

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.23817 of 2019

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Balram Mandal Son of Late Suren Chandra Mandal Resident of Village-
Khatti Bhawanipur, Ward No.02, P.O.- Par Diyara, P.S.- Amdabad, District-
Katihar.

... .. Petitioner/s

Versus

1. The State of Bihar through Additional Chief Secretary, Education Department, Government of Bihar, Patna.
2. The Additional Chief Secretary, Education Department, Government of Bihar, Patna.
3. The Director, Primary Education, Government of Bihar, Patna.
4. The Regional Deputy Director of Education, Purnea Division, Purnea.
5. The District Education Officer, Katihar, District- Katihar.
6. The District Programme Officer, (Madhyan Bhojan Project), Katihar, District- Katihar.
7. The District Programme Officer (Establishment), Katihar, District- Katihar.
8. The Block Education Officer, Amdabad, District- Katihar.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Sharda Nand Mishra
For the Respondent/s : Mr.Subash Chandra Mishra (SC16)

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

2 16-12-2019 Heard learned counsel for the petitioner and learned
counsel for the State.

The petitioner seeks quashing of the order contained
in Memo No.268 dated 13.06.2019 issued by respondent
No.6(District Programme Officer) directing the petitioner to
deposit Rs.1,03,790/- in pursuance of the letter as contained in
Memo No.2558 dated 29.10.2013 and further to quash the letter
as contained in Memo No.1245 dated 07.09.2019 by which the



appeal of the petitioner has been rejected which has been filed against the order as contained in Memo No.268 dated 13.06.2019 issued by the District Programme Officer(respondent No.6) directing the petitioner to deposit Rs.1,03,790/-.

Learned counsel for the petitioner submits that the petitioner is In-charge Headmaster of Upgraded Middle School, Chama. The District Education Officer issued a letter as contained in Memo No.635 dated 14.05.2019 stating therein that he made surprise visit in the school on 13.05.2019 at 10.40 A.M. and found only 59 students present. 717 students have been admitted out of which 325 students made attendance in the school register on the date of inspection but on physical verification, only 59 students were found present. The food of the Madhyan Bhojan was not satisfactory. Many other irregularities were also found and petitioner was directed to file show cause within one week vide Memo No.636 dated 14.05.2019. The petitioner submitted his show cause on 20.05.2019 and 06.06.2019 before the District Education Officer, Katihar stating therein that at the time of inspection of the school, the school was morning. The time of serving meal is between 9.00 A.M. to 10.00 A.M. and in winter between 01.00



P.M. to 2.00 P.M. There was hot summer on the date of inspection and mid-day meal was served in between 9.00 A.M. to 10.00 A.M. Many students were of the Muslims community and at that time there was Ramjan month. Many students left the school. It is further submitted that show cause of the petitioner has not been considered. An inspection was made by Block Level Committee with regard to the functioning of mid-day meal in school and Committee submitted its report on 24.05.2019. The Committee did not find any irregularity. It is further submitted that District Programme Officer, M.D.M. vide letter dated 13.06.2019 without considering the show cause of the petitioner fixed the quantum of punishment and directed the petitioner to deposit Rs.1,03,790/- in the account of mid-day meal on the basis of average presence of the students during the period of one week. The petitioner filed appeal but the appellate authority also did not consider the show cause and the ground taken by the petitioner and dismissed the appeal of the petitioner vide Memo No.1245 dated 07.09.2019 and affirmed the order as contained in Memo No.268 dated 13.06.2019. It is further submitted that both the orders are illegal and not sustainable.

Learned counsel for the State submits that District Education Officer submitted inspection report on 14.05.2019



and the report itself shows that on the date of inspection of the school and on verification of the attendance register of the students of different classes, 325 students were shown present out of 717 students admitted in the school, but on physical verification, only 59 students were found present. Many other irregularities were also found and consequently the petitioner was called upon to show cause. The petitioner filed his show cause. So far as the show cause of the petitioner with regard to presence of the students of different classes that the students had gone to their houses for bringing plates, utensils for taking mid-day meal, the authority did not find the explanation of the petitioner satisfactory and according to the rules/directions with regard to difference of attendance on average presence of students in last one week and the presence of the students on the date of inspection with margin of 10% increase and decrease, the petitioner was found liable to pay Rs.1,03,790/- in the account of mid-day meal on account of showing inflated attendance of the students in the school whereas on the date of inspection, only 59 students were present out of 325 students shown present in the school in the attendance register. Thus, the order does not require any interference.

Having heard the submissions of both sides and on



perusal of the inspection report, I find that the District Education Officer inspected the school of the petitioner on 13.05.2019. The District Education Officer found that out of 717 students admitted in the school, 325 students of class I to VIII were found present in the attendance register but on physical verification, only 59 students of different classes were found present and accordingly, it transpired that Headmaster of the school had fraudulently shown presence of inflated number of the students in the school. The Headmaster during the last seven days preceding the inspection date i.e. 13.05.2019 showed the average attendance of the students to 291. Even on the date of inspection, the petitioner(Headmaster of the school) showed the presence of 325 students in the attendance register but only 59 students were found present and thus, it was found that petitioner misappropriated huge amount in serving the mid-day meal to the students present in the school and on such, the show cause was issued. From perusal of the reply to the show cause, as contained in Annexure 6 and 7, it is apparent that the petitioner gave very lame excuse that the students had gone to their houses to bring Thali and they returned to the school about 1 P.M. and the petitioner could not offer satisfactory and plausible explanation and on the basis of explanation of the



petitioner, the only inference can be drawn that the petitioner showed the presence of inflated number of students on each and every day whereas only about 60 students were found present out of about 325 students shown to be present in attendance register. This explanation itself cannot be acceptable by any stretch of imagination and, therefore, I find that authority has rightly imposed fine of Rs.1,03,790/- on the petitioner and directed the petitioner to deposit the same amount in the mid-day meal scheme.

Having considered the facts aforesaid, I find no reason to interfere in the order. Accordingly, this writ petition is dismissed as devoid of any merit.

(Prabhat Kumar Jha, J)

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