

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 3144 of 2020

1. Tirath Narayan Banjare S/o Late Govind Ram Banjare Aged About 52 Years Working As Head Master, At Primary School, Woodkakan, Block Bilaigarh, District Baloda Bazar Bhatapara, Chhattisgarh
2. Manoj Kumar Aaditya S/o Shri Yad Ram Aaditya Aged About 49 Years Working As Head Master, At Govt. Primary School, Balaudi, Block Bilaigarh, District : Balodabazar-Bhathapara, Chhattisgarh
3. Ravikant Gharde S/o Shri Madhukar Gharde Aged About 49 Years Working As Head Master, At Govt. Primary School, Sardhabhatha, Block Bilaigarh, District : Balodabazar-Bhathapara, Chhattisgarh
4. Ramdular Nirala S/o Shri Ramsay Nirala Aged About 47 Years Working As Head Master, At Govt. Primary School Hardi, Block Bilaigarh, District : Balodabazar-Bhathapara, Chhattisgarh
5. Prakash Chand Sahu S/o Shri Dwarka Prasad Sahu Aged About 47 Years Working As Head Master, At Govt. Primary School, Sarsiwa Block Bilaigarh, District : Balodabazar-Bhathapara, Chhattisgarh
6. Budloo Ram Patel S/o Shri Budga Ram Patel Aged About 51 Years Working As Head Master, At Govt. Primary School, Kurkoti, Block Bilaigarh, District : Balodabazar-Bhathapara, Chhattisgarh
7. Ramkrishna Sahu S/o Shri Mathura, Aged About 52 Years Working As Head Master, At Govt. Primary School, Khamhariya, Block, Bilaigarh, District : Balodabazar-Bhathapara, Chhattisgarh
8. Maniram Kurrey S/o Shri Amrud Kurrey Aged About 48 Years Working As Head Master, At Govt. Primary School Tihalipara, Block Bilaigarh, District : Balodabazar-Bhathapara, Chhattisgarh
9. Lakahan Lal Bharti S/o Shri Ramadhar Bharti Aged About 48 Years Working As Head Master, At Govt. Primary School, Pipardula, Block Bilaigarh, District : Balodabazar-Bhathapara, Chhattisgarh
10. Sudama Prasad Devanan S/o Shri Hari Ram Devangan Aged About 53 Years Working As Head Master, At Govt. Primary School Rampur, Block - Bilaigarh, District : Balodabazar-Bhathapara, Chhattisgarh
11. Hemlal Manhar S/o Shri Pukram Manhar Aged About 47 Years Working As Head Master, At Govt. Primary School, Saliha, Block Bilaigarh, District : Balodabazar-Bhathapara, Chhattisgarh
12. Uttam Singh Netam S/o Shri Hari Singh Netam Aged About 47 Years Working As Head Master, At Govt. Primary School, Dhaurabhatha, Block Bilaigarh, District : Balodabazar-Bhathapara, Chhattisgarh
13. Rupesh Kumar Sahu S/o Shri Krishna Dayal Sahu Aged About 45 Years Working As Head Master, At Govt. Primary School, Girwani, Block - Bilaigarh, District : Balodabazar-Bhathapara, Chhattisgarh
14. Smt. Jyoti Jangade W/o Sohanlal Jangade Aged About 46 Years Working As Head Master, At Govt. Primary School, Garbhatha Balpur, Block - Bilaigarh, District :

