

Order Sheet
IN THE HIGH COURT OF SINDH KARACHI
Constitutional Petition No. D –4250 of 2012

Date	Order with Signature of Judges
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Disposed of matter :

1. For orders on CMA No. 31902 of 2019 (Exemption) :
2. For hearing of CMA No. 31903 of 2019 (Stay) :
3. For hearing of CMA No. 31904 of 2019 (Review) :

17.02.2020 :

None present for the petitioner.

1&2. Deferred for the time being.

3. The captioned Petition was disposed of vide common Judgment dated 13.11.2018, with the following observations:-

“9. We have noticed that the appointments in the Education department were made on the orders of this Court with the consent of the parties, therefore the Petitioners cannot rely upon the order dated 04.05.2011 passed by this Court. The learned counsel for Petitioners failed to refer any Judgment of this Court, which had allowed the petition of the successful candidates on merits. The consent order obviously cannot be cited as precedent, as observed by the Hon’ble Supreme Court of Pakistan in the case of Muhammad Arif & others as discussed supra. In our view, once the Hon’ble Supreme Court has passed Judgment dated 01.04.2015 in terms when, **“the scraping of the examination was maintained by the High Court, the Constitution Petition suffers from latches. By now almost 8 years have passed when the selection was made and it is too late in the day to direct the appointment of the Petitioners”**. This Court has no justification to take contrary view of the same.

10. The case law cited by the learned counsel for the Petitioners including the case of Hameed Akhtar Niazi (supra) are on different footing and distinguishable from the facts and circumstances of the present case.

11. In the light of above facts and the observation made by the Hon’ble Supreme Court in the case of Muhammad Arif & others vs. Province of Sindh & others, consequently, both the Constitution Petitions merit no consideration and are dismissed with no order as to cost.”

On 07.11.2019, the Applicant filed an application under Section 114 of Civil Procedure Code (CMA No. 31904 of 2019) for review of the judgment dated 13.11.2018 passed by this court.

Perusal of record shows that the Petitioner has assailed the judgment dated 13.11.2018 passed by this Court, before the Honorable Supreme Court in Civil Petition No.1454-K of 2018 and the same was dismissed as withdrawn vide order dated 18.7.2019.

In our view, the review of the order can only be made by the party, if there is mistake or error apparent on the face of the record as provided under Order XLVII (Section 114 CPC). The Petitioner through the review application has attempted to call in question the validity of the judgment dated 13.11.2018 passed by this Court which has attained finality.

In view of the above factual position of the case, let intimation notice be issued to the learned counsel representing the applicant to satisfy this Court with regard to maintainability of the captioned review application as discussed supra on the next date of hearing.

Consequently, the application bearing CMA No. 31904 of 2019 is adjourned to 24.02.2020, to be taken up at 11:00 a.m.

JUDGE

JUDGE