

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 364 of 2020**

Smt. Jayshree Awasthi, W/o. Umashankar Awasthi, Aged About 63 Years, Retired Head Master, Government Primary School, R/o. Saraju Baghicha, Near Airtel Office, Masaanganj, Bilaspur Chhattisgarh.

---- **Petitioner**

Versus

1. State Of Chhattisgarh, Through The Secretary, Department Of Education, Mantralaya, Mahanadi Bhawan, Atal Nagar, Chhattisgarh.
2. Block Education Officer, Block Bilha, District Bilaspur, Chhattisgarh.
3. Accountant General, O/o. Accountant General, Opposite Vidhan Sabha, Baloda Bazar Road, Raipur Chhattisgarh.

----**Respondents**

For Petitioner	:	Mr. Vivek Verma, Advocate.
For State/Respondents No.1 & 2	:	Ms. Akanksha Jain, Dy. Govt. Advocate
For Respondent No.3	:	Mr. R.K.Gupta, Advocate

Hon'ble Shri Justice Goutam Bhaduri**Order On Board**

17.01.2020

Heard

1. Grievance of the petitioner is that the petitioner who was retired as Head Master on 30.09.2019, subsequent to her retirement, she received a letter/ notice of recovery dated 04.10.2019 (Annexure P-1) whereby Rs.2,70,154/- has been sought to be recovered on the ground that excess payment has been made.
2. Perusal of Annexure P-3 would show that the excess payment has not been paid and actual payment has been made and even otherwise no hearing has been given and as per the case of ***State of Punjab Vs. Rafiq Masih, 2015 (4) SCC 334***, recovery from the retired person is not permissible, therefore, the recovery notice Annexure P-1 is bad in law.

3. Prima facie, it reflects that the petitioner, before such order of recovery, Annexure P-1, has not been given any opportunity of hearing. If the recovery order of like nature has a civil consequence then rule of natural justice is required to be followed. In absence to follow the rules of natural justice when the recovery has a civil consequence, it would be bad in law. The petitioner what she contends that the payment was justified can only be considered when the petitioner is heard before such recovery is made. Under the circumstances, since the recovery order has been made without giving any opportunity of hearing to the petitioner, the same is required to be set aside. Accordingly, the recovery order/notice dated 04.10.2019 (Annexure P-1) is set aside. The respondent No.2, however, shall be at liberty to held an enquiry and thereafter pass the suitable orders. Thereafter, the petitioner if aggrieved may avail the remedy, if so advised.
4. In view of the above, the writ petition is allowed to the above extent.

Sd/-
(Goutam Bhaduri)
JUDGE