

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13486 of 2014

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Devendra Tiwary son of Sri Jayendra Tripathy, Headmaster, Utkramit Middle School, Kusdhar, P.S. Baghaila, District

... .. Petitioner/s

Versus

1. The State of Bihar
2. The District Magistrate, Rohtas at Sasaram
3. The District Education officer, Rohtas at Sasaram
4. The District Programme Officer, Establishment, Rohtas at Sasaram
5. Incharge officer, District Mid - Day Meal Programme, Rohtas at Sasaram
6. The Block Education Officer, Rajpur Block, Rohtas at Sasaram
7. The Headmaster - Cum - Drawing and Disbursing Officer, Rajpur Block, Rohtas at Sasaram

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Rajani Kant Singh, Advocate Mr. Surendra Kumar, Advocate
For the Respondent/s	:	Mr. Narendra Singh, A.C. to G.P.22 Mr. Girijesh Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT

Date : 22-11-2023

1. Heard learned counsel for the petitioner and learned counsel for the respondents.

2. The petitioner has filed the instant application praying for quashing the order contained in letter no. L-1372 dated 11.6.2014 issued under the signature of the District Programme Officer (Establishment), Rohtas at Sasaram, (respondent no.4) whereby he was pleased to direct the Headmaster-cum-Drawing and Disbursing Officer (respondent no.7) to deduct an amount of Rs.60, 272/- from the salary of the petitioner and to deposit



the same in the account of the Mid Day Meal Programme in the District Office, Rohtas.

3. The case of the petitioner in brief is that he was appointed as Shiksha Mitra in the year, 2003 and in the year 2006 was made Panchayat teacher. Since then he was working in the capacity of the Headmaster of the school in question.

4. Learned counsel for the petitioner submits that on 14.5.2012 the school of the petitioner was inspected and he was questioned as to why the number of students as compared to the previous day ie 13.5.2022 had reduced substantially.

5. It is the case of the petitioner that it was due to the marriage season that the attendance of the students had decreased. It is further stated that an illegal sum of Rs.5000/- per month was demanded and on the petitioner refusing to give the same, the authority concerned became angry and directed to deduct Rs.60,272/ from his salary. In spite of the petitioner submitting his representation on 30.6.2014, the same was not looked into. It is further stated that the Secretary of the Shiksha Samiti also assaulted, abused and subjected the petitioner to cruelty by calling him by his caste name for which a Complaint Case no.536 of 2014 was also lodged in the Court of the C.J.M., Rohtas. The order impugned is bad in law, not sustainable and



fit to be set aside.

6. A counter affidavit has been filed on behalf of the respondent nos. 2 to 6 stating therein that with respect to the Mid Day Meal Scheme, the school where the petitioner is functioning as Headmaster was inspected by the incharge of the Mid Day Meal Scheme (respondent no.5) on 14.5.2014. It was found that altogether only 89 students of Class-I to V were present, but in the register a total of 146 students were shown to be present. Similarly, against a total of 59 students of Class- 6 to 8 being present, in the register 98 student were shown to be present. Taking into consideration the excess number of students shown to be present, the amount sanctioned against the Mid Day Meal was calculated and the amount of Rs. 60,222/- to be recovered from the petitioner was arrived at and accordingly the order of recovery passed. It is further stated that so far as the allegation of demand of Rs.5000/- as also abuse and assault by the Secretary is concerned for which complaint case has been filed, the same are all false and concocted.

7. Having heard learned counsel for the parties and taking into consideration the material on record, this Court is of the opinion that so far as the order impugned read with the contents of the counter affidavit are concerned, substance of the



allegations leading to the order of recovery is for the reason that the petitioner who happens to be the Headmaster of the school in question showed the number of students having meal under the Mid Day Meal Scheme to be much higher than was found to be actually present in course of physical inspection carried out by the authorities. In case the petitioner challenges the authenticity of the inspection carried out or the statement with respect to the actual number of students present at the time of inspection/Mid Day Meal, the same being disputed questions of fact raised by the petitioner, they cannot be decided by this Court in its writ jurisdiction. The only option available to the petitioner is to file an appropriate case for the relief sought in a competent civil Court having jurisdiction.

8. This writ petition stands dismissed.

(Partha Sarthy, J)

Bibhash

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CAV DATE	
Uploading Date	1.12.2023
Transmission Date	

