JUDGMENT SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

W.P. No.3945 of 2021
Izaz Ul Haq and another
Versus
Higher Education Commission and another

Date of Hearing:	22.11.2022.
Petitioners by:	Mr. Asad Nabi, Advocate.
Respondents by:	Mr. Binyamin Abbasi, Advocate for respondent No.1 / H.E.C.

MIANGUL HASSAN AURANGZEB, J:- Through the instant writ petition, the petitioners impugn the order dated 07.01.2021 passed by the Court of the learned Civil Judge, Islamabad, whereby their review application against the order dated 06.05.2019, was dismissed. Vide said order dated 06.05.2019, the petitioners' right to file a written statement was struck off.

2. The petitioners had filed a revision petition against the said order dated 06.05.2019 but the same was returned by the Court of the learned Additional District Judge, Islamabad vide order dated 16.09.2019 for want of pecuniary jurisdiction over the matter. The said order dated 16.09.2019 has also been assailed by the petitioners in the instant petition.

3. Learned counsel for the petitioners submitted that in the interests of justice, the petitioners should have been granted one opportunity to file a written statement. He further submitted that the petitioners' written statement is ready and the same shall be filed in the learned Civil Court if one more opportunity is granted to the petitioners. Learned counsel for the petitioners further submitted that the delay in filing the instant writ petition was due to the COVID-19 pandemic.

4. Learned counsel for the Higher Education Commission (**"H.E.C."**) did not show any concession to the petitioners. He submitted that the petitioners had challenged the order dated 06.05.2019 (whereby the petitioners' right to file a written statement was struck off) in a review application before the

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learned Civil Court as well as a revision petition before the Court of the learned Additional District Judge, Islamabad; that the review application was dismissed vide order dated 07.01.2021, whereas the revision petition was returned to the petitioners vide order dated 16.09.2019 for want of pecuniary jurisdiction of the Court of the learned Additional District Judge; that the instant writ petition has also been filed with a substantial delay; that the petitioners had disregarded the warnings issued by the learned Civil Court to the petitioners as to the consequences for not filing a written statement; that the petitioners' right to file a written statement was closed after several opportunities were granted to them; and that the orders assailed in the instant writ petition do not suffer from any legal infirmity. Learned counsel for H.E.C. prayed for the writ petition to be dismissed.

5. I have heard the contentions of the learned counsel for the contesting parties and have perused the record with their able assistance.

6. In the instant writ petition, the petitioners have assailed not just the order dated 16.09.2019 (whereby the petitioners' revision petition against the learned Civil Court's order dated 06.05.2019 was returned for want of pecuniary jurisdiction by the Court of the learned Additional District Judge, Islamabad) but also order dated 06.05.2019 (whereby the petitioners' right to file the written statement was closed by the learned Civil Court) and order dated 07.01.2021 (whereby the petitioners' review application against the said order dated 06.05.2019 was dismissed by the learned Civil Court).

7. Perusal of the order dated 06.05.2019 passed by the learned Civil Court shows that the petitioners were granted several opportunities to file written statement before their right to file a written statement was struck off. Earlier, vide order dated 27.03.2019, the learned Civil Court had warned the petitioners that if the written statement was not filed, their right to file the same would be struck off under Order VIII, Rule 10 C.P.C. The petitioners disregarded the said warning and failed to file the written statement on 06.05.2019. Since the learned Civil Court had

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warned the petitioners in advance that if they did not file a written statement their right to file the same would be struck off, the petitioners should have taken the said warning seriously, and should have filed the written statement. The petitioners' disregard for the said warning cannot be ignored, and therefore, I am not inclined to interfere with the said order dated 06.05.2019.

8. The petitioners filed a revision petition before the Court of the learned Additional District Judge, Islamabad as well as review application before the learned Civil Court against the said order dated 06.05.2019. As mentioned above, the revision petition was returned vide order dated 16.09.2019 for want of pecuniary jurisdiction. The revision petition was filed before the amendments made in the Code of Civil Procedure, 1908 through the Code of Civil Procedure (Amendment) Act, 2020 which was enacted on 21.02.2020. The valuation in the suit was to determine whether the revision petition could be filed by the petitioners before the Court of the learned Additional District Judge or this Court. The valuation clause in the suit instituted by the H.E.C. against the petitioners shows that the value of the suit was Euros 33,669/- plus Rs.65,672/-. This amount on the date of the filing of the revision petition was more than Rs.25,00,000/-, and therefore beyond the pecuniary jurisdiction of the Court of the learned Additional District Judge, Islamabad. Therefore, the said order dated 16.09.2019 whereby the petitioners' revision petition was returned does not suffer from any jurisdictional infirmity so as to warrant interference in the Constitutional jurisdiction of this Court.

9. The petitioners had also filed a review application against the learned Civil Court's order dated 06.05.2019. The petitioners have not bothered to file a copy of the review application along with the instant petition. The order sheet of the learned Civil Court shows that the review application was filed by the petitioners on 04.12.2019, which is beyond the limitation period provided by law for filing a review application. Article 173 of the Schedule to the Limitation Act, 1908 provides for a limitation period of ninety days from the date of decree or order for filing a review application. Be

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that as it may, vide order dated 07.01.2021, the said review application was dismissed by the learned Civil Court. Learned counsel for the petitioners has not been able to demonstrate that the initial order dated 06.05.2019 suffered from an error apparent on the face of the record or that there were sufficient grounds for the said order to be reviewed.

10. In view of the above, I do not find any merit in the instant petition, which is accordingly dismissed with no order as to costs.

(MIANGUL HASSAN AURANGZEB)
JUDGE

ANNOUNCED IN AN OPEN COURT ON 24.11.2022.

(JUDGE)

*Ahtesham**

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