

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20641 of 2014

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Mosaffir Prasad Son of Rambhaju Prasad R/o village - Pakwapar, P.S.
Giriyak, District - Nalanda at Biharsharif

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Education, Government of Bihar, Patna
2. The Principal Secretary, Department of Education, Government of Bihar, Patna
3. The District Magistrate - Cum - Collector, Nawada
4. The Additional District Magistrate - cum - District Incharge officers, Mid - day Meal Program, Nawada

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sheo Kumar Prasad
For the Respondent/s : Mr. Sc8- Kumar Alok

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

2 01-10-2018 Heard learned counsel for the petitioner and the
counsel appearing on behalf of the State.

Petitioner is aggrieved by the order contained in
Annexure-3 whereby respondents have taken a decision to
recover Rs. 89, 058/- from the petitioner.

Learned counsel appearing on behalf of the submits
that the action of the respondents is illegal and arbitrary and
without compliance of the jurisdiction. Inasmuch as, no notice
or opportunity of hearing was provided to the petitioner before
taking such decision for recovery.

On behalf respondents, a counter affidavit has been
filed in which a statement has been made that on a surprise



inspection they found the petitioner involved in showing inflated number of children and on that basis the respondents have calculated embezzlement of Rs. 89,058/-. There is no denial of fact that action was taken without opportunity of the hearing to the petitioner.

In view of the law laid down by the Apex Court that no order visiting evil and civil consequences can be passed without compliance of principle of natural justice. The order contained in Annexure-3 fixing accountability to recover Rs. 89000/- and odd it cannot be sustained. Accordingly, Annexure-3 is quashed. However, quashing of Annexure-3 will not disentitle the respondent taking decision after opportunity of hearing to the petitioner in accordance with law.

With the aforesaid, the writ petition stands disposed of.

(Anil Kumar Upadhyay, J)

Ravi/-

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