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RP-1159-2024

IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE

BEFORE

HON'BLE SHRI JUSTICE VIVEK RUSIA

&

HON'BLE SHRI JUSTICE BINOD KUMAR DWIVEDI

ON THE 1st OF JULY, 2025REVIEW PETITION No. 1159 of 2024

*SPECIAL POLICE ESTABLISHMENT LOKAYUKT ORGANIZATION
THROUGH OIC RAM DAYAL MISHRA*

*Versus**JAGDISH RATHI AND OTHERS*

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Appearance:

Shri Prasanna Prasad - Advocate for the petitioner.

*Shri Ravindra Singh Chhabra, learned Senior Counsel with Shri Arpit
Singh - Advocate for the respondent No.1.*

*Shri Sudeep Bhargava - Dy. Advocate General for the respondent
No.2/State.*

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ORDER

Per. Justice Vivek Rusia

1. Special Police Establishment has filed this present review petition seeking review of the order dated 30.8.2024, whereby the Writ Petition No.19903/2020 has been allowed and the impugned sanction order dated 8.12.2020 has been quashed.

Facts of the case in short are as under:-

2. The respondent No.1/writ petitioner was posted as Assistant Excise Commissioner, Sagar. On 29.12.2015 a proposal for grant of sanction for



prosecution of the petitioner under Section 19 of Prevention of Corruption Act was forwarded to the Secretary, Commercial Tax Department. On 27.12.2017 the Senior Office of the Department recommended that no case for grant of sanction is made out and on the basis of such recommendation, the decision was taken for non grant of sanction. Thereafter the Department of Law and Legislative Affairs did not agree with the administrative decision dated 5.4.2018 and sent an opinion for grant of sanction. Again the parent department declined to grant sanction on 29.1.2020 but later on, the Principal Secretary has issued a sanction order dated 8.12.2020 reviewing its earlier decision taken by the predecessor. Being aggrieved by the order dated 8.12.2020, the petitioner approached this Court by way of Writ Petition No.19903/2020.

3. Notices were issued in the writ petition and the respondent sought time to file reply. Thereafter this petition was tagged with W.P. No.6831/2021. Again vide order dated 27.6.2022 the direction was given to list this petition along with WP No.6831/2021 and WP No.7277/2021. The petition was adjourned number of times without any progress. The petitioner filed an application for amendment in the writ petition, which came to be allowed vide order dated 21.5.2024. The petitioner was directed to incorporate the amendment within 7 days, in addition amended petition be filed. On the next date of hearing on 9.7.2024 the petitioner again filed an application for amendment i.e. IA No.4483/2024, which came to be allowed and the petitioner was directed to file amended petition. On 11.7.2024 the petitioner amended the cause title. On 29.7.2024, W.P. No.6831/2021 was



delinked from this petition. On 7.8.2024 the Division Bench directed petitioner to carry out the amendment and respondent sought two weeks' time to file reply. The writ petition was directed to be listed on 29.8.2024. The order-sheet dated 7.8.2024 is reproduced below:-

"Dated: 07-08-2024

Shri Rajendra Kumar Mishra, counsel for the petitioner.

Shri Bhuwan Gautam, Government Advocate for the respondent/State.

Shri Vaibhav Jain, counsel for the respondent No.2.

Even though amendment in the writ petition has been allowed vide order dated 09.07.2024 and thereafter the petitioner has filed amended copy, still the prayer clause has not been amended.

In view of the aforesaid, let amendment be carried out within seven days.

Reply be filed within a period of two weeks.

As prayed and as agreed, list this case on 29.08.2024."

4. On 16.8.2024 counsel for the petitioner took a Mention Slip on the ground that the matter is covered with another similar disposed of matter (WP No.24499/2019), therefore, need to be heard for early disposal. The Court Slip was allowed for listing on 17.8.2024 i.e next day. On the next day the writ petition was heard and reserved for orders. Vide order dated 30.8.2024 the writ petition was allowed.

5. Now the Special Police Establishment has filed a review petition solely on the ground that the writ petition has been allowed without reply. Counsel appearing for the SPE sought time on 17.8.2024 but that was rejected and writ petition was heard.

6. Shri R.S. Chhabra, learned Senior Counsel appearing for the respondent No.1 submits that the writ petition remained pending for four years but reply was not filed. On 17.8.2024 the argument was advanced by counsel appearing for the SPE, therefore, no case for review is made out.



We have heard the learned counsel for the parties and perused the record.

7. It is clear from the order-sheet dated 7.8.2024 that two weeks' time was granted to file reply and matter was directed to be listed on 29.8.2024. The petitioner was directed to carry out the amendment within seven days and amended copy of writ petition was liable to be supplied to the counsel for the respondents. Therefore, for filing reply two weeks' time will start from the date of carrying out the amendment and supply of the amended copy. Even that would not be over on 29.8.2024 but all of a sudden hearing was preponed by granting Mention Slip and petition has been allowed without reply by the respondent. So far as listing of matter on earlier dates as described above is concerned, initially this petition was linked with other writ petition, thereafter delinked. No substantive progress were made. Only adjournments were granted at the request of the counsel. Even though the return to the original petition was not filed but after amendment the return was liable to be filed by the respondent before deciding the matter on merit.

8. In view of the above, the order dated 30.8.2024 passed in Writ Petition No.19903/2020 is hereby recalled. The Writ Petition No.19903/2020 is restored to its original number.

9. The review petition is accordingly disposed of.

(VIVEK RUSIA)
JUDGE

(BINOD KUMAR DWIVEDI)
JUDGE