

**THE HIGH COURT OF TRIPURA
AGARTALA**

WP(C) NO.552 OF 2010

Shri Rabindra Chandra Bhandari,
S/O Late Palai Bhandari,
Resident of Amtali, P.S. Amtali,
P.O. Amtali,
Tripura West.

..... *Petitioner*

- *Vs* -

1. The State of Tripura

(represented by the Secretary,
School Education,
Government of Tripura),
Agartala.

2. The Director of School Education,

Government of Tripura, Agartala.

3. The Inspector of Schools,

Bishalgarh,
Government of Tripura,
Tripura West.

4. Sri Budhadev Acharjee,

Organizer under the Mead day Meal Programme for
Champamura High School(Primary Section) under
Champamura Gaon Panchayet,
S/O Late Ahibhusah Acharjee,
Resident of Champa Mura, Bishalgarh,
District-Tripura(W).

..... *Respondents*

**BEFORE
THE HON'BLE MR. JUSTICE S.C. DAS**

For the petitioner : Mr. Rajib Saha, Advocate

For respondent Nos.1 to 3 : Mr. S. Chakraborty, Addl. G.A.

For respondent No.4 : None

Date of hearing and
delivery of

Judgment & order : **16.11.2015**

Whether Fit for Reporting :

Yes	No
	√

JUDGMENT & ORDER(ORAL)

Heard learned counsel, Mr. Rajib Saha for the petitioner and learned Addl. G.A., Mr. S. Chakraborty for respondent Nos.1 to 3. No representation on behalf of respondent No.4.

2. By filing this writ petition the petitioner prayed for directing the State respondents to reimburse an amount of ₹1,18,315/- towards the amount spent by him to run the Mid-Day-Meal Programme of Champamura High School(Primary Section) during the period from January, 2007 to February, 2008.

3. It is an admitted position that at the relevant point of time the petitioner was the Teacher In-charge of Primary Section of Champamura High School. According to the Government scheme, admittedly, Mid-Day-Meal programme was introduced in the primary section of the school and the concerned Gram Pranchayat was supposed to implement the programme providing rice, dal, vegetable, edible oil, fuel, etc. for arranging the Mid-Day-Meal. The Panchayat used to engage an organizer for running the Mid-Day-Meal programme and obviously the Teacher In-charge/Headmaster of the School was supposed to be involved in implementation of the programme.

4. The petitioner contended that during the period from January, 2007 to February, 2008 there was neither supply of required foodgrains nor provision of fund provided by the authority to run the Mid-Day-Meal programme as per the Government scheme. Respondent No.4 was the Organizer engaged by the Panchayat and he requested the petitioner to continue the programme spending money from his pocket and Panchayat also insisted the petitioner to run the programme. The petitioner contended that the official respondents also instructed him to run the programme spending money from his pocket and there was an assurance made to reimburse the amount in future. Up-to February, 2008 from January, 2007 the petitioner in view of the assurance of the respondents continued the Mid-Day-Meal programme spending money from his poor salary and he has retired on 31.08.2009 and even after submission of bill the amount of ₹1,18,315/- which the petitioner spent to run the Mid-Day-Meal programme was not reimbursed by the respondents and therefore a legal notice was issued through learned counsel, Mr. Rajib Saha, but the claim of the petitioner was not satisfied and hence this writ petition.

5. By filing counter affidavit respondent Nos.1 to 3, *inter alia* contended that there was no system to continue Mid-Day-Meal on credit basis and there was clear instruction to furnish the adjustment of expenditure within 3rd week of every month to the authority but the petitioner did not furnish any adjustment of expenditure within the stipulated time. He has submitted the

adjustment report for the period from 1st November, 2006 to 31st January, 2008 only on 14.02.2008 and therefore he was with fault and nobody can be blamed for it. It is also contended by the official respondents that there was no rule putting responsibility on the petitioner to run Mid-Day-Meal programme on credit basis from the own source and that he has made it at his own risk. There was no obligation for the State respondents to pay any amount to the petitioner as claimed by him. The claim of the petitioner was not entertainable and hence the writ petition should be dismissed.

