

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No.1496 of 2013**

- Shivratan Khalkho, S/o Kamla Khalkho, Aged About 51 Years, Asst Grade III, Govt. Girls Higher Secondary School, Manipur Ward, Ambikapur, PS and Tahsil Ambikapur, Distt. Surguja, Chhattisgarh

----- Petitioner**Versus**

- 1.State Of Chhattisgarh through Secretary, Education Department, Mantralaya, Mahanadi Bhawan, Raipur (C.G.)
- 2.District Education Officer, Surguja, Distt. Surguja, Chhattisgarh
- 3.Joint Director, Treasury, Account and Pension, Surguja, Distt Surguja, Chhattisgarh
- 4.The Principal, Govt. Girls Higher Secondary School, Manipur Ward, Ambikapur, Distt. Surguja, Chhattisgarh

----- Respondents**WPS No.1497 of 2013**

- Mithuram, S/o Shri Nanram, Aged About 59 Years, Chowkidar, Distt Institution Of Education and Training (DIET), Ambikapur, PS and Tahsil Ambikapur, Distt Surguja, Chhattisgarh

----- Petitioner**Versus**

- 1.State Of Chhattisgarh Through Secretary, School Education Deptt, Mantralaya, Mahanadi Bhawan, New Raipur, Chhattisgarh
- 2.District Education Officer, Surguja, Distt Surguja, Chhattisgarh

3. Joint Director, Treasury, Account and Pension,
Surguja, Distt. Surguja, Chhattisgarh

4. The Principal, District Institution Of
Education and Training, Ambikapur, Distt.
Surguja, Chhattisgarh

----- Respondents

For Petitioners	Mr. Rahul Mishra, Advocate
For Respondent-State	Mr. Siddharth Dubey, Dy. GA

Hon'ble Justice Shri Sanjay K. Agrawal

Order On Board

01/09/2021

1. Proceedings of the matter have been taken up through Video Conferencing.
2. Since the common question of law and fact is involved in both the writ petitions, they are being heard together and are being disposed of by a common order.
3. Mr. Rahul Mishra, learned counsel for the petitioners, would submit that the petitioners at the relevant point of time were working as AG-III and Sweeper. By the impugned order/endorsement (Annexure-P/1), recovery of excess payment from the date of initial appointment to 30.06.2009 has been directed

against the petitioner in WPS No.1496/2013 by the respondent No.4, whereas recovery of excess payment from the date of regularization has been proposed against the petitioner in WPS No.1497/2013 by the respondent No.4 without fault of the petitioners and without affording opportunity of hearing to them, which is *per se* illegal and bad in law.

4. Learned State counsel would support the impugned orders.
5. I have heard learned counsel for the parties, considered their rival submissions made herein-above and went through the records with utmost circumspection.
6. It appears that by the impugned order/endorsement (Annexure-P/1), the recovery of excess payment from the date of initial appointment to 30.06.2009 has been directed against the petitioner in WPS No.1496/2013 and recovery of excess payment from the date of regularization has been proposed against the petitioner in WPS No.1497/2013 by the respondent No.4, the Principal of the

concerned school, but no opportunity of hearing has been afforded to the petitioners to explain their stand and justify the payment already made to them. In that view of the matter, the impugned orders/endorsements (Annexure-P/1) in both the writ petitions are hereby set aside. However, the respondents are at liberty to proceed in accordance with law after giving opportunity of hearing to the petitioners.

7. The writ petitions are allowed to the extent indicated herein-above. No order as to cost (s).

Sd/-

Sanjay K. Agrawal
Judge

Nirala