

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5290 of 2018

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Rajendra Prasad Singh Son of Late Munni Singh, Resident of Village-Fully, Police Station-Kudra, District-Kaimur Bhabhua. At Present Posted and Working as Incharge Headmaster, Govt. Middle School Kewdi, Kudra, Kaimur Bhabhua.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Principal Secretary, Education Department, Government of Bihar, Patna.
3. The Director, Primary Education, Bihar, Patna.
4. The Director, State Education Project Council, Bihar, Patna.
5. The Director, Mid-Day Meal Scheme, Bihar, Patna.
6. The District Magistrate, Kaimur Bhabhua.
7. The District Education Officer, Kaimur Bhabhua.
8. The District programme Officer, Establishment, Kaimur Bhabhua.
9. The District Programme Officer, Midday Meal Scheme Kaimur Bhabhua.
10. The Additional In-Charge Officer, Mid-Day Meal Scheme, Kaimur Bhabhua.
11. The Block Education Officer, Kudra, Kaimur Bhabhua.
12. The Additional Programme Coordinator Bihar Text Book, 1st Floor, M.D.M. Building Budhmarg, Patna.
13. The Treasury Officer, Kaimur Bhabhua.

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 5596 of 2018

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Subodh Kumar Tiwary Son of late Dharamdev Tripathi Resident of Village-Lalpur, Police Station- Kudra, District- KaimurBhabhua, At Present Posted and working as Incharge Headmaster in Govt. Upgraded Middle School Nevras, Block- Kudra, District- KaimurBhabhua.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Principal Secretary, Education Department, Government of Bihar, Patna.
3. The Director, Primary Education , Bihar, Patna.
4. The Director, State Education Project Council , Bihar, Patna.
5. The Director, Mid-day Meal Scheme, Bihar, Patna.
6. The District Magistrate, Kaimur Bhabhua.



7. The District Education Officer, Kaimur Bhabhua.
8. The District Programme Officer Establishment, Kaimur, Bhabhua.
9. The District Programme Officer, Midday Meal Scheme KaimurBhabhua.
10. The Additional In-charge Officer, Mid-day Meal Scheme, KaimurBhabhua.
11. The Block Education Officer, Kudra, KaimurBhabhua.
12. The Additional Programme Coordinator Bihar Text Book, Ist Floor, M.D.M. Building Budhmarg, Patna.
13. The Treasury Officer, KaimurBhabhua.

... .. Respondent/s

Appearance :

(In Civil Writ Jurisdiction Case No. 5290 of 2018)

For the Petitioner/s : Mr.Umesh Kumar Mishra, Adv.

For the Respondent/s : Mr.J.K. Roy No. 1- Sc13

(In Civil Writ Jurisdiction Case No. 5596 of 2018)

For the Petitioner/s : Mr.Umesh Kumar Mishra, Adv.

For the Respondent/s : Mr.S.C. Mishra- Sc16

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

ORAL ORDER

5 18-11-2022 Heard the parties through virtual mode.

Both the counsels are ad adedum that the issue involved in the present petitions is governed by the order passed by this Court in bunch of writ petitions (C.W.J.C. No. 12365 of 2018, Vinod Kumar Vrs. The State of Bihar & Ors.) and analogous cases decided on 30th August, 2022, and prayed that these cases may also be decided in the same terms.

The petitioners in the present petitions have prayed to set aside the letter dated 29.10.2013, issued by the Principal Secretary, Education Department, Government of Bihar, Patna, with regard to mid-day-meal project.

In the case of Vinod Kumar (supra), this Court has considered the said aspect and the contention of the State



counsel informed that the process adopted by the State authorities was lacking of principle of audi alterum partem and it was held as under :

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 18.01.2017 in C.W.J.C. No.12365/2018, dated 19.04.2017 in C.W.J.C. No.12373/2018, dated 19.04.2017 & 03.04.2018 in C.W.J.C. No. 12375,



dated 31.10.2016 & 03.04.2018 in C.W.J.C. No.12380/2018, dated 18.01.2017 & 13.11.2017 in C.W.J.C. No.12393/2018, dated 08.04.2017 & 03.04.2018 in C.W.J.C. No.12394/2018, dated 19.04.2017 & 03.04.2018 in C.W.J.C. No.12398/2018, dated 18.01.2017 & 03.04.2018 C.W.J.C. No.12401/2018, dated 19.04.2017 & 03.04.2018 in C.W.J.C. No.12418/2018, dated 10.01.2018 & 03.04.2018 in C.W.J.C. No.12441/2018, dated 18.01.2017 & 03.04.2018 in C.W.J.C. No.12452/2018, dated 07.10.2017 & 03.04.2018 in C.W.J.C. No.12456/2018, dated 20.03.2017 & 13.11.2017 in C.W.J.C. No.12457/2018, dated 13.12.2016 & 10.05.2017 in C.W.J.C. No.12498/2018, dated 08.04.2017 & 13.11.2017 in C.W.J.C. No.12501/2018, dated 08.04.2017 & 13.11.2017 in C.W.J.C. No.12543/2018, dated 18.01.2017 & 03.04.2018 in C.W.J.C. No.12547/2018, dated 08.04.2017 & 13.11.2017 in C.W.J.C. No.12556/2018, dated 18.01.2017 & 13.11.2017 in C.W.J.C.No. 12566/2018, dated 10.01.2018 & 03.04.2018 in C.W.J.C.No.12575/2018, dated 18.01.2017 & 03.04.2018 in C.W.J.C. No. 12582/2018 are 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 Court therefore quashed and set aside the impugned order and liberty was granted to the respondents to



conduct enquiry afresh in consonance with the principles of natural justice by providing opportunity of hearing to the petitioners, the writ petitions were allowed to the said extent.

In the present case, too, this Court is satisfied that the enquiry has not been conducted in accordance with the principles of natural justice and the reply and documentary evidence produced by the petitioners were not taken into consideration.

Accordingly, the order dated 26.02.2018 directing for deducting percentage of salary of the petitioners and recovered amount of Rs.75,708/- is quashed and set aside. The petitioners would be entitled for the amount recovered from their salary. The respondents would however be free to conduct a fresh exercise, if they so choose.

The writ petitions are allowed accordingly.

(Sanjeev Prakash Sharma, J)

Shamshad/-
Item No. 73,
73.1

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