

NAFR

**HIGH COURT OF CHHATTISGARH AT BILASPUR****WPS No. 3192 of 2010**

Smt. Kanti Devi Sahu, W/o. Late Shri Net Ram Sahu, Aged about 44 years, R/o. Village Konapali, Tahsil Dabhra, District Janjgir-Champa Chhattisgarh

**---- Petitioner****Versus**

1. State of Chhattisgarh, through: the Secretary, Department of School Education, D.K.S. Bhawan, Mantralaya, Raipur, Chhattisgarh
2. Accountant General, Chhattisgarh, Raipur, Chhattisgarh
3. Director, Public Instructions, Directorate at Raipur, Chhattisgarh
4. Collector, Janjgir Champa, Chhattisgarh
5. District Education Officer, Janjgir-Champa, Chhattisgarh
6. Block Education Officer, Dabhra, District Janjgir-Champa, Chhattisgarh

**---- Respondents****WPS No. 3193 of 2010**

Ram Prasad Sahu S/o Tejram Sahu, Aged about 68 years, Retired Assistant Teacher, Primary School, Bhedikona, District Janjgir Champa, Chhattisgarh

**---- Petitioner****Versus**

1. State of Chhattisgarh, through: the Secretary, Department of School Education, D.K.S. Bhawan, Mantralaya, Raipur, Chhattisgarh
2. Accountant General, Chhattisgarh, Raipur, Chhattisgarh
3. Director, Public Instructions, Directorate at Raipur, Chhattisgarh
4. Collector, Janjgir Champa, Chhattisgarh
5. District Education Officer, Janjgir-Champa, Chhattisgarh
6. Block Education Officer, Dabhra, District Janjgir-Champa, Chhattisgarh

**---- Respondents****WPS No. 3194 of 2010**

Sonsai Nagesh S/o Dupsai, Aged about 72 years, Retired Assistant Teacher, Primary School Thangaon, Block Dabhra, District Janjgir Champa Chhattisgarh

**---- Petitioner****Versus**

1. State of Chhattisgarh, through: the Secretary, Department of School Education, D.K.S. Bhawan, Mantralaya, Raipur, Chhattisgarh
2. Accountant General, Chhattisgarh, Raipur, Chhattisgarh

3. Director, Public Instructions, Directorate at Raipur, Chhattisgarh
4. Collector, Janjgir Champa, Chhattisgarh
5. District Education Officer, Janjgir-Champa, Chhattisgarh
6. Block Education Officer, Dabhra, District Janjgir-Champa, Chhattisgarh

---- Respondents

**WPS No. 3195 of 2010**

Smt. Dirip Kunwar Srivas Wd/o Late Janak Ram Shrivastava, Aged about 60 years, R/o Village And Post Thakurpali, Tahsil Dabhra, District Janjgir Champa Chhattisgarh

---- Petitioner

**Versus**

1. State of Chhattisgarh, through: the Secretary, Department of School Education, D.K.S. Bhawan, Mantralaya, Raipur, Chhattisgarh
2. Accountant General, Chhattisgarh, Raipur, Chhattisgarh
3. Director, Public Instructions, Directorate at Raipur, Chhattisgarh
4. Collector, Janjgir Champa, Chhattisgarh
5. District Education Officer, Janjgir-Champa, Chhattisgarh
6. Block Education Officer, Dabhra, District Janjgir-Champa, Chhattisgarh
7. Principal, Government Higher Secondary School, Dabhra, District Janjgir-Champa Chhattisgarh

---- Respondents

**WPS No. 3196 of 2010**

Chhabilal Maitry S/o Late Shri Pilaram Maitry, Aged about 71 years, R/o Village Bohardih, Post Dabhra, Development Block Dabhra, District Janjgir Champa Chhattisgarh

