

HIGH COURT OF CHHATTISGARH, BILASPUR**WP(S) No.3864 Of 2015**

Mahendra Kumar Sharma, late Ambika Prasad Sharma, Occupation-Retired Teacher, R/o-Village-Manki, Post-Arjunda, Tah-Dondilohara, Balod, Distt-Balod, Civil & Revenue Distt-Durg (CG)

---- **Petitioner**

Versus

1. State of C.G. Through-Secretary, Department of Education, New Mahanadi Bhawan, Raipur.
2. District Education Officer, Balod, Distt.Balod (CG)
3. Block Education Officer, Dondilohara, Distt-Balod.
4. The Joint Director, Treasury & Pension, Pension Bada Nagar, Raipur (CG)

---- **Respondents**

For Petitioner	:	Mr.Vivek Sharma, Advocate
For Respondents/State	:	Mr.S. Awasthy, Panel Lawyer

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

11/01/2016

1. Learned counsel for the petitioner would submit that the petitioner has been retired from the post of Upper Division Teacher on 30.6.2015, thereafter order dated 27.7.2015 (Annexure P/1) has been issued directing recovery of ₹1,60,936/- stating inter-alia that there was erroneous fixation in favour of the petitioner. He would further submit that now that order has been modified and ₹85,487/- is held to be recoverable amount, but no opportunity of hearing was granted despite the decisions rendered by the Supreme Court in the matter of **State of Punjab and others v. Rafiq Masih (White Washer) and**

others¹ and by this Court in the matters of Vidya Shankar Tiwari v. State of M.P. (Now State of Chhattisgarh) and others² and Ram-chandra Kurup v. State of C.G. & others³. In the aforesaid cases, it has been repeatedly held by the Supreme Court and by this Court that no recovery can be made without affording any opportunity of hearing. However, it appears that the authority, unmindful of settled legal position, has issued the impugned order dated 27.7.2015.

2. In these circumstances and in view of the law laid-down by the Supreme Court and by this Court in the aforesaid cases, it is directed that the petitioner will be given proper show-cause notice and afforded proper opportunity of hearing against any recovery for whatever reason, including the reasons relating to excess payment on account of wrong fixation of pay before further deducting the amount from his salary. The aforesaid exercise shall be completed within three months from the date of receipt of certified copy of this order.
3. With the aforesaid observation, the writ petition stands finally disposed of. No order as to cost(s).

Sd/-
(Sanjay K. Agrawal)
JUDGE

B/-

1 (2015) 4 SCC 334
2 2006 (2) MPHT 31 (CG)
3 2010 (3) CGLJ 400