute because a party had not highlighted all the aspects of the case or could perhaps have argued them more forcefully and/or cited binding precedents to the court and thereby enjoyed a favourable verdict. This is amply evident from the Explanation to Rule 1 of Order 47 which states that the fact that the decision on a question of law on which the judgment of the court is based has been reversed or modified by the subsequent decision of a superior court in any other case, shall not be a ground for the review of such judgment. Where the order in question is appealable the aggrieved party has adequate and efficacious remedy and the court should exercise the power to review its order with the greatest circumspection."*

- ***Parry Kansagra -Vrs.- Smriti Madan Kansagra***[17],

*"17. We have gone through both the judgments of the High Court in the instant case and considered rival submissions on the point. It is well settled that an error which is required to be detected by a process of reasoning can hardly be said to be an error*

[17] (2019) 20 SCC 753


*apparent on the face of the record. To justify exercise of review jurisdiction, the error must be self-evident. Tested on this parameter, the exercise of jurisdiction in the present case was not correct. The exercise undertaken in the present case, in our considered view, was as if the High Court was sitting in appeal over the earlier decision dated 17.2.2017 [**Smriti Madan Kansagra -Vrs.- Perry Kansagra, 2017 SCC OnLine Del 7007 : (2017) 237 DLT 728**]. Even assuming that there was no correct appreciation of facts and law in the earlier judgment, the parties could be left to challenge the decision in an appeal. But the review was not a proper remedy at all. In our view, the High Court erred in entertaining the review petition and setting aside the earlier view dated 17.02.2017 [**Smriti Madan Kansagra -Vrs.- Perry Kansagra, 2017 SCC OnLine Del 7007 : (2017) 237 DLT 728**]……."*

- ***Governing Body of Ispat College -Vrs.- State of Orissa***[18],

*"16. On an analysis of the aforesaid decisions, it is seen that the law is well settled that the power of review is available only when there is a mistake or an error apparent on the face of the record and not for correcting an erroneous decision. Hence the plea that the decision is erroneous on merit due to wrong interpretation of law or because of illegal and erroneous finding, whether on fact or in law, cannot be a ground*

[18] 2011 SCC OnLine Ori 212

*for review. The said power of review cannot be exercised for rehearing and correcting an erroneous decision. The only remedy available to the aggrieved party, is to assail such erroneous decision in appeal. The power to review is a restricted power which authorizes the Court, which passed the judgment sought to be reviewed, to look over through the judgment not in order to substitute a fresh or a second judgment but in order to correct it or improve it, because some material which it ought to have considered had escaped its consideration or failed to be placed before it for any other reason.*

*17. In view of the above discussion, the law of review can be summarized that it lies only on the grounds mentioned in Order XLVII, Rule 1 CPC. The party must satisfy the Court that the matter or evidence discovered by it at a subsequent stage could not be discovered or produced at the initial stage though it had acted with due diligence. A party filing a review application on the ground of any other "sufficient reason" must satisfy that the said reason is analogous to the conditions mentioned in Order XLVII, Rule 1 CPC. Under the garb of review, a party cannot be permitted to re-open the case and to gain a full-fledged inning for making submissions, nor review lies merely on the ground that it may be possible for the Court to take a view contrary to what had been taken earlier. Review lies only when there is error apparent on the face of the record and that fallibility is by the over-sight of the Court. If a counsel has argued a case to his satisfaction and he had not raised the*


*particular point for any reason whatsoever, it cannot be a ground of review for the reason that he was the master of his case and might not have considered it proper to press the same or could have thought that arguing that point would not serve any purpose. If a case has been decided after full consideration of arguments made by a counsel, he cannot be permitted, even under the garb of doing justice or substantial justice, to engage the Court again to decide the controversy already decided. If a party is aggrieved of a judgment or order, it must approach the higher Court by way of appeal or revision, as the case may be, but entertaining a review to reconsider the case would amount to exceeding its jurisdiction, conferred for the very limited purpose of review. Justice connotes different meaning to different persons in different contexts and therefore, Courts cannot be persuaded to entertain a review application to do justice unless it lies only on the grounds permitted in law, as has been discussed above.*"

**10.** Summing up, Mr. Routray, learned Senior Advocate submitted that no ground for review has been made out. The alleged oral dissent is unsupported by record, the order of the Three-Judge Bench in Suo Motu Writ Petition does not bind the present case. The order dated 07.04.2021 was a valid judicial order, and the principles in ***Surendra Singh*** (supra) and ***Vinod Kumar Singh*** (supra) were rightly applied. The attempt of the

review petitioners to reconsider the matter behind the veil of review is impermissible.

