

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**WPS No. 5577 of 2020**

Yugal Kishore Sahu S/o Narayan Prasad Sahu Aged About 35 Years
Working As Upper Division Teacher (L.B.), Govt. Adivasi Kanya Ashram
Shala Koudikasa, Block Ambagarh Chowki, District- Rajnandgaon (C.G.)

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Secretary, Department Of Panchayat, Mahanadi Bhavan, Mantralaya, Atal Nagar, New Raipur, District- Raipur (C.G.)
2. Secretary Department Of School Education Mahanadi Bhawan, Mantralaya New Raipur, District- Raipur (C.G.)
3. Chief Executive Officer Jila Panchayat, Rajnandgaon, District- Rajnandgaon, (C.G.)
4. District Education Officer Rajnandgaon, District- Rajnandgaon (C.G.)
5. Principal Govt. Hr. Secondary School, Koudikasa, Block Koudikasa, District- Rajnandgaon, (C.G.)

---- Respondents

For Petitioner	:	Mr. H.B. Agrawal, Sr. Advocate with Mr. S. K. Kushawaha, Advocate
For State	:	Mr. Aditya Bhargava, PL

Hon'ble Shri Justice P. Sam Koshy**Order on Board****28/01/2021**

1. The challenge in the present writ petition is to the action of the withdrawal of the two advance increments given to the petitioner on an earlier occasion.
2. According to the petitioner the benefit of two advance increments given to the petitioner on obtaining the D.Ed qualification was given on the basis of

judicial pronouncement that was laid down from time to time and which stood affirmed even by the Supreme Court. However, abruptly now without there being any order of recovery being passed against the petitioner and also without giving any opportunity of hearing to the petitioner in respect of the withdrawal of the said benefit the respondents have decided to withdraw the said benefit and have also initiated recovery proceedings against the petitioner for recovering the same from the wages payable to the petitioner.

3. The entire pleadings of the writ petition does not reflect any show cause notice or any explanation called for from the petitioner before initiating the recovery proceedings against the petitioner. The petitioner also does not find individual order passed by the respondent authorities or Policy decision of the State Government not to further extend the same to the petitioner or similarly placed persons yet there is an action of recovery from the salary made by the petitioner without any formal order of recovery being passed.
4. Given the aforesaid factual matrix of the case, this Court at this juncture would like to dispose of the writ petition in the aforesaid factual backdrop directing the concerned respondents to first call upon the petitioner in respect of the intentions of the State Government for withdrawing the benefits extended to him and seeking an explanation of the petitioner and only thereafter, after passing a formal order on the said proceedings should any further recovery be made. Subsequent order if any would always be open for the purpose to challenge before appropriate forum. Meanwhile, any recovery that has already been made without any opportunity of hearing being given to the petitioner, the same shall be refunded back to the petitioner with liberty to initiate proceedings in case if there is a Policy decision of the State Government that too only after granting an opportunity of hearing to the petitioner as discussed earlier.

5. With the aforesaid directions and observations, the present writ petition stands allowed and disposed of.

Sd/-
(P. Sam Koshy)
Judge

Rohit