---- Petitioner

**Versus**

1. State of Chhattisgarh, through: the Secretary, Department of School Education, D.K.S. Bhawan, Mantralaya, Raipur, Chhattisgarh
2. Accountant General, Chhattisgarh, Raipur, Chhattisgarh
3. Director, Public Instructions, Directorate at Raipur, Chhattisgarh
4. Collector, Janjgir Champa, Chhattisgarh
5. District Education Officer, Janjgir-Champa, Chhattisgarh
1. Block Education Officer, Dabhra, District Janjgir-Champa, Chhattisgarh
2. Principal, Government Higher Secondary School, Dabhra, District Janjgir-Champa Chhattisgarh

---- Respondents

**WPS No. 3197 of 2010**

Smt. Vimla Bai W/o Late Shri Meenketan Das Vaishnav, Aged about 56 years, R/o Village Dabra, Tahsil Dabra, District Janjgir Champa Chhattisgarh

---- **Petitioner**

**Versus**

1. State of Chhattisgarh, through: the Secretary, Department of School Education, D.K.S. Bhawan, Mantralaya, Raipur, Chhattisgarh
2. Accountant General, Chhattisgarh, Raipur, Chhattisgarh
3. Director, Public Instructions, Directorate at Raipur, Chhattisgarh
4. Collector, Janjgir Champa, Chhattisgarh
5. District Education Officer, Janjgir-Champa, Chhattisgarh
6. Block Education Officer, Dabhra, District Janjgir-Champa, Chhattisgarh

----**Respondents**

|                 |   |                                     |
|-----------------|---|-------------------------------------|
| For Petitioners | : | Mr. B.D. Guru, Advocate             |
| For State       | : | Mr. Shashank Thakur, Govt. Advocate |

**Hon'ble Shri Justice P. Sam Koshy****Order on Board**

**14/03/2018**

1. All the writ petitions are filed challenging the order of recovery (Annex.P/1) in each of the writ petitions.
2. The basic contention of the petitioners is that the petitioners in all these cases are employees who had retired from service and much after their retirements during the course of settlement the retiral dues the respondents have issued the order of recovery, which has been challenged in this bunch of writ petitions.
3. The counsel for the petitioners submits that the issue involved in the present bunch of writ petitions had already come up for consideration before this Court in another bunch of writ petitions i.e. WPS No. 5400/2007 and other analogous petitions decided together vide order dated 09.09.2009. The challenge in those writ

petitions also were the order of recovery passed by the respondents in similarly placed situations in respect of same department as that of the petitioners in the present case. The operative part of the order dated 09.09.2009 in the bunch of writ petitions reads as under:-

***“8. This is a case where the enquiry is still pending in regard to the issue of forged authentication letter. Thus, misrepresentation or fraud has not yet been established on the part of the employees. By letter dated 28.05.2007 the office of the Accountant General has directed for taking action into the matter, after enquiry.***

***9. Having regard to the facts situation of the case, when enquiry is pending, no recovery can be made before conclusion of the enquiry. Admittedly, the recovery orders have been passed without following the basic principles of natural justice as no opportunity of hearing was afforded to the petitioners before the impugned orders were passed.***

***10. For the reasons mentioned hereinabove, the petitions are allowed. The impugned orders dated 01.08.2007 (Annexure P/1) and 07.08.2007 (Annexure P/2), are quashed. However, liberty is reserved to the respondents/authorities to pass order, if so advised, in accordance with law, after conclusion of the enquiry. No order as to costs.”***

4. The counsel for the petitioners submits that these bunch of writ petitions can also be disposed of in similar terms as the inquiry which was contemplated in those cases also as in respect of the petitioners herein.

5. The State counsel on due consideration of the order passed by this Court on the earlier bunch of writ petitions decided on 09.09.2009 submits that the factual matrix of the case is identical.
6. Given the said facts and circumstances of the case this Court is of the opinion that present writ petitions also deserve to be allowed and are accordingly allowed in similar terms.
7. It is ordered that the writ petitions are allowed, all the impugned orders of recovery stands quashed reserving the liberty to the respondents to pass appropriate suitable orders as the case may be in the light of the inquiry which is undergoing in respect of the petitioners.
8. With the aforesaid observations, the writ petitions stands allowed in similar terms.

Sd/-  
**(P. Sam Koshy)**  
**Judge**

Ved