

Ms. Nazia Zubair Ansari
-V/s-
The Al Jamia Mohammediyah
Education Society and others....

Order below application at Exh. 26

Perused application and say. Respondent No.1 has filed application for recalling of the order dated 06.11.2025 passed below Exh.13. Respondent No.1 had filed application below Exh.13 for framing preliminary issue regarding maintainability of the appeal. After hearing both the sides, said application was rejected.

2] Application below Exh.13 was rejected by order dated 06.11.2025 and advocate for respondent has stated that he got the knowledge about said rejection on 04.12.2025. He has stated that the appellant was in service with respondent No.3 which is not recognized school. Said issue was not discussed while passing order below Exh.13. So, they have filed this application for recalling the said order.

3] Appellant has filed her reply (Exh.27) and stated that the application below Exh.13 was decided by giving opportunity to the respondent. Further, the application is not filed within prescribed period and there is delay in filing the application. There are no reasons given by the respondent for recalling the order passed below Exh.13. In support of her contentions appellant has placed reliance upon following authorities (Exh.29) :

A] Greater Noida Industrial Development Authority -V/s- Prabhjit

Singh Soni, AIR 2024 SC (Civ) 863, wherein the Hon'ble Supreme Court has held that the power of recall is different from the power of altering/reviewing the judgment. The parties seeking recall has to establish that it was not at fault. The power of recall can be exercised when any procedural error is committed while delivering the judgment.

B] Budhia Swain -V/s- Gopinath Deb, AIR 1999 SC 2089, wherein it is held that the power of recall is permitted where a judgment was rendered in ignorance of fact or the judgment is obtained by fraud or without giving an opportunity of hearing.

C] Suman Dattatraya Kadam -V/s- Shobha Kailas Bonekar, LAWS (Bom) 2007 (4) 141, wherein it is held that a party is not entitled to seek review of a judgment for the purpose of rehearing and fresh decision of the case.

4] On the contrary, respondent No.1 in support of its contentions has placed reliance upon following authorities (Exh.28) :

I] Dagdu -V/s- President, Anandrao Naik Shikshan Prasarak Mandal and others, 2006 (9) SCC 782.

II] Smt. Shobha Kailash Bonekar -V/s- State of Maharashtra and others, 2007 (3) Bom. C. R.1.

III] Komal Rugwani -V/s- State of Maharashtra and others, 2011 (4) Bom. C.R. 459.

IV] Hashmiya Bahrul Faiz Social Welfare Association -V/s- Abdullah M. Shukur Qureshi and others, 2023 (2) Mh. L.J.763.

- V] **Ravindra Motiram Firake -V/s- Janata Shikshan Mandal and others, 2009 (5) Bom. C. R. 711.**
- VI] **Maharashtra Vidya Prasarak Mandal, Khamgaon -V/s- Vijay Sukhlal Rajput, 2019 (3) Bom. C. R. 34.**

I have gone through all the authorities relied upon by the respondent No.1, which are upon the point of maintainability of the appeal. That issue is to be decided if the present application is allowed. Right now, whether the order passed below Exh.13 is to be recalled or not, is to be decided.

5] The respondent No.1 has filed its reply below Exh.9 raising the issue of jurisdiction of this Tribunal. They have specifically contended that the appellant was in service with respondent No.3, which is not a recognized school. Application below Exh.13 was rejected by considering the documents filed by the appellant. The issue about jurisdiction of this Tribunal on the point of recognition of respondent No.3 was not dealt. Considering the authorities submitted by the respondent No.1 the said issue goes to the root of the matter. Appellant has rightly pointed out that the order cannot be recalled only because another view is possible. There is no question of fraud while passing the order below Exh.13. Respondent No.1 has raised the issue of jurisdiction of this Tribunal and that has to be decided before going into the merits of the matter. That would save the time of the Tribunal as well as of the parties. Even further, the appellant is having opportunity to deal with said issue. Hence, the order passed below Exh.13 needs to be recalled in the interest of justice. So, I pass following order :

: O R D E R :

- 1] Order passed below Exh.13 is set aside and the preliminary issue is framed.
- 2] Whether this Tribunal has jurisdiction to entertain the appeal ?

Date: 13.02.2026.

(S. K. Bangad,)
Presiding Officer, School Tribunal,
Nashik Region, Nashik.