**11.** Perusal of the Review Petition would reveal that the Review Petitioners indeed seeks a complete re-hearing of the writ petition in the guise of revisiting the judgment, which is barred under Order 47 Rule 1 of C.P.C. However, the ground-H taken by the Review Petitioners need to be deliberated upon. Ground-H is reproduced herein for the convenience of ready reference:-

> *"**H.** For that an important aspect of the matter which has emanated from a different record is that there exists a parallel fabricated record sheet of the Suo Motu W.P.(C) No. 7943 of 2021. On the basis of the said fabricated order sheet, another Departmental Proceeding has been initiated against two officers connected with the office of Hon'ble Senior Judge (name withheld), wherein the document based on which the writ petitioner has acted, has been shown to have been signed by Hon'ble Senior Judge (**name withheld**). Duplicacy of such order sheet and again signature of one of the Judges being reflected upon it, clearly indicates that one cannot rule out mala fide intention, because the only beneficiary of such signed order could have been the present writ petitioner and Deputy Registrar Judicial.*
>
> *A copy of the fabricated documents and entire record maintained departmental proceeding initiated against the subordinate*

*officers in the Hon'ble High Court of Orissa along with all the note sheets of the then Hon'ble Chief Justice and other officers including the letter of the Puisne Judge (who dissented) (**name withheld**) are annexed as ANNEXURE-16 Series.*

*This fabricated documents is the basis of the order dated 07.04.2021 passed in W.P.(C) No. 11802 of 2020 wherein one of the Amicus Curiae have admitted to have received the copy of the order dated 24.02.2021 with the signature of Hon'ble Senior Judge (name withheld). But when this is compared with the original order sheet of the Suo Motu Writ Petition, such a combined order bearing of signature of Hon'ble Senior Judge (**name withheld**) is nowhere to be found. This aspect was not known to the present review petitioner and came to light only after the judgment was passed.*

*The records of this fabricated record of the suo moto writ and the inquiry records of the officers implicated in the said act have not been perused. After creating such records it was deliberately made part of the W.P.(C) No. 11802 of 2020 and order dated 07.04.2021 was made that also without the whole thing being divulged to the Puisne Judge. These aspects emanate from the letter of the Puisne Judge which is part of the inquiry records. Had these aspects been before the Hon'ble the Court, this Court would not have taken the view it took about the order dated 07.04.2021, passed in W.P.(C) No. 11802 of 2020.*

*The order sheet as regards to these fabricated records directing for enquiry clearly*


*indicate the background of the order dated 07.04.2021. It is also strange as to why the fabricated order sheet of the Suo motu proceeding was even attached to the record of WPC No. 11802 of 2020, when WPC No. 11802 of 2020 has no reservation issue involved in the matter. The inquiry report clearly shows the reasons for which order dated 07.04.2021 should not be taken into consideration. On the basis of such fabricated documents the signatures of the 2nd Judge were taken on the dissenting order in the fabricated record and also on order dated 7.4.2021."*

(**Note:** In the Review Petition, the names of the Hon'ble Judges have been mentioned everywhere. On the first date of hearing, it was pointed out by us to the counsel for petitioners and was suggested to redact the names of Hon'ble Judges to maintain decorous. However, the same has not been acceded to. In the ground 'H' which is reproduced above, the names of the Hon'ble Judges occurred. We have chosen to withhold their names rather address them as Hon'ble Senior Judge and Puisne Judge. Similarly wherever, the names of the Hon'ble Judges found mentioned the same are withheld or replaced by addressing them as senior judge, puisne judge, second judge alike. This is done so as to maintain Judicial Propriety.)

