

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13782 of 2014

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1. Hazari Dhobi S/o Late Kasi Dhobi resident of Village-Jai Nagar, Lal Paddri, P.S.+ District- Lakhisarai.

.... Petitioner

Versus

1. The State of Bihar
2. The Secretary Department of Education, New Secretariat, Patna.
3. The Director Education Department of Education, New Secretariat, Patna.
4. The District Magistrate, Lakhisarai.
5. The District Programme Officer, Bihar Shiksha Priyोजना Lakhisarai.
6. The District Education Officer, Lakhisarai.
7. The Head Master Madhya Vidhalaya Hasanpur, Lakhisarai.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Sanjeev Kumar Mishra

For the Respondent/s : Mr. Uma Shankar- GP-4

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

2 19-09-2018 Heard learned counsel for the petitioner and counsel appearing on behalf of the respondents.

The petitioner has filed C.W.J.C. No.8872/2013 against the order of the District Programme Officer, Lakhisarai passed on 28.02.2013. C.W.J.C. No.8872/2013 was disposed of by a Co-ordinate Bench of this Court vide order dated 28.06.2013. The Court quashed the order for recovery of Rs. 1, 62, 480/- from the petitioner. The respondent after order (Annexure-3) in C.W.J.C. No.8872/2013 passed order contained in Letter No.1463 dated 25.07.2014. The District Programme Officer passed order and directed the petitioner to deposit Rs. 1,62,480/- with interest vide office letter no.578 dated 28.02.2013 and office letter no.851 dated



13.04.2013.

The petitioner superannuated on 31.01.2011. The decision of recovery of amount from the petitioner was taken after retirement of the petitioner. In view of the Judgment of the Apex Court in the case of State of Punjab & Ors Vs. Rafiq Masih etc. 2015(4) SCC 334, the order directing the recovery after superannuation cannot be sustained. The order (Annexure-1) cannot sustain as the action of the respondent directing recovery from the petitioner for the first time was taken on 28.02.2013 i.e. almost two years after his superannuation and in view of the above order the Annexure-1 cannot sustain.

The respondents are restrained from making any recovery from the petitioner, pursuant to Annexure-1 as all payments were made to the petitioner prior to retirement of the petitioner and such action cannot sustain in view of the decision of the Apex Court in case of State of Punjab & Ors Vs. Rafiq Masih (Supra).

In view of the above, this writ petition is allowed and disposed of.

(Anil Kumar Upadhyay, J)

Amit/-

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