

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

CJ Court

Case: RP No. 84 of 2021

Ravi Kumar

.....Appellant(s)

Through :- Sh. Srishti Paul Mengi, Advocate.

v/s

Union Territory of Jammu & Kashmir and
others

.....Respondent(s)

Through :- Sh. Aseem Sawhney, AAG.

**CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MRS. JUSTICE SINDHU SHARMA, JUDGE**

ORDER

1. We are seized with the review petition filed by one Sh. Srishti Paul Mengi, Advocate on his own behalf in WP(C)PIL No. 13/2020 which was decided by us vide judgment and order dated 24.03.2021.

2. The aforesaid writ petition in public interest was preferred by one-Ravi Kumar, alleging himself to be a social worker, through the aforesaid counsel. Once the petition was dismissed as aforesaid, the counsel himself has applied for review and not the petitioner Ravi Kumar.

3. It is well settled principle of law that a review petition is maintainable by the party concerned only.

4. The counsel Sh. Srishti Paul Mengi was not a party in the above public interest litigation. He was only appearing as a counsel for the petitioner-Ravi Kumar. Therefore, when the said Ravi Kumar has not come forward to seek any review, the counsel of his own has no *locus standi* to apply for the review of the judgment and order.



5. The petition in public interest was filed for quashing of the order dated 04.06.2020 renewing the brick-kiln licence of respondent No.4, Titru Ram who had a licence for establishing and running the brick-kiln since 1997, which has been renewed from time to time even after the enforcement of the J&K Brick Kilns (Regulation) Act, 2010 (for short 'the Act') and the J&K Brick Kilns (Regulation) Rules, 2011 (for short 'the Rules'). The Act and the Rules provide for separate sets of applications for grant of fresh licence to establish a brick-kiln and for continuing operations of the existing brick-kilns. In respect of the existing brick-kilns, the application for grant of licence to continue manufacturing process does not require de novo completion of the formalities which had already been fulfilled by the owner while applying for the licence at the time of establishing of the brick-kiln. Therefore, respondent No.4-Titru Ram was not supposed to obtain fresh No Objection Certificates (NOCs) from various departments in getting the licence renewed.

6. It may be important to note that the NOCs once issued would mean that the applicant fulfils all the necessary conditions and has complied with the necessary norms and there is otherwise no legal impediment in the issuance/renewal of licence unless a contrary is established.

7. Sh. Mengi, appearing in person, submits that the court has overlooked that there was serious connivance between the officials and respondent No.4 in renewing his brick-kiln licence; the court has overlooked the existence of school in the vicinity and, as such, brick-kiln could not have been established at its existing location; and when the court has come to conclusion that the petitioner had no locus to maintain the petition in public interest, it ought not to have decided the matter on merits.

8. Sh. Mengi in raising the above aspects virtually tried making submissions on merits referring to the factual aspects also and endeavoured to



place the entire record of the writ petition virtually as if we are supposed to give him de novo hearing in the matter, which is not legally permissible in review. He could not establish any error apparent on the face of the record. It is settled that a review is by no means an appeal even if the decision sought to be reviewed is erroneous and that the court should not lightly entertain the review application unless the order suffers from error apparent on the face of the record and, if allowed to stand, would lead to failure of justice.

9. The decision of the petition simultaneously on merit and its maintainability is not a cause of concern which may prejudice any party and is ordinarily permissible as it avoids future litigation and gets the controversy set at rest.

10. In the case at hand, first of all, Sh. Mengi who is seeking review of the order has no locus to apply for review; secondly, he is unable to establish any error apparent on the face of the record ; and lastly, the submissions advanced by him do not establish that anyone would suffer any injustice if the said order is allowed to stand, more particularly, when the court had left it open for the petitioner to agitate the matter before the relevant authorities if any grievance still survives and the authorities were directed to consider it in accordance with law. Therefore, any grievance which may still subsist with regard to establishment or the renewal of licence of the brick-kiln may be on account of the existence of school can very well be taken up by the person interested before the authority concerned and if the grievance is not redressed may approach the higher forum.

11. In view of the aforesaid facts and circumstances, we do not subscribe to the view that the judgment and order passed by us requires to be re-considered or review.



12. The review petition lacks merit and is dismissed.

(SINDHU SHARMA)
JUDGE

(PANKAJ MITHAL)
CHIEF JUSTICE

JAMMU
17.12.2021
Raj Kumar

Whether the order is speaking? : Yes/No.

Whether the order is reportable? : Yes/No.

