

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1833 of 2021

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Madan Ram S/o Late Bansharopan Ram, resident of Village - Jamuni Dihra,
P.O. Manikpur, P.S. - Rajpur, District- Buxar, at present Assistant Teacher,
Gauri Shankar Middle School, Buxar.

... .. 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, State Education Project Council, Bihar, Patna.
4. The Director Mid -Day-Meal Scheme, Bihar, Patna.
5. The District Magistrate, Buxar, District - Buxar.
6. The District Education officer, Buxar, District - Buxar.
7. The District Programme Officer (Establishment) Mid day Meal Scheme,
Buxar, District - Buxar.
8. The District Programme Officer, Midday Meal Scheme, Buxar, District -
Buxar.
9. The Block Education Officer, Navanagar, Buxar cum Enquiry Officer.

... .. Respondent/s

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Appearance :

For the Petitioner	:	Mr. Harendra Kumar Tiwary, Advocate
For the Respondents	:	Mr. Prabhakar Jha, GP-27
		Mr. Girijish Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL JUDGMENT

Date : 24-06-2024

Heard learned counsel for the parties.

2. The present writ application has been filed for the
following reliefs:-

(i) For issuance of writ, order and direction
for quashing the notification dated
01.09.2020 (Annexure-11) issued under the
joint signature of respondent District
Programme Officer (Establishment), Buxar



and respondent District Education Officer, Buxar, which is contrary to and not based upon findings of Enquiry Officer dated 05.03.2020 (Annexure-10).

(ii) For issuance of proper writ, order, direction and declaration that impugned Annexure No.11, dated 01.09.2020 has no leg to stand in view of Enquiry Report dated 05.03.2020.

(iii) For issuance of writ, order and direction that impugned order of recovery of imaginary amount of Rs.2,87,796/- in twelve installments and stopping of two increments, is contrary to the findings of the Enquiry Officer vide Annexure-10 and as such the same is arbitrary, malafide and against all canon of justice.

(iv) For issuance of writ, order and direction that impugned order has/have been issued with an oblique motive to harass this petitioner for no fault of thing on his part and the same is based on extraneous consideration and it is discriminatory, arbitrary and malafide.

(v) For issuance of writ, order and direction that impugned order dated 01.09.2020 vide Annexure-11 is not sustainable in view of the Enquiry Report vide Annexure-11, since it is based on imported materials and contrary to the findings of the Enquiry Officer vide Annexure-10.

(vi) For any other relief for which petitioner may be found entitled in the facts and circumstances of this case.

3. Learned counsel for the petitioner submits that after departmental enquiry, petitioner was appointed but differing with it, he was given punishment. He further submits that no



second show cause notice was issued to the petitioner. Learned counsel for the petitioner placed reliance in the case of ***Gauri Shankar Mishra Vs. The State of Bihar through the Chief Secretary and others*** reported in ***2023 (1) PLJR 817*** in which almost similar issue was decided by this Court.

4. Learned counsel for the State has accepted that no second show cause notice was given to the petitioner, which is also evident from the supplementary counter affidavit.

5. Considering the submissions advanced on behalf of the parties and the judgment in the case of **Gauri Shankar Mishra (supra)**, Memo No.870 dated 01.09.2020, Annexure-11 to the writ application, is hereby set aside and this writ application is allowed. The petitioner shall be entitled to get all consequential benefits.

6. However, the State is at liberty to take legal steps in accordance with law.

(Anjani Kumar Sharan, J)

shikha/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	26.06.2024
Transmission Date	NA

