

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5461 of 2020

1. Ram Bali Sahani Son of Late Chhatu Lal Sahani, Resident of Village-Thahara Chand, Post Office-Makair, Police Station-Makair, District-Saran, presently posted as Assistant Teacher in Middle School, Chainpur, Bhaishwara, Block-Garkha, District-Saran.
2. Krishna Paswan, Son of Late Lakshman Paswan, Resident of Village-Mala, Post Office-Gurukul Mehiya, Police Station-Chapra Muffasil, District-Saran, presently posted as In-charge Headmaster in Upgraded Middle School, Pohiya, Block-Garkha, District-Saran.
3. Shashibhushan Prasad, Son of Late Satya Narayan Prasad, Resident of Village-Manupur Jahangir, Post Office-Mirpur Juara, District-Saran, presently posted as Headmaster in Upgraded Middle School, Madanpur Kanya, Block-Garkha, District-Saran.
4. Shubh Narayan Prasad, Son of Late Deo Nath Prasad, Resident of Village-Fulwaria, Post Office-Fulwaria, Police Station-Maker, District-Saran, presently posted as In-charge Headmaster in Upgraded Middle School, Bhairavpur, Block-Dariyapur, District-Saran.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Department of Education, Government of Bihar, Patna.
2. The Director, Mid Day Meal Programme, Department of Education, Government of Bihar, Patna.
3. The District Education Officer, Saran, Chapra.
4. The District Programme Officer (Mid day Meal Programme) Saran, Chapra.
5. The District Programme Officer (Establishment), Saran, Chapra.
6. The Block Education Officer, Sonpur Block, Saran, Chapra.
7. The Drawing and Disbursing Officer, Adarsh Keshav Kanya Middle School, Sonpur, Saran, Chapra.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Satish Narain Singh, Adv.
For the Respondent/s	:	Mr. Kameshwar Kumar (Gp17)
for the MDM	:	Mr. Girijesh Kumar, Adv.

CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH SHARMA

ORAL ORDER

2 29-11-2022 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.

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.

I have reflected on the submissions.



I find that it is the case of the petitioners, while they have preferred appeal against the orders to the District Education Officer, their appeals 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.

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 find that fair opportunity to defend was not provided to the petitioner in relation to recovery being made with regard to mid day meal expenses and following orders was 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.”

In the present case also therefore this court takes a



similar view and accordingly the orders dated 06.12.2019 is quashed and set aside. However, the respondents shall be free to conduct enquiry and provide opportunity of hearing to the petitioners and pass orders afresh.

The writ petitions are allowed to the aforesaid extent.

(Sanjeev Prakash Sharma, J)

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