

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13127 of 2015

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Mahendra Prasad Sahani S/o Late Chullazi Sahani, Resident of Village-
Chaukhandi, P.O.- Basudeopur, District- Munger.

... .. Petitioner/s

Versus

1. The State Of Bihar and Ors
2. The Principal Secretary, Rural Development Department, Government of Bihar, Patna.
3. The Director Rural Development Department, Government of Bihar, Patna.
4. The Officer on Special Duty, Rural Development Department, Government of Bihar, Patna.
5. The Deputy Development Commissioner Cum Deputy Chairman of the District Rural Development Authority
6. The Director, Accounts Administration, District Rural Development Agency, Munger.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dhananjay Kumar Tiwary, Adv.
For the Respondent/s : Mr. A.K. Sinha- Ga9

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CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH SHARMA

ORAL ORDER

- 3 30-01-2023 1. Learned counsel for the petitioner submits that the amount was directed to be recovered from the petitioner as it was noticed that the petitioner was not entitled to receive the ACP benefit. The ACP benefit had been released to the petitioner based on a forged document which was revealed after an enquiry was conducted under the directions of this Court.
2. Keeping in view thereto, all similarly placed other persons whom the ACP benefit had been granted is directed to refund the amount. The petitioner has also recieved the amount



which has been placed on record.

3. Keeping in view thereto, learned counsel for respondent submits that no interference is warranted in the recovery order. This Court is satisfied that it is not on account of fault of the respondents that the amount was released but on the basis of a forged the law relating to recovery was laid down in **State of Punjab & Ors. Vs. Rafiq Masih & Ors. 2015 (4) SCC 334** as under :-

“18. It is not possible to postulate all situations of hardship which would govern employees on the issue of recovery, where payments have mistakenly been made by the employer, in excess of their entitlement. Be that as it may, based on the decisions referred to hereinabove, we may, as a ready reference, summarise the following few situations, wherein recoveries by the employers, would be impermissible in law:

(i) Recovery from the employees belonging to Class III and Class IV service (or Group C and Group D service).

(ii) Recovery from the retired employees, or the employees who are due to retire within one year, of the order of recovery.

(iii) Recovery from the employees, when the excess payment has been made for a period in excess of five years, before the order of recovery is issued.

(iv) Recovery in cases where an employee has wrongfully been required to discharge duties of a higher post, and has been paid accordingly, even though he should have rightfully been required to work against an inferior post.

(v) In any other case, where the court arrives at the



conclusion, that recovery if made from the employee, would be iniquitous or harsh or arbitrary to such an extent, as would far outweigh the equitable balance of the employer's right to recover.”

4. As the amount was received fraudulently, the recovery can be made. The writ petition is dismissed.

(Sanjeev Prakash Sharma, J)

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