

Court No. - 9

Case :- WRIT - A No. - 9199 of 2023

Petitioner :- Deep Narayan Trivedi And 2 Others

Respondent :- State Of U.P. Thru. Prin. Secy. Food And Civil Supplies Lko. And 4 Others

Counsel for Petitioner :- Abhay Raj Singh

Counsel for Respondent :- C.S.C.

Hon'ble Rajan Roy,J.

Heard.

Counsel for the petitioners relied upon a decision dated 02.05.2022 of Honb'le the Supreme Court in the case of ***Thomas Daniel vs. State of Kerala and others (Civil Appeal No. 7115 of 2010)*** to contend that the impugned order of recovery of alleged excess salary paid to the petitioners by the impugned order is without any opportunity of hearing and even otherwise is impermissible in view of the said law.

On being confronted, learned standing counsel could not satisfy the Court that any notice was issued to the petitioners and also that even without issuing notice recovery can be made.

Let opposite party concerned issue a show cause notice to the petitioners informing about the proposed recovery and while doing so it shall also be verified as to whether any undertaking was given or taken by/from the petitioners at the time of extending the benefit that in future if it is found that the payment is made incorrectly or is in excess of the due amount, the same would be recovered, this fact shall also be taken into consideration in the light of law on the subject. Based on the aforesaid exercise and reply by the petitioners to the show cause notice, a decision shall be taken as to whether petitioners are liable to pay back any amount which may have been paid in excess, obviously while doing so it shall also be kept in mind that whether the petitioners themselves in any manner were responsible for the said excess payment as is referred in the aforesaid decision. Let fresh decision be taken within two months from the date of receipt of certified copy of this order.

Till such decision, the impugned order shall not be given effect, however, it shall be abide by the fresh decision,

Petition is ***disposed of.***

[Rajan Roy, J.]

Order Date :- 4.12.2023

Santosh/-