

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12817 of 2018

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Thakur Prasad Mandal son of Manager Mandal resident of village near
Prathmik School, Hathua, Ward No. 5, Auraha, Madhubani.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The District Program Officer, Supaul.
3. The District Education Officer, Supaul.
4. The District Magistrate, Supaul.
5. The Director, Mid Meal Scheme Bihar Patna.

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 11315 of 2018

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Kumari Indra Gupta wife of Sushil Kumar resident of Hariyahi, P.O.
Hariyahi, District Supaul.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The District Program Officer, Supaul.
3. The District Education Officer, Supaul.
4. The District Magistrate, Supaul.
5. The Director, Mid Meal Scheme, Bihar, Patna.

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 12434 of 2018

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Farahat Jahan wife of Md. Mustafa, resident of Muslim Mahalla Ward No. 7,
Virpur, Basantpur, District- Supaul.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The District Program Officer Supaul.
3. The District Education Officer, Supaul.
4. The District Magistrate, Supaul.
5. The Director, Mid Meal Scheme Bihar, Patna.



... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 13473 of 2018

Ansar Ahmad Son of Abdul Jalil, Resident of Mahmudpur P.S.- Mahmudpur
District- Samastipur.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The District Programme Officer Supaul.
3. The District Education Officer Supaul.
4. The District magistrate, Supaul.
5. The Director, Mid meal Scheme Bihar, Patna.

... .. Respondent/s

Appearance :

(In Civil Writ Jurisdiction Case No. 12817 of 2018)

For the Petitioner/s : Mr.Prem Kumar

For the Respondent/s : Mr.Jitendra Kr.Roy-1 Sc13

(In Civil Writ Jurisdiction Case No. 11315 of 2018)

For the Petitioner/s : Mr.Prem Kumar

For the Respondent/s : Mr.Prabhakar Jha -Gp27

(In Civil Writ Jurisdiction Case No. 12434 of 2018)

For the Petitioner/s : Mr.Prem Kumar

For the Respondent/s : Mr.Madanjeet Kumar -Gp- 20

(In Civil Writ Jurisdiction Case No. 13473 of 2018)

For the Petitioner/s : Mr.Prem Kumar

For the Respondent/s : Mr.Jitendra Kr. Roy No. 1- Sc13

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

ORAL ORDER

- 3 08-09-2022 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 18.01.2017 & 13.11.2017 passed in C.W.J.C. No.12817, dated 13.12.2016 & 13.11.2017 in C.W.J.C. No.11315 of 2018, dated 18.01.2017 & 13.11.2017 in C.W.J.C. No.12434 and dated 03.04.2018 & 10.01.2018 in C.W.J.C. No.13473 of 2018 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)

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Item no.59

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