

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 1012 of 2020**

Ratiram Bhagat, S/o. Sohail Ram Bhagat, Aged About 65 Years,
R/o. Madhuban, Bagbahar, Police Station- Patthalgaon, District-
Jashpur, Chhattisgarh.

---- **Petitioner**

Versus

1. State Of Chhattisgarh, Through The Secretary, School Education Department, Mantralaya, Atal Nagar, New Raipur, Chhattisgarh.
2. The Accountant General, Chhattisgarh, Raipur, Chhattisgarh.
3. The Divisional Joint Director, Treasury, Accounts And Pension, Surguja Division, Ambikapur, District- Surguja, Chhattisgarh.
4. The District Education Officer, Jashpur, District- Jashpur, Chhattisgarh.
5. The Block Education Officer, Patthalgaon, District- Jashpur, Chhattisgarh.

----**Respondents**

For Petitioner	:	Mr. K.P.Sahu, Advocate.
For State/Respondents No.1, 3, 4 & 5.	:	Ms. Binu Sharma, Panel Lawyer
For Respondent No.2	:	Mr. Rajkumar Gupta, Advocate

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

17.02.2020

Heard

1. Grievance of the petitioner is that the petitioner who was retired as Head Master on 31.05.2016, subsequent to his retirement, he received a letter/ notice of recovery dated 30.05.2019 (Annexure P-1) whereby Rs.1,29,633/- has been sought to be recovered on the ground that excess payment has been made.
2. Learned counsel for the petitioner submits that the said notice has been served without any opportunity of hearing on the ground that excess payment has been made. He further submits that as per the law laid down in case of ***State of Punjab Vs. Rafiq Masih, 2015 (4) SCC 334***, recovery from the retired person in such way is not permissible, therefore, the recovery notice 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 contends that the payment made were justified can only be considered when the petitioner is heard before such recovery order 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 30.05.2019 (Annexure P-1) is set aside. The respondent No.3, however, shall be at liberty to hold 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