

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7567 of 2023

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Shyam Biharee Singh S/o Late Giraja Nandan Singh, resident of Village -
Faizlabad, P.S. - Gopalpur, District – Patna. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Panchayati Raj Department, Government of Bihar, Patna.
2. The Director, Panchayati Raj Department, Govt. of Bihar, Patna.
3. The District Magistrate, Patna.
4. The Deputy Development Commissioner, Patna.
5. The Block Development Officer, Bihta, Patna.
6. The Accountant General, Bihar, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Sanjay Kumar, Advocate
For the Respondent/s	:	Ms. Archana Meenakshee (Gp6)
For the AG	:	Mr. Vivekanand Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT

Date : 25-09-2023

Heard Mr. Sanjay Kumar, learned counsel appearing on behalf of petitioner; Ms. Archana Meenakshee, learned GP 6 for the State and Mr. Vivekanand Kumar, learned counsel for the Accountant General (Bihar).

2. Learned counsel for the Accountant General, Bihar submits that already the pension has been fixed and the authority slip has been issued *vide* letter dated 19.09.2023 and same has been communicated to the Treasury Officer, Patna Secretariat Branch.

3. The Treasury Officer is directed to forthwith credit the entire amount into the bank account of the petitioner.

4. The petitioner is still aggrieved by the illegal



action of the concerned authority, who has proceeded to recover Rs.6,83,440/- vide letter No.1927 dated 08.09.2023 during the pendency of the present writ petition.

5. The petitioner had retired on 31.10.2013 from the post of Panchayat Sachiv and the allegation, on which basis, the recovery has been directed to be made from the petitioner first time in year 2023, would appear from the letter contained in Annexure R/1 to the counter affidavit filed on behalf of the State.

6. Considering the aforesaid action of the State, the order of the recovery, as contained in letter no.1927, dated 08.09.2023, which has been issued without giving any opportunity to the petitioner, is set aside and quashed.

7. The recovery after a long period of 10 years by the authority is unwarranted, in light of the Apex Court decision in case of *State of Punjab & Ors. Vs. Rafiq Masih (White Washer) & Ors. Reported in (2015) 4 SCC 334*.

8. This Court finds that the District Magistrate-cum-Collector, Patna must call the Block Development Officer for having taken action against the petitioner contrary to the provisions of law laid down by the Apex Court and communicate the final order to the petitioner, taking into



consideration the service particulars of the petitioner in accordance with law. If the recovery is on account of financial up-gradation with respect to the grant of time bound promotion on account of ACP/MACP, then the same must be deprecated in light of the law laid down by the Apex Court in the case of **Amresh Kumar Singh & Ors. Vs. the State of Bihar & Ors. Reported in (2023) SCC Online SC 496.**

9. If any decision taken by the Collector-cum-District Magistrate affects the right of the petitioner, petitioner must be informed and given proper opportunity of hearing to defend his case. The said action is directed to be taken not beyond the period of two weeks from the date of communication of this order by the learned counsel appearing on behalf of the State.

10. If the Treasury Officer delays in crediting the amount in any manner today or by tomorrow, the petitioner is at liberty to take appropriate legal action against the Treasury Officer, if the same has already not been paid.

11. Accordingly, the present writ petition is disposed of.

(Purnendu Singh, J)

Sanjay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	27.09.2023
Transmission Date	NA

