

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1729 of 2018

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1. Rajeshwar Kumar and Anr S/o- Brahmdeo Prasad Singh, resident of Village- Amba, Ward No. 05, Ambachaura, P.S.- Khagaria, District- Khagaria.
 2. Dilip Kumar, S/o- Ram Narayan Sah, resident of Village- Yogia Ward No. 14, P.S. Alauli, District- Khagaria.

... .. Petitioner/s

Versus

1. The State Of Bihar through the Principal Secretary, Education Department, Government of Bihar, Patna.
2. The Principal Secretary, Education Department, Government of Bihar, Patna.
3. The Director, Primary Education, Government of Bihar, Patna.
4. The Director, State Education Project Council, Bihar, Patna.
5. The Director, Mid- Day Meal Scheme, Bihar, Patna.
6. The District Magistrate, Khagaria, District- Khagaria.
7. The District Education Officer, Khagaria, District- Khagaria.
8. The District Programme Officer, Midday Meal Scheme Khagaria, District- Khagaria.
9. The Additional In-charge Officer, Mid-day Meal Scheme, Khagaria, District- Khagaria.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Raj Dular Sah, Adv.
For the Respondent/s	:	Mr. Kameshwar Kumar-GP-17
for Respondent No.4&5	:	Mr. Girijesh Kumar, Adv.

CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH SHARMA

ORAL ORDER

5 02-01-2023

1. Heard the parties.

2. Both the counsels are ad adedum that the issue involved in the present petition is governed by the order passed by this Court in bunch of writ petitions (C.W.J.C. No. 12365 of 2018, Vinod Kumar Vrs. The State of Bihar & Ors.) and analogous cases decided on 30th August, 2022, and prayed that



this writ petition may also be decided in the same terms.

3. The petitioners in the present petition have prayed to set aside the letter dated 29.10.2013, issued by the Principal Secretary, Education Department, Government of Bihar, Patna, with regard to mid-day-meal project.

4. In the case of Vinod Kumar (supra), this Court has considered the said aspect and the contention of the State counsel informed that the process adopted by the State authorities was lacking of principle of audi alterum partem and it was held as under :

In the opinion of this court, the requirement of principle of audi alterem partem has not been fulfilled. This court in a similar case had expressed its dissatisfaction and find that fair opportunity to defend was not provided to the petitioner in relation to recovery being made with regard to mid day meal expenses and following orders was passed:-

“Having considered the submissions as above and after perusal of the order impugned, this Court is satisfied that fair opportunity to defend was not provided to the petitioner. Accordingly, the order dated 15.12.2017 is quashed and set aside. However, the respondents shall be free to conduct an enquiry and provide opportunity of hearing to the petitioner



and pass order afresh.

With the aforesaid, this writ petition is allowed.”

5. In the present case also therefore this court takes a similar view and accordingly the order dated 29.10.2013 is quashed and set aside.

6. However, the respondents shall be free to conduct enquiry and provide opportunity of hearing to the petitioners and pass orders afresh.

7. The Court therefore quashed and set aside the impugned order and liberty was granted to the respondents to conduct enquiry afresh in consonance with the principles of natural justice by providing opportunity of hearing to the petitioners, the writ petition is allowed to the said extent.

8. In the present case, too, this Court is satisfied that the enquiry has not been conducted in accordance with the principles of natural justice and the reply and documentary evidence produced by the petitioners were not taken into consideration.

9. Accordingly, the orders dated 30.11.2016 and 09.05.2017 directing for deducting percentage of salary of the petitioners and recovered amount of Rs.70533/- & Rs.53,585/- respectively are quashed and set aside. The petitioners would be



entitled for the amount recovered from their salary. The respondents would however be free to conduct a fresh exercise, if they so choose.

10. The writ petition is allowed accordingly

(Sanjeev Prakash Sharma, J)

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