

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1720 of 2023

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Kaulesh Ray Son of Samhut Ray Resident of Ward No.- 6, Kazichak, Chanda,
P.S.- Koilwar, District- Bhojpur.

... .. Petitioner

Versus

1. The State of Bihar through Chief Secretary Govt. of Bihar, Patna.
2. The Principal Secretary, Department of Education, Government of Bihar, Patna.
3. Director, Bihar State Education Project, Patna.
4. District Magistrate, Bhojpur, Ara.
5. District Education Officer, Bhojpur, Ara.
6. District Programe Officer (Estb.), Bhojpur Ara.

... .. Respondents

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Appearance :

For the Petitioner/s	:	Mr.Ravi Ranjan, Advocate
For the Respondent/s	:	Mr.Madhaw Pd. Yadaw (GP-23)
		Mr.Arvind Kumar, AC to GP-23

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 25-08-2023 This writ application has been filed for setting aside the order contained in Memo No. 629 dated 11.06.2022 issued under the signature of District Education Officer, Bhojpur as contained in Annexure '1' to the writ application whereby and whereunder the District Programe Officer (Establishment), Bhojpur has been directed to deduct 50% of the salary amount of the petitioner towards recovery of the amount advanced towards the construction of an additional classroom in the school which was not constructed.

2. Learned counsel submits that vide office order as contained in Memo No. 2965 dated 06.09.2016 charges have



been framed against the petitioner in प्रपत्र “क” and a departmental proceeding has been initiated against him in respect of the alleged financial illegalities and mis-appropriation of money.

3. It is submitted that the petitioner was placed under suspension but the departmental proceeding was not being conducted expeditiously, therefore, he moved this Court in CWJC No. 4820 of 2018. This Court vide order dated 23.03.2018 quashed the suspension of the petitioner on the ground of parity as the Court noticed that in similarly situated cases, this Court had revoked the order of suspension. Further this Court directed the respondents to conclude the departmental proceeding at the earliest preferably within a period of three months from the date of receipt/ production of a copy of the order.

4. It appears that the departmental proceeding has not been concluded till date. After more than four years of passing of the order of this Court in CWJC No. 4820 of 2018, the impugned order as contained in Annexure ‘1’ has been issued directing recovery of money to the extent of 50% of the salary of the petitioner per month.

5. Learned counsel for the petitioner submits that in



fact the recovery had also been initiated but after this Court passed the interim order on 19.06.2023, the recovery has been stayed. It is further submitted that in the present matter, the District Education Officer and the District Programme Officer under whose instruction the money was disbursed to the consultancy firm were also charge-sheeted and the charges has been proved against them.

6. It is his further submission that on the one hand, the departmental proceeding is not being concluded for over seven years but at the same time, the recovery has been ordered even before proof of the guilt of the petitioner.

7. A counter affidavit has been filed on behalf of Respondent No. 6. Perusal of the counter affidavit gives a very dismal picture in the matter of progress in the departmental proceeding. According to this affidavit, the District Education Officer, Bhojpur has passed another order vide Memo No. 802 dated 18.07.2022 with a direction to the Headmasters of the school to deposit the recoverable amount in the account of the School Education Committee and if the amount is not deposited then the concerned District Education Officer shall start deduction of 40% of the salary of the concerned Headmaster. A further direction has been issued to initiate departmental



proceeding against those Headmasters who did not comply with the order. The said order has been enclosed as Annexure 'R/6' to the counter affidavit.

8. Learned counsel submits that this order has never been communicated to the petitioner and he has come to know about this order only after receipt of the counter affidavit.

9. This Court further finds that the department had changed the inquiry officer vide Annexure 'R/7' dated 04.07.2023. In the entire counter affidavit, there is no explanation at all as to why the disciplinary proceeding has not been concluded during last seven years and what are the reasons for not complying with the order of this Court to conclude the departmental proceeding at the earliest preferably within a period of three months from the date of receipt/ production of a copy of this order.

10. Having regard to the aforementioned facts and circumstance of the case wherein it is evident that the respondents are sitting over the disciplinary proceeding for last seven years and despite the direction of this Court, the same has not been concluded, there is no explanation for the delay and during pendency of the disciplinary proceeding, the impugned order has been passed and a further direction has been issued



that those who will not comply with this order, against them a disciplinary proceeding shall be initiated, in the opinion of this Court such orders during pendency of the first disciplinary proceeding is in the nature of a coercive order which is in violation of principles of natural justice and the concept of fair play in action.

11. This Court is alive to the situation that here is a case of unlawful disbursement of money to a consultancy firm but then the charge is required to be proved and it is in the domain of the department to complete the disciplinary proceeding and proceed against the petitioner in accordance with law in terms of the finding of the disciplinary authority.

12. This Court, at this stage, deems it just and proper to set aside the order as contained in Annexure '1' to the writ application and directs the respondents to complete the disciplinary proceeding within a period of four months from the date of receipt/ communication of a copy of this order and thereafter proceed in accordance with law. Ordered accordingly.

13. This writ application stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

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