

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 1024 of 2020**

- Hemant Lal Painkra S/o H.N. Singh, Aged About 65 Years Resident Of Kokiyakhar, 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 Respondents/State	:	Mr. Kapil Maini, Panel Lawyer
For Respondent No.2	:	Mr. R.K.Gupta, Advocate

Hon'ble Shri Justice Goutam Bhaduri**Order On Board****17.02.2020**

Heard

1. Grievance of the petitioner is that the petitioner was retired as Head Master on 30.06.2016, subsequent to her 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 further submits that the petitioner was neither heard nor any enquiry was made before such recovery order was passed 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