**12.** The entire argument of Mrs. Rath, learned Senior Advocate for the Petitioners is indeed revolving around the aforementioned ground. The contention raised by the Review Petitioners regarding the fabricated and parallel record, which was stated to have been not looked into by us is based on a letter written by the Puisne Judge on 10.05.2021, who was the part of the Bench. Mrs. Rath, learned Senior Advocate has read out the letter in extenso. However, nothing has come on record to suggest what was the occasion for which the learned Puisne Judge was required to write such a letter on the administrative side discussing regarding the judicial function, he has carried out.

Be that as it may, from reading of the letter, the following aspects are emanating. Firstly, the order dated 24.02.2021 was a judicial order and secondly, he was not aware of the fabricated and parallel file being created. Therefore, he persuaded himself to sign the order dated 07.04.2021 in W.P.(C) No.11802 of *2020 inter alia* recording that he has dissented in the order dated 24.02.2021 only on 02.03.2021. At the same time, the learned Judge has admitted in the letter that he has only recorded his dissent on 07.04.2021. The relevant parts of the letters are reproduced hereunder:

*".....However, on 26th February, 2021, I wrote my dissenting opinion just below the order of the Presiding Judge and forwarded the said draft order sheet for her perusal and to intimate her that I was not agreeable to the order dictated by her. The copy of the order, which I sent to her on 26th February, 2021 for perusal, without my signature, is enclosed herewith as Enclosure-'A'.....*

*xx xx xx xx*

*.....This appears to be startling and quite unconventional as to how such an unsigned judicial order of a Division Bench could be used to issue notice without the signature of any of the Judge of the Division Bench. The underbelly of the callous and dysfunctional High Court Registry stood exposed completely. The Registry of the Hon'ble High Court owes a spacious explanation for resorting to such legerdemain exercise while accommodating such play in the joints.*

*When the matter stood thus, on 07.04.2021 while hearing another Writ Petition filed by the Employees' Association of the High Court in W.P. (C) No. 11802 of 2020, by both of us, the Hon'ble presiding judge- Hon'ble Senior Judge (**name withheld**), once again, raked up the so called suo motu proceedings in the open Court, though the aforesaid suo moto proceedings was not before the Bench on that date and has got no connection with the issue involved in Employees' Association Case. The suo motu order was still unsigned by the Second Judge (**myself**) since 24.02.2021. However, due to constant bickering on this issue by the Presiding judge, when Hon'ble Senior Judge (name*

*withheld) personally handed over the said unsigned Order Sheet dated 24.02.2021 and said "since we are going to release the matter from us, at least you may sign your dissenting part of the order, so that it can be released and placed before the Hon'ble Chief Justice for placing the matter before the third Judge' as per High Court Rules. I, ultimately, signed on the dissenting part of the said unsigned draft order dated 24.02.2021 only on 07.04.2021 with a believe that the said order-sheet which I signed was a part of the original file. It may be mentioned here that only that particular order-sheet containing my dissenting views was only handed over to me on 7.4.2021 for my signature and not the entire file. Further, at that point in time, I was not aware of the fact that the entire original file had already been taken into the custody of Hon'ble Chief Justice since the 1st week of March, 2020.*

*As a valued colleague and the senior most judge of the High Court, I had no occasion to disbelieve her and accordingly I signed only on 7.04.2021 on the dissenting portion of the draft order though prepared backdated i.e. on 24.2.2021. When I came to understand that the Presiding Judge has coaxingly got the signature from me on an order sheet which was not part of the original record, though I signed on the dissenting portion of the said order on 7th April, 2021, I was aghast at witnessing such a novel format of court manoeuvrings."*

