

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5898 of 2018

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Nilesh Kumar Choudhary Son of late Kapildev Choudhary Resident of Village- Mathurapur, Police Station- Parbatta, District- Khagaria, at Present Posted at Primary Middle School, Bharatkhand, Police Station- Parbatta, District- Khagaria.

... .. Petitioner/s

Versus

1. The State Of Bihar, through Principal Secretary, Education Department, Government of Bihar, Patna.
2. 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.
7. The District Education Officer, Khagari, District- Khagaria.
8. The District Programme Officer, Mid-Day Meal Scheme, Khagaria, District- Khagaria
9. The Additional Incharge Officer, Mid-Day Meal Scheme , Khagaria, District- Khagaria.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Raj Dular Sah, Advocate
For the State	:	Mr. Subhash Chandra Mishra, SC-16
		Mr. Madhukar Jha, AC to SC-16
For the Respondents	:	Mr. Girijish Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT

Date : 07-10-2023

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

2. The petitioner has filed the instant application challenging the office order dated 16.11.2016 (Annexure-4) issued under the signature of the District Programme Officer, Mid-Day Meal Scheme, Khagaria as also the appellate order



dated 3.2.2017 (Annexure-6) passed by the District Education Officer- Cum- Appellate Authority, Mid-Day Meal Scheme, Khagaria.

3. The case of the petitioner in brief is that the petitioner who happens to be the Headmaster of the Mid-Day Meal School in Khagaria was also the in-charge Headmaster of Middle School, Malhurapur under Parbatta block in Khagaria from August, 2014 to August, 2017. At the relevant time, the Mid-Day Meal was floated by the Ministry of Human Resources Development, Government of India.

4. On complaints being received, as per directions contained in the letter dated 29.10.2013 (Annexure-3) issued by the Principal Secretary, Education Department, Bihar, Patna inspections were carried out with respect to the proper implementation of the Mid-Day Meal Scheme as per the Act. Having found discrepancies in the school where the petitioner was posted as Headmaster, a show cause notice was issued to him to which he chose not to reply and finally by order dated 16.11.2016, the District Programme Officer, Mid-Day Meal Scheme, Khagaria passed an order for recovery of total sum of Rs.1,18,744/-. An appeal was filed by the petitioner before the appellate authority which was rejected by order dated 3.2.2017



by the District Education Officer Cum Appellate Authority, Mid-Day Meal Scheme, Khagaria. Both the orders of recovery dated 16.11.2016 and the order passed by the District Education Officer rejecting the appeal on 3.2.2017 are impugned herein.

5. Having heard learned counsel for the parties and having perused the material on record, it transpires that the District Education Officer Cum Appellate Authority, Mid-Day Meal Scheme, Khagaria has practically rejected the appeal filed by the petitioner without any order, clearly in violation of the principles of natural justice. Neither the case of the petitioner has been narrated therein nor the submissions have been dealt with to arrive at the conclusion. In fact from the contents of the order, it transpires that even the appeal has not been rejected.

6. Having heard learned counsel for the parties, the order dated 3.2.2017 (Annexure-6) passed by the District Education Officer Cum Appellate Authority, Mid-Day Meal Scheme, Khagaria is set aside and the matter is remanded back to the appellate authority to decide the case of the petitioner after hearing him within a period of two months.

7. It may be stated here that this Court has not entered into the merits of the case of the petitioner which is to be decided by the authority concerned.



8. The petitioner will appear before the appellate authority within a period of three weeks from today along with the copy of this order as also a fresh memo of appeal. The petitioner will be at liberty to raise all the points available to him before the appellate authority and the appeal preferred by the petitioner will be decided within a period of two months from the date of its filing.

(Partha Sarthy, J)

Shiv/-

AFR/NAFR	
CAV DATE	N/A
Uploading Date	12.10.2023.
Transmission Date	N/A

