

HIGH COURT OF CHHATTISGARH AT BILASPUR**W.P.(S) No. 9795 of 2019**

Smt. G. Vijay Nirmala, W/o. Shri G. Venkat Ramesh, Aged About 45 Years, Working As Assistant Teacher (L.B.) At Government Boys Primary School Dantewada, Block Dantewada, District South Bastar Dantewada, Chhattisgarh.

---- Petitioner**Versus**

1. State Of Chhattisgarh, Through Secretary, Department Of School Education, Mahanadi Bhawan, Mantralaya New Raipur, District Raipur, Chhattisgarh.
2. District Education Officer, Dantewada, District South Bastar, Dantewada, Chhattisgarh.
3. Chief Executive Officer, Janpad Panchayat Dantewada, District South Bastar, Dantewada, Chhattisgarh.
4. Deputy Director, Local Nidhi Samparikshak, Division Bastar, District Jagdalpur, Chhattisgarh.
5. Block Education Officer, Block Dantewada, District South Bastar Dantewada, Chhattisgarh.

---- Respondents

For Petitioner : Mr. U.P.S. Sahu, Advocate

For State Respondents : Mr. Ravish Verma, Govt. Advocate

Hon'ble Shri Justice Goutam Bhaduri**Order on Board****15.01.2020**

1. Grievance of the petitioner is that the petitioner is Assistant Teacher Grade-III and all of a sudden, a letter dated 01.10.2019 (Annexure P-1) was served to her wherein it was stated that the petitioner has been paid an excess salary of Rs.6,78,444/-.
2. It is contended that the said order was passed without giving any opportunity of hearing to the petitioner and since it has a civil consequence and the recovery though sought for, it has been started. It is contended that the petitioner has not played any fraud or

misrepresentation and as per the time pay-scale and the enhancement of salary, the petitioner was entitled to the required salary, which could have been justified, if opportunity of hearing could have been given.

3. Perusal of the order dated 01.10.2019 (Annexure P-1) would show that directly the order of recovery has been slapped. In any case when the order of like nature has a civil consequence then rule of *audi alteram partem* has to be adhere to. Having paid the salary, which is not based on fraud, the same cannot be unilaterally said that excess amount has been paid. At least the petitioner is required to be heard and given an opportunity of hearing. In view of this, the order dated 01.10.2019 (Annexure P-1) is quashed. No further recovery shall be made from the salary of the petitioner. However, the Government shall be at liberty to conduct an enquiry and after enquiry and giving opportunity of hearing to the petitioner, the necessary orders may be passed.
4. In view of the above, the writ petition is allowed to the above extent.

Sd/-
(Goutam Bhaduri)
Judge