

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15870 of 2018

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Gulab Chandra Singh Son of Late Bhooplal Singh, resident of Village-Deoka, P.O.- Chautham, District- Khagaria.

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors.
2. The District Magistrate, Khagaria.
3. The District Education Officer, Khagaria.
4. The District Programme Officer Establishment, Education Department, District- Khagaria.
5. The District Programme Officer, Mid-Day Meal Scheme, Khagaria.
6. The Block Education Officer, Alauli Block, District- Khagaria.

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 15904 of 2018

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Tarkeshwar Nath son of Hari Mahto Resident of Village Fatuha, P.S. Motipur, District - Muzaffarpur at present Headmaster, Primary School, Dora Chapra Devi Sthan Motipur, District Muzaffarpur.

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors.
2. The Principal Secretary, Education Department, Bihar, Patna.
3. The Director, Primary Education, Mid-Day Meal Scheme, Bihar, Patna.
4. The Collector of District Muzaffarpur.
5. The District Education Officer, Muzaffarpur.
6. The District Programme Officer, Mid-Day Meal Scheme, Muzaffarpur.

... .. Respondent/s

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Appearance :

(In Civil Writ Jurisdiction Case No. 15870 of 2018)

For the Petitioner/s : Mr. Ranjeet Kumar Singh, Adv.

For the Respondent/s : Mr. Girijesh Kumar, Adv.

For the State : Ms. Priyadarshi Matri Sharan, AC to AAG-15

(In Civil Writ Jurisdiction Case No. 15904 of 2018)

For the Petitioner/s : Mr. Ravi Shanker Dwivedi, Adv.

For the Respondent/s : Mr. Girijesh Kumar, Adv.

For the State : Mr. Amit Bhushan, AC to GP-17



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**CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH
SHARMA**

ORAL ORDER

2 12-09-2022 1. Learned counsel for the petitioners submits that the petitioners have been saddled with recovery orders relating to the inspection conducted of mid day meals scheme. As per the orders passed by the Director, where ever there is more than 10 % of difference found during the inspection, recovery orders have been directed to be issued against the concerned Headmaster. Learned counsel submits that there are different reasons in each case relating to the attendance being short and the said reasons ought to be taken into consideration by the authority after giving the petitioner an opportunity of hearing to the Headmaster concerned, speaking orders should be passed. Learned counsel submits that the orders passed by the Director are contrary to the principle of natural justice. He relied upon the judgment passed by this Court in C.W.J.C. No.402 of 2018 decided by this Court on 04.07.2022 in support of his submission.

2. Per contra, learned counsel appearing for the State submits that the inspections were conducted and accordingly the concerned orders of recovery was passed where deficiency was found. Moreover, the headmasters have preferred appeals against the said order, which have been rejected upholding the orders of recovery. In view thereof, no further opportunity is required to be given to the petitioners.

3. I have reflected on the submissions.



4. I find that it is the case of the petitioners, their appeals preferred before District Education Officer have been summarily rejected without passing speaking orders and without giving them opportunity of hearing. The reasons assigned by the concerned respective Headmasters of the school has not been addressed to before holding the recovery to be in accordance with law.

5. In the opinion of this court, the requirement of principle of audi alterem partem has not been fulfilled. This court in a similar case had expressed its dissatisfaction and found that fair opportunity to defend was not provided to the petitioners in relation to recovery being made with regard to mid day meal expenses and following orders were passed:-
“Having considered the submissions as above and after perusal of the order impugned, this Court is satisfied that fair opportunity to defend was not provided to the petitioner. Accordingly, the order dated 15.12.2017 is quashed and set aside. However, the respondents shall be free to conduct an enquiry and provide opportunity of hearing to the petitioner and pass order afresh With the aforesaid, this writ petition is allowed.”

6. In the present case also therefore this court takes a similar view and accordingly the orders dated 29.05.2018 and 22.05.2015 are quashed and set aside.

7. However, the respondents shall be free to conduct enquiry after providing opportunity of hearing to the petitioners and pass orders afresh.



8. The writ petitions are allowed to the aforesaid extent.

(Sanjeev Prakash Sharma, J)

Sachin/-

Item No. 25 and
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