

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9691 of 2021

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Rajroop Yadav S/o Puna Yadav Resident of village- Mahmadpur, P.o.- Ituan,
P.s.- Mohanpur (Fatehpur), District- Gaya

... .. Petitioner/s

Versus

1. The State of Bihar through its Principal Secretary, Rural Development Department, Bihar, Patna
2. The Collector, Gaya
3. The Block Development Officer, Guraru, Gaya
4. The Block Development Officer, Imamganj, Gaya

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Dharmendra Kumar Sinha, Advocate
For the Respondent/s	:	Mr. Prashant Pratap, G.P.7
		Mr. Gopal Krishna, AC to GP-7

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

7 04-07-2023 Heard Mr. Dharmendra Kumar Sinha, learned counsel appearing on behalf of the petitioner and Mr. Prashant Pratap, learned GP-7 assisted by Mr. Gopal Krishna, learned AC to GP-7 appearing on behalf of the State.

2. Considering the fact that already a certificate proceeding has been initiated against the petitioner and petitioner had appeared before the Certificate Officer no further consideration is required in the present case. The law is well settled that in case of those employees who, during their service period, knowingly has benefited themselves and had not returned the amount which were required to be returned back to the State Government.



3. The petitioner cannot be given benefit of the fact that after one year of his retirement, the pensionary benefit on certain head has been withheld.

4. The petitioner, if so advised, may file a detailed representation before the District Magistrate, Gaya who will verify the record and see that as to whether during the service period the petitioner was given any show cause with respect to alleged irregularity to have been committed by him knowingly. In case no proceeding has been initiated against the petitioner then in that case the concerned respondent is at liberty to initiate proceeding against the petitioner considering the provision of Rule 43 of the Bihar Pension Rules, 1950.

5. The petitioner had retired in the year 2018 and has filed the present writ petition in the year 2021.

6. The respondent cannot be allowed to proceed against the petitioner.

7. Considering the fact that in this regard law is well settled by the Apex Court at least minimum opportunity of hearing must be provided to the petitioner before taking penal action against him by initiating Certificate Case.

8. In case the petitioner admits that he is liable to return back the amount which has been misappropriated by him



then in that case he may deposit the same before the authority within a period of three months. The petitioner may file the amount so deposited before the District Magistrate.

9. With the above observation and direction the present writ petition is disposed of.

(Purnendu Singh, J)

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Minu/-

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