**13.** It is also apparent on record that the parallel and fabricated file appears to have been created in the 1st week of March, 2020. By that time, the delinquent writ petitioner was

already released on 27.02.2021 from the post of Registrar General. Therefore, the delinquent officer has no role to play regarding the creation of the parallel record, if any. It is also highlighted that a departmental proceeding has been initiated against few officers regarding creation of such fabricated document, which is not relevant for the purpose of the present case. The ground so taken and analysed as above perhaps not a sufficient ground for giving indulgence to the petitioners for seeking review of the judgment. It is also emphasized that the suo motu proceeding which was inappropriately registered on the basis of approval by the writ petitioner was placed before the three Judge Bench consisting of the then Hon'ble Chief Justice, the Disciplinary Authority, the Hon'ble Second Judge, the Enquiry Officer, the Hon'ble Third Judge was the dissenting Judge to the orders which gives rise to the present *lis*. Three Judge Bench disposed of the Suo Motu Writ Petition being SUO MOTU W.P.(C) No.7943 of 2021 clearly indicating that there was two differing orders dated 24.02.2021 and all of them have remained unsigned on 26.02.2021. Therefore, the Suo Motu Writ Petition should not have been registered.

**14.** It is contended by Mrs. Rath, learned Senior Advocate appearing for the petitioners that the order passed by

the Three Judge Bench of this Court is binding on the present Division Bench. Since the Three Judge Bench has concluded that the Suo Motu Proceeding was wrongly initiated, the view taken by the Division Bench may not sustain the scrutiny of law.

At this stage, Mr. Routray, learned Senior Advocate appearing for the opposite party No.1 has pointed out that even if the argument of the Review petitioners are accepted that there was a dissenting views amongst the two judges, under the High Court Rules, it should have been placed before the third judge. However, surprisingly, a larger bench of Three Judges was constituted. Mr. Routray, has strongly questioned the very constitution and composition of the Bench. He submitted that the Bench was consisting of the then Hon'ble Chief Justice, the Disciplinary Authority, the Hon'ble Second Judge, the Enquiry Officer, and the Hon'ble Third Judge, the Dissenting Judge to the orders which gives rise to the present *lis*. Mr. Routray, learned Senior Advocate further submitted that not only the composition is inappropriate but also ex-facie contrary to the High Court Rules.

**15.** We are not inclined to be drawn into this controversy regarding the composition of Bench, but suffice it to say that the

order of the Lager Bench has no bearing on the facts of the present case because in the writ petition, this Division Bench was only deciding the issue arising out of the enquiry and the disciplinary action taken against the delinquent officer. It would be relevant to reproduce the statement of imputation of charges, the delinquent officer was facing:-

> *"**a**. The Writ Petitioner while working as Registrar General of the Hon'ble Orissa High Court instructed for registration of a suo motu writ petition without informing the then Hon'ble Chief Justice of the Hon'ble High Court and that also by giving his approval on a note sheet of the then Deputy Registrar (Judicial) on the basis of an unsigned order;*
>
> ***b**. The said approval/instruction was granted on the basis of an unsigned order of Hon'ble Senior Judge (name withheld), Puisne Judge (name withheld);*
>
> ***c**. The said approval for registration of suo motu writ petition has been done without any authority as the same does not come within the duty and authority of the office of Registrar General of Hon'ble Orissa High Court, and that also without the approval of the then Hon'ble Chief Justice of Hon'ble Orissa High Court;*
>
> ***d**. The further charges were that the suo motu proceeding had been based on an unsigned order and acted upon without the approval of the then Hon'ble Chief Justice of Hon'ble Orissa High Court;*

> ***e****. Further, copies of the said unsigned order have also been sent to the Ld. Advocate General's office and to the office of one of the Amicus Curiae, Ld. Senior Advocate Mr. Manoranjan Mohanty as part of notice;*
>
> ***f****. On the basis of the above, charges of gross misconduct, dereliction of duty, administrative indiscipline and failure to maintain absolute honesty and integrity have been levelled."*

Reading of the charges boils down to two issues namely, **(1)** the delinquent officer has acted upon an unsigned order of the Division Bench and **(2)** no approval was taken from the Hon'ble Chief Justice before according approval for the registration of the Suo Motu Proceeding.