Balodabazar-Bhathapara, Chhattisgarh

15. Vimal Kumar Patel S/o Budh Ram Patel Aged About 44 Years Working As Head Master, At Govt. Primary School, Bhorkadipa, Block Bilaigarh, District : Balodabazar-Bhathapara, Chhattisgarh
16. Jagat Ram Dhruw S/o Shri Sonu Ram Dhruw Aged About 46 Years Working As Head Master, At Govt. Primary School, Kodopali, Block Bilaigarh, District : Balodabazar-Bhathapara, Chhattisgarh
17. Malik Ram Netam S/o Shri Pusau Ram Netam Aged About 46 Years Working As Head Master, At Govt. Primary School, Nakatidih, Block - Bilaigarh, District : Balodabazar-Bhathapara, Chhattisgarh
18. Bhanu Pratap Singh Dhruw S/o Late Domar Singh Dhruw Aged About 48 Years Working As Head Master, At Govt. Primary School, Alikud, Block Bilaigarh, District : Balodabazar-Bhathapara, Chhattisgarh
19. Pramod Kumar Devangan S/o Shri Surit Ram Devangan Aged About 52 Years Working As Head Master, At Govt. Primary School, Sabariyadera, Tundri, Block Bilaigarh, District : Balodabazar-Bhathapara, Chhattisgarh
20. Saheb Lal Kanwar S/o Shri Sakhiram Kanwar Aged About 54 Years Working As Head Master, At Govt. Primary School, Bhandora, Block Bilaigarh, District : Balodabazar-Bhathapara, Chhattisgarh
21. Moti Lal Sahu S/o Shri Mohan Lal Sahu Aged About 46 Years Working As Head Master, At Govt. Primary School, Ramtala, Block Bilaigarh, District : Balodabazar-Bhathapara, Chhattisgarh

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Versus

1. State Of Chhattisgarh Through Its Secretary, Department Of School Education, Mantralay, Mahanadi Bhawan, Atal Nagar, Nawa Raipur, District : Raipur, Chhattisgarh
2. The Director Public Instructions, Chhattisgarh, Indrawati Bhawan, Mahanadi Bhawan, Atal Nagar, Nawa Raipur, District : Raipur, Chhattisgarh
3. District Education Officer, Education District Baloda Bazar, District Baloda Bazar Bhatapara Chhattisgarh.
4. Block Education Officer, Block Bilaigarh, District Baloda Bazar - Bhatapara., Chhattisgarh

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For Petitioners	:	Mr. Rajesh Kumar Kesharwani, Advocate
For Respondent/ State	:	Mr. Amrito Das, Addl. A.G.

Hon'ble Shri Justice Goutam Bhaduri

ORDER

14.08.2020

Heard.

1. Learned counsel for the petitioners contends that the petitioners were appointed as Head Master in the year 2010 and as per the government circular dated 25.03.2017 & 27.09.2017 (Annexure P-3) and 05.01.2011 (Annexure P-4), since the petitioners have completed their B.Ed/D.Ed/B.T.I. degree before joining at their own expenses, therefore they were given two advance increment. Subsequently, by a general order dated 12.06.2020 (Annexure P-2) without examining the entitlement of the petitioners to receive the advance increment, an omnibus order have been passed for recovery by order dated 01.07.2020.
2. Learned counsel further submits that the petitioners are entitled for two advance increments as they have completed their B.Ed./D.Ed/B.T.I. degree before joining their service at their own expenses. Learned counsel further submits that before such recovery orders have been passed no show cause notice has been given to the petitioners. He further submits that the issue has been already decided by this High Court and the entitlement of petitioners is no more an issue to be adjudicated.
3. Learned State counsel opposes the argument.
4. Perusal of the order dated 01.07.2020 (Annexure P-2) would show that recovery orders have been issued and the list of teachers have been named. Prima facie it shows that no notice was given to justify the entitlement of the petitioners. Since no opportunity of hearing was

given to the petitioners and the order of recovery has already been made, it do not satisfy the doctrine of *audi alteram partem* and necessarily the recovery would have a civil consequence. In a result, the order dated 01.07.2020 as against the petitioners is quashed. However, the State shall be at liberty to serve the petitioners a show cause and after giving them proper opportunity of hearing, appropriate orders may be passed.

5. In view of the above, the petition stands finally disposed off.

Sd/-
Goutam Bhaduri
Judge

Aks