

**IN THE HIGH COURT OF ORISSA AT CUTTACK**

**WPC (OA) No. 1236 of 2018**

***Pratap Chandra Dash***

.....

***Petitioner***

*Mr. K.K. Barik, Adv.*

Vs.

***State of Odisha and others***

.....

***Opposite Parties***

*Mr. S. Jena, SC, S&ME*

**CORAM:**

**DR. JUSTICE B.R. SARANGI**

**ORDER**

**02.12.2022**

**Order No.**

02.

This matter is taken up through hybrid mode.

2. Heard Mr. K.K. Barik, learned counsel for the petitioner and Mr. S. Jena, learned Standing Counsel appearing for the School and Mass Education Department.

3. The petitioner has filed this writ petition seeking to quash the order dated 28.05.2018 passed by opposite party no.2 under Annexure-11, by which direction has been given to recover the amount from the petitioner by following due procedure and report compliance thereof.

4. Mr. K.K. Barik, learned counsel for the petitioner contended that since the benefit has already been extended to the petitioner in accordance with law, now the same cannot be recovered from him by the impugned order dated 28.05.2018. Therefore, the petitioner has approached this Court by filing the present writ petition for quashing of the said direction.

5. Mr. S. Jena, learned Standing Counsel appearing for the School and Mass Education Department contended that there is no valid and justifiable reason to keep the matter pending, in view of the fact that by the impugned order dated 28.05.2018 in Annexure-11 direction has been given to recover the amount from the petitioner immediately by following due procedure and report compliance forthwith. Meaning thereby, in the event opposite

parties decide to recover the amount, opportunity of hearing is to be given to the petitioner.

6. Having heard learned counsel for the parties and after going through the records, this Court finds that the opposite parties have detected that an amount of Rs.2,57,740/- was released on 12.01.2017 as per Government letter dated 15.12.2016 towards payment of arrear dues of the petitioner, who was working as Jr. Clerk of Office of the B.E.O., Bhubaneswar. But as per the decision taken in the meeting on 16.05.2018 and Government memo no.11386 dated 22.05.2018, the amount paid to the petitioner is to be recovered from him as his case is not similar to one H.K. Hota. As such, while passing such order, it has been also clarified that if any recovery is made, the same shall be done by following due procedure and report compliance thereof. The basic principle of following due procedure means if any recovery has to be made, then the same should be in compliance of principles of natural justice. Meaning thereby, the petitioner should be given opportunity of personal hearing and also to give a reply, if any, so that in compliance of principles of natural justice the recovery can be made and, thereby, if at all the order dated 28.05.2018 is complied with, no prejudice will be caused to the petitioner. Therefore, the writ petition is disposed of directing the authority to proceed with the matter and if any recovery is made from the petitioner, the same should be done giving opportunity of hearing to the petitioner and by following due procedure in compliance of principles of natural justice.

7. Issue urgent certified copy as per rules.

*Ashok*

**(DR. B.R. SARANGI)**  
**JUDGE**