

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14382 of 2017

=====

Abhay Kumar Singh, S/o Late Fekan Singh, R/o Mohalla-Durga Asthan,
Colony no.-1, Ward no.-20,P.O.+P.S. +District-Katihar.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department,
Government of Bihar, Patna.
2. The Director, Secondary Education, Govt. of Bihar, Patna.
3. The Regional Deputy Director of Education, Purnea Division, Purnea.
4. The District Education Officer, Katihar.
5. The District Programme Officer (Establishment),Katihar.
6. The Accountant General Bihar, Patna
7. The Treasury Officer, Katihar.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr.Bidhan Chandra Jha, Advocate
For the Respondent/s : Mr.Jitendra Kumar Ray No-1 -SC13

=====

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

6 24-08-2020 Heard the parties through the virtual court proceeding.

By way of filing the present writ application, the petitioner, inter alia, has sought a direction to the respondents for issuance of an appropriate writ, order/directing/commanding the respondents to pay/ return the recovered amount Rs.1,36,167/- to the petitioner which has been recovered from the Gratuity amount of the petitioner by the concerned respondent authority with statutory interest till the date of payment after was recovered on wrong impression of facts and contrary to law and further for any other appropriate relief or



reliefs for which the petitioner is entitled in the facts and circumstances of the case.

The short facts of the present case is that the petitioner was retired from Marwari Pathsala, Katihar as Incharge Principal on 31.07.2009.

Learned counsel for the petitioner submits that the petitioner was served a letter vide letter no.936 dated 04.11.2009 issued under the signature of District Education Officer, Katihar by which defalcation of Rs.1,36,167/- while working as Incharge Principal Marwari Pathsala, Katihar was made against the petitioner. Petitioner submitted his reply to the show cause on 07.11.2009 clearly stating the circumstances which is responsible for the allegation which in conclusion was denied by the petitioner as false. Learned counsel for the petitioner further submits that the amount of Rs.1,36,167/- was recovered from the gratuity amount of the petitioner without initiating proceeding under Section 43 B of Bihar Pension Rules till date and in a house enquiry, the petitioner was found innocent by Three Man Committee (Annexure-5 of the writ petition). He further submits that the action of the respondents are arbitrary and against the procedure established by law.

A counter affidavit and supplementary counter



affidavit filed by the respondent nos.4 and 5 stating therein that the petitioner while working as in-charge Headmaster had withdrawn Rs.1,36,167/- for building construction of the school but against the said expenditure of Rs.1,36,167/- no measurement book had been submitted by the petitioner hence authority for payment of gratuity amount had been issued by the Accountant General vide Annexure-3 after adjusting Rs.1,36,167/-. He further submits that the petitioner had also not been able to produce any details of the construction work said to have been made against the withdrawal amount. Hence, in absence of any measurement book against the expenditure of Rs.1,36,167/-, which had been withdrawn by the petitioner of construction of school building the enquiry report had arrived at the finding that approval to such expending cannot be given and accordingly an order dated 26.11.2019 had been passed rejecting the claim of the petitioner.

Learned counsel for the State respondent admitted the fact that after retirement, no departmental proceeding was initiated against the petitioner only in house enquiry was conducted.

It is admitted fact that no any departmental proceeding has been initiated against the petitioner before



retirement or after retirement under Bihar Pension Rules.
Therefore, recovery of the said amount is arbitrary against the
procedure established by law.

Hence, the order dated 23.11.2019 passed by District
Education Officer, Katihar vide Memo No.2158 dated
26.11.2019 is hereby quashed and the respondents are directed
to pay the said amount of Rs.136,167/- to the petitioner within
two months after production of the said order. Needless to say
that respondents have to take action in accordance with law.

Accordingly, this writ application is allowed.

(Anjani Kumar Sharan, J)

Nasimul/-

U			
---	--	--	--

