

Civil Judge (Senior Division), Court No.2, Bulandshahar in Misc. Case No.217/2024 is set aside and restoration application dated 21.11.2019 (4C2), under Order 9 Rule 13 C.P.C. is allowed. Consequently the ex parte judgment and decree dated 22.11.2024, passed in Original Suit No.784/2024 is also set aside.

16. The instant First Appeal From Order is allowed. Original Suit No.784/2024 is restored to its original number. The trial court shall frame issues in the suit and afford opportunity to the parties to lead evidence in accordance with law. The trial court shall decide the suit expeditiously, preferably within a period of six months from the date of production of the certified copy of the order, in accordance with law.

17. Records of the trial court be transmitted to the court concerned forthwith.

(2025) 7 ILRA 11
ORIGINAL JURISDICTION
CIVIL SIDE
DATED: ALLAHABAD 07.07.2025

BEFORE

THE HON'BLE SHEKHAR B. SARAF, J.
THE HON'BLE PRAVEEN KUMAR GIRI, J.

Civil Misc. Review Application No. 174 of 2025

Hindustan Petroleum Corporation Ltd. & Anr. **...Applicants**

Versus

Fida Hussain **...Opposite Party**

Counsel for the Applicants:

Komal Mehrotra

Counsel for the Opposite Party:

Yash Padia

Issue for Consideration

I. Whether The Court overlooked the fact that brochure for Dealer Selection provides for non rectifiable clause since 2023 advertisement

II. Whether The Court overlooked the fact that in contractual matters, the parties are bound by the terms and conditions of the advertisement/brochure and the Court cannot direct any party to act contrary to the terms and conditions of the brochure.

III. Whether In M/s Indian Oil Corporation Limited & others v. Raj Kumar Jha & Others reported in (2012) 2 PLJR 783, the Patna High Court has upheld the rejection of the application by corporation and directed strict adherence to the terms and conditions mentioned in the advertisement.

Head Notes

The Constitution of India, 1950-Article 226- The Code of Civil Procedure, 1908-Section 151 & Order 47 Rule 1- Court had gone into all the materials that were present before the Court - Court finding the defect in the PAN to be curable at the first instance had set aside the order rejecting the application for award of retail outlet dealership of the petitioner - Review application appears to be an appeal in disguise - Review application dismissed.

Held- The grounds in the present review application neither fall within the ambit of 'discovery of new and important matter or evidence' nor within 'mistake or error apparent on the face of record'. **(Para 3, 5 & 6)** (E-15)

Case Law Cited

State of West Bengal v. Confederation of State Government Employees; 2019 SCC Online Cal 9181; M/s Indian Oil Corporation Limited & others v. Raj Kumar Jha & Others reported in (2012) 2 PLJR 783

List of Acts

The Constitution of India, 1950- The Code of Civil Procedure, 1908

List of Keywords

Review jurisdiction is a limited jurisdiction; Discovery of new and important matter or evidence; mistake or error apparent on the face of record; Review application appears to be an appeal in disguise

Case Arising From

Review application against the judgment/order dated 04.04.2025 passed in Writ-C No.5361 of 2025, wherein the writ petition was allowed setting aside the order dated 31.01.2025 passed by the Head of Regional Office, Meerut Retail Regional Officer, Hindustan Petroleum Corporation Limited.

Appearances for Parties

Counsel for Applicant :- Komal Mehrotra
Counsel for Opposite Party :- Yash Padia

Judgment/Order of the High Court

(Delivered by Hon'ble Shekhar B. Saraf, J.
&
Hon'ble Praveen Kumar Giri, J.)

1. This is a review application filed by the applicants (respondents in the writ petition) against the judgment/order dated 04.04.2025 passed in Writ-C No.5361 of 2025, wherein the writ petition was allowed setting aside the order dated 31.01.2025 passed by the Head of Regional Office, Meerut Retail Regional Officer, Hindustan Petroleum Corporation Limited.