6. Respondent No.4 by filing counter affidavit supported the case of the petitioner that he has requested the petitioner to run the Mid-Day-Meal programme spending money from his pocket and accordingly the petitioner run the Mid-Day-Meal programme.

7. It is submitted by learned counsel Mr. Saha that the respondents did not deny the fact that Mid-Day-Meal programme in the Primary Section of Champamura High School was continued by the petitioner during the period from January, 2007 to February, 2008 and it is also not disputed that neither the required foodgrains nor any amount was paid for running the programme. He has also submitted that the petitioner spent the amount from his pocket and continued the programme which has been reflected in the report of the Comptroller and Auditor General(CAG) in paragraph 3.1.10.6 wherein it is mentioned that in Champamura High School(Primary Section) the Mid-Day-Meal programme from January, 2007 to

February, 2008 was provided on credit basis. The credit balance accumulated ₹0.99 lakh and 19.38 quintal of rice. He has also submitted that the petitioner produced some documents, *i.e. Annexure.7* series which contains the statement of rice used in the Mid-Day-Meal programme and it supports the claims of the petitioner. Mr. Saha, learned counsel candidly submitted that the petitioner is a senior citizen and now aged about 66 years and he being a Primary Teacher spent the money *bona fide* on the assurance made by the respondents and therefore his claim may be entertained and the respondents may be directed to make payment of the amount to the petitioner.

8. Learned Addl. G.A., Mr. Chakraborty appearing for respondent Nos.1 to 3 submitted that there was no provision in the scheme to run the Mid-Day-Meal programme on credit basis. If the petitioner continued the programme spending money from his own purse it was at his peril and the Government cannot be directed to make payment of the amount as claimed by the petitioner. He further contended that the Panchayat was supposed to implement the programme with the help of the Teacher In-charge of the School and so the petitioner had no responsibility to run the Mid-Day-Meal programme at his own cost. There was no violation of any legal or constitutional right of the petitioner and hence the writ petition itself is not maintainable and is liable to be dismissed.

9. The petitioner is a Primary School Teacher, incidentally was Teacher In-charge of the Primary Section of Champamura High School. The scheme does not provide any provision putting any responsibility on the petitioner to run the Mid-Day-Meal programme spending money from his own purse. Rather the scheme provides that the Panchayat was supposed to implement the programme. *Annexure.7* series shows that the Panchayat Pradhan certified the expenditure in respect of rice but regarding the expenditure on other items there is no document filed with the writ petition. *Prima facie*, I find nothing that the petitioner was under any compulsion to run the Mid-Day-Meal programme in the absence of any supply made by the authority in respect of the relevant foodgrains at the Government rate. While Panchayat was the authority responsible to implement the programme, neither the Village Panchayat nor the Pradhan of the Panchayat has been made a party in this writ petition and the petitioner only made respondent No.4 who was the Organizer of the Mid-Day-Meal programme of Panchayat and though he has supported the case of the petitioner but in the absence of the Panchayat or the Pradhan of the Panchayat the petitioner's case cannot be entertained that at the instance of the Panchayat he has taken the responsibility to run the Mid-Day-Meal programme. No doubt, there was an observation in the report of the Comptroller and Auditor General(CAG)(*Annexure-6*) that certain amount was spent to run the Mid-Day-Meal programme in the Primary Section of Champamura High School but in support of that observation there is no other document to entertain the writ

petition that the petitioner spent ₹1,18,315/- to run the Mid-Day-Meal programme during the period from January, 2007 to February, 2008 from his own pocket. Learned counsel, Mr. Saha has argued that legal and constitutional right of the petitioner as contained in Section 70 of the Indian Contract Act and 300A of the Constitution has been infringed by the respondents by not reimbursing the amount spent by the petitioner. I find no merit in this argument since in my considered opinion those provisions are not at all attracted in the given facts of the writ petition. The claim of the petitioner requires proof by adducing evidence that he spent the amount claimed, from his own purse and that would have been done by filing a civil Suit before a competent Court of civil jurisdiction. In a writ petition, I find nothing to grant any relief to the petitioner and hence the writ petition stands dismissed.

10. Parties to bear their own costs.

JUDGE