**16.** In so far as second issue regarding taking of approval before registration of Suo Motu Proceeding is concerned, this Court vide order dated 21.03.2025 has directed the Review Petitioners to file an affidavit and pursuant to the direction, the Special Officer (Administration), High Court of Orissa, Cuttack filed an affidavit dated 04.04.2025, inter alia, stating as under:

> *"**2**. As per direction of the Hon'ble Court, I verified the Rules of the High Court of Orissa, 1948 regarding the existence of any rule /law/ procedure/standing order requiring permission of the Hon'ble Chief Justice for registration of a suo motu case basing on an order passed by the*

*Hon'ble Court but could not trace the same. Thereafter, a request has been made to the Registrar (Judicial) of the Court for furnishing such rule/law/procedure/standing order. As per his instruction the Superintendents, Rules Section, List Section and Computerized Filing Section of the Court to furnish were requested the rule/law/procedure/standing order, if any, requiring permission of the Hon'ble Chief Justice for registration of suo motu case basing on an order passed by the Hon'ble Court.*

***3**. The Superintendent, Rules Section of the Court enclosing copy of Judgment dated 05.04.2022 of Madurai Bench of the Madras High Court in Suo-Motu W.P. (MD) No.5273 of 2022 wherein it has been laid down that though Hon'ble Judge may form opinion to register suo motu writ petition on a complaint received from a citizen, he has no authority to direct the Registry to register suo motu case, but to direct the Registry to place the same before Hon'ble the Chief Justice. However, he has submitted that no rule/standing order of this Court is available with regard to taking permission of the Hon'ble Chief Justice for registration of suo motu case basing on an order passed by the Hon'ble Court. (Annexure-A).*

***4**. The Superintendent, List Section of the Court has submitted that as per usual practice any order passed by the Hon'ble Court in this regard are sent to concerned branch and the branch places the matter before the Registrar (Judicial) for further course of action regarding registration of a suo motu case. List Section has no role regarding registration of suo motu case and also no such instruction is usual in the List*

*Section for registration of suo motu case. (Annexure-B)*

***5**. The Superintendent, Computerized Filing Section of the Court has submitted that as per previous practice, this Section receives the Suo Motu Writ proceedings from the Registrar (Judicial) for the purpose of registration, as such with approval of Hon'ble the Chief Justice. The procedure is being followed by the concerned section. Hence, such rule/law/ procedure/standing order has not been encountered by this Section. (Annexure-C).*

***6**. In the light of the above position, it is forthcoming that no such rule/law/ procedure/standing order regarding obtaining permission of Hon'ble the Chief Justice for registration of suo motu case basing on an order passed by the Hon'ble Court is available.*

***7**. That, the facts stated above are true to the best of my knowledge, belief and based upon available official records."*

In the absence of any Rules/regulation and/or convention or judicial precedent to the effect that before registration of *Suo-motu proceeding,* permission preceding the registration from the Hon'ble Chief justice is a condition precedent, no fault of the writ petitioner could be established per se.

**17.** In so far as the approval granted by the delinquent officer for registration of Suo Motu Proceeding on an unsigned

order is concerned, the argument advanced by Mrs. Rath, learned Senior Advocate for the Petitioners may assume some importance. This aspect of the matter has been appropriately dealt by us in the impugned judgment dated 02.05.2025, that part of the judgment reads thus:-

> *"On 26.02.2021 the Deputy Register (Judicial) put up a note before the petitioner for necessary orders by verbatim reproducing the order dated 24.02.2021. The petitioner approved the note routinely which according to the petitioner was done in good faith and consequently the Suo Motu proceeding was registered. It is borne out of the record that the copy of the said order dated 24.02.2021 was also dispatched to the appointed Amicus Curiae, which was received by one of the learned Amicus Curiae on the same day. It is also apparent on record that the original proceeding signed by one of the Hon'ble Judges was not placed before the petitioner on 26.02.2021. At least nothing contrary is coming to the fore on record to suggest otherwise. The note sheet dated 26.02.2021 which was put up before the petitioner for approval on 26.02.2021 was approved on the same day."*

The aforementioned finding cannot be faulted by referring it to be an error relying upon the letter dated 10.05.2021 of the learned Puisne Judge, because even the learned Judge in the letter has not spoken about expressing dissent on 24.02.2021, rather he has mentioned that the judicial

proceeding dated 24.02.2021 was recorded by him only on 02.03.2021 and at one place he even says that he dissented on 07.03.2021. But in either case, admittedly on 26.02.2021, when the writ petitioner approved for registration of the Suo Motu proceeding, there was no dissent by the Second Judge on record.