2. Learned counsel appearing on behalf of the applicants has sought review of the order on several grounds as provided below:

a. The Court overlooked the fact that brochure for Dealer Selection provides for non rectifiable clause since 2023 advertisement and the respondent herein (petitioner in the writ petition) has never challenged the vires of the said guidelines.

b. The Court overlooked the fact that in contractual matters, the parties are bound by

the terms and conditions of the advertisement/brochure and the Court cannot direct any party to act contrary to the terms and conditions of the brochure. Allowing respondent herein to rectify a non rectifiable mistake would frustrate the clauses of guidelines under the garb of human error.

c. In M/s Indian Oil Corporation Limited & others v. Raj Kumar Jha & Others reported in (2012) 2 PLJR 783, the Patna High Court has upheld the rejection of the application by corporation and directed strict adherence to the terms and conditions mentioned in the advertisement.

3. Upon perusal of the order sought to be reviewed, it is clear that this Court had gone into all the materials that were present before this Court at that time. Furthermore, this Court finding the defect in the PAN to be curable at the first instance had set aside the order rejecting the application for award of retail outlet dealership of the petitioner.

4. In the present case, the first two grounds of review have already been dealt with by this Court holding that the mistake was apparently a misspelling with regard to second letter in the PAN. The respondent herein also submitted a correct PAN and if clarification was sought by the Corporation, it would have been resolved by the respondent herein at the first instance. The writ Court decided the matter based on the peculiar facts and circumstances of the case and has expressly made it clear that the judgment shall not serve as a precedent for others. With regard to the third ground for review, the learned counsel has placed reliance on a judgment of Patna High Court in Raj Kumar Jha (Supra); however as it pertains to a Letters Patent Appeal, it cannot govern the limited scope of review.

5. It is to be noted that review jurisdiction is a limited jurisdiction and is

governed by certain principles that have been summarized in the judgment of Calcutta High Court in **State of West Bengal v. Confederation of State Government Employees**; 2019 SCC Online Cal 9181. The relevant paragraph of the judgment is quoted hereinbelow:

"On a reading and comprehension of the Supreme Court judgments on this issue the following principles emerges :-

A. The power to review is inherent in the High Court and the High Court can review its own order/judgment passed in a writ petition.

B. This power of review is a limited power and would be governed by the principles of section 151 read with Order 47 Rule 1 of the Code of Civil Procedure.

C. Firstly, a Court can review its own judgment when there is discovery of new and important matter or evidence that was in spite of exercise of due diligence not within the knowledge or could not be produced due to cogent reasons by the party seeking a review. Secondly, the Court may review its order or judgment on account of some mistake or error apparent on the face of the record. Thirdly, a residuary clause in rule 1 of Order 47 provides for a review 'for any other sufficient reason'. It is to be noted that the Apex Court on several occasions has hold that the third condition "for any other sufficient reason" has to be read within the four corners of the first to conditions.

D. An error which is not self-evident and has to be detected by a process of reasoning is not an error apparent on the face of the record.

E. A review petition has a limited purpose and cannot be allowed to be "an appeal in disguise". There is a sharp

distinction between an erroneous decision that can be only appealed against and an error apparent on the face of the record that is subject to review.

[See Sasi (D through LRs v. Aravindakshan Nair reported in (2017) 4 SCC 692. Haridas Das v. Usha Rani Banik reported in (2006) 4 SCC 78, paras 15-18; Parsion Devi v. Sumitri Devi reported in (1997) 8 SCC 715, paras 7-10; Aribam Tuleswar Sharma v. Aribam Pishak Sharma reported in (1979) 4 SCC 389, para3]"

6. In view of the principles enunciated above, the grounds in the present review application neither fall within the ambit of 'discovery of new and important matter or evidence' nor within 'mistake or error apparent on the face of record'.

7. The review application appears to be an appeal in disguise, and accordingly, the same is dismissed.

**(2025) 7 ILRA 13
ORIGINAL JURISDICTION
CRIMINAL SIDE
DATED: LUCKNOW 29.07.2025**

BEFORE

THE HON'BLE RAJNISH KUMAR, J.

Application U/S 528 BNSS No. 862 of 2025

**Rakesh Kumar Chaturvedi ...Applicant
Versus
State of U.P. & Anr. ...Opposite Parties**

Counsel for the Applicant:
Shantanu Sharma, Anshuman Sharma,
Athar Ali

Counsel for the Opposite Parties:
G.A.