

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WRIT PETITION (S) NO. 3008 OF 2013**

Vishwanath Pradhan, S/o Shankarsan Pradhan, aged about 61 years, presently posted and working as Upper Division Teacher, Government Girls Higher Secondary School, Pithora, Police Station & Tahsil Pithora, District Mahasamund (C.G.)

... Petitioner**versus**

1. State of Chhattisgarh, through: Secretary, Department of School Education, Mantralaya, Naya Raipur, Post Office & Police Station Naya Raipur, District Raipur (C.G.)
2. Director, Public Relations, Chhattisgarh, Raipur (C.G.)
3. District Education Officer, Mahasamund, District Mahasamund (CG)
4. Block Education Officer, Pithora, District Mahasamund (CG)
5. Principal, Government Girls Higher Secondary School, Pithora, District Mahasamund (CG)

... Respondents

For Petitioner	:	Mr. S.S. Baghel, Advocate.
For Respondents	:	Mr. Syed Majid Ali, Dy. Govt. Advocate.

Hon'ble Shri Justice P. Sam Koshy**Order on Board****20/07/2018**

1. Challenge in the present writ petition is to the order dated 6.9.2013, Annexure P-1, whereby the Respondents have issued a letter of recovery from the Petitioner to the tune of Rs. 24,36,608/-.
2. The said payment is said to have been an excess payment made to the Petitioner for the period from 1.2.1992 to 31.7.2010. According to the Respondents, during the said period the Petitioner was not entitled for the salary.
3. On account of the fact that the Petitioner's services were earlier terminated on account of his being convicted in a criminal case and which he could succeed only in an appeal which stood decided on 28.6.2010 whereby the conviction was set-aside and the Petitioner was acquitted of the charges levelled against him.

4. Contention of the Petitioner is that the impugned order is bad in law to the extent that the same has been issued in total contravention to the basic principles of natural justice. According to the Petitioner, before issuance of impugned order the Respondents have not issued any notice to the Petitioner nor even an explanation sought from the Petitioner before issuance of impugned order.

5. According to the Petitioner, it is a settled law that any action on the part of the department which has an adverse civil consequence, an opportunity of hearing is must. The Petitioner in the instant case has categorically averred that no opportunity of hearing was granted. It is also not in dispute by the Respondents whether before issuance of impugned order any explanation was called from the Petitioner or not.

6. In view of the same, the impugned order is not sustainable only on account of not having followed the principles of natural justice and the same thus is not tenable and is accordingly set aside/quashed, reserving the right of the Respondents for initiating appropriate proceeding after granting an opportunity of hearing to the Petitioner in accordance with law.

7. The writ petition stands allowed and disposed of accordingly.

Sd/-

(P. Sam Koshy)
Judge