**18.** At this juncture, it is pertinent to examine the contours of review jurisdiction. The Hon'ble Supreme Court, in its recent pronouncement in ***Malleeswari -Vrs.- K. Suguna and Another***[19], after drawing guidance from earlier decisions in ***Parsion Devi -Vrs.- Sumitri Devi***[20], ***Lily Thomas -Vrs.-Union of India***[21], ***Inderchand Jain -Vrs.- Motilal***[22], ***Shivdev Singh -Vrs.- State of Punjab*** (supra), ***Hari Vishnu Kamath -Vrs.- Syed Ahmad Ishaque***[23], ***T.C. Basappa -Vrs.- T. Nagappa***[24], ***Satyanarayan Laxminarayan Hegde -Vrs.- Mallikarjun Bhavanappa Tirumale***[25] and ***Chhajju Ram -Vrs.- Neki***[26], has restated the scope and ambit of review under

[19] 2025 SCC OnLine SC 1927
[20] (1997) 8 SCC 715
[21] (2000) 6 SCC 224
[22] (2009) 14 SCC 663
[23] (1954) 2 SCC 881
[24] (1954) 1 SCC 905
[25] AIR 1960 SC 137
[26] 1922 SCC OnLine PC 11

Section 114 read with Order XLVII Rule 1 of the Code of Civil Procedure. The Court crystallized the principles as follows:

> *"17. Having noticed the distinction between the power of review and appellate power, we restate the power and scope of review jurisdiction. Review grounds are summed up as follows:*
>
> *17.1 The ground of discovery of new and important matter or evidence is a ground available if it is demonstrated that, despite the exercise of due diligence, this evidence was not within their knowledge or could not be produced by the party at the time, the original decree or order was passed.*
>
> *17.2 Mistake or error apparent on the face of the record may be invoked if there is something more than a mere error, and it must be the one which is manifest on the face of the record. Such an error is a patent error and not a mere wrong decision. An error which has to be established by a long-drawn process of reasoning on points where there may conceivably be two opinions can hardly be said to be an error apparent on the face of the record.*
>
> *17.3 Lastly, the phrase 'for any other sufficient reason' means a reason that is sufficient on grounds at least analogous to those specified in the other two categories."*

The principles culled out in ***Malleeswari*** (supra), read in conjunction with the earlier precedents referred to therein, make it abundantly clear that the jurisdiction of review

is of a very limited nature. It is intended only to correct a manifest error or to consider material which could not be produced earlier despite due diligence. An *error apparent on the face of the record* that is, a patent and self-evident mistake which does not require elaborate reasoning, possibility as well may also furnish a ground for review. Likewise, the phrase *"any other sufficient reason"* has been judicially construed to mean reasons analogous to the discovery of new evidence or error apparent, and cannot be invoked to re-agitate settled issues. Thus, the scope of review is restrictive and circumscribed, standing in sharp contrast to the wider jurisdiction exercised in appeal.

**19.** Having delineated the scope of review as settled by the Hon'ble Supreme Court, it becomes necessary to test the present plea against these parameters.

In light of the above principles, even if the submissions of learned Senior Counsel Mrs. Pami Rath are accepted in toto, the most that could be contended is the possibility of an alternative view. However, the existence of an alternative view by itself does not fall within the limited grounds of review as recognised by law. A review is not an appeal in

disguise, and re-evaluation of facts or law to substitute one plausible view with another is outside the permissible scope. Therefore, the view adopted by this Court in the impugned judgment cannot be interfered within review jurisdiction merely because a different perspective is sought to be urged.

**20**. For the forgoing reasons, the Review Petition deserves no merit, hence the prayer made in the petition is not acceded to. Accordingly, the same is dismissed.

**(S.S. Mishra)**
**Judge**

**S.K. Sahoo, J.** I agree.

**(S.K. Sahoo)**
**Judge**

The High Court of Orissa, Cuttack
Dated the 17th September 2025/Swarna