

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13566 of 2012

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1. Surendra Nath Verma, S/O Late Deena Nath Verma, R/O Mohalla-Dahiyanwa, Mahmmud Chauk, Near- Sinha Medical Hall, Chapra, Saran, Bihar
 2. Dharm Nath Chaudhary, S/O Late Janak Chaudhary, R/O Village + Post-Khareeka Sonpur, Chapra, Saran
 3. Chandrama Rai, S/O Sri Heera Rai, R/O Mohalla- Manjhee, Tole Chainpur, P.O. + P.S.- Manjhee, District- Saran
 4. Raghuwansh Narayan Singh, S/O Late Shri Braj Nandan Singh, R/O Village- Nayaka Badka Baiju Tola, Post- Sengar Tola, P.S.- Rivilganj, Saran, Chapra

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Secretary, Panchayati Raj Department, Government Of Bihar, Patna
3. Deputy Director-Cum-Deputy Secretary Panchayat Raj Vibhag, Bihar, Patna
4. Secretary, Finance Department, Government Of Bihar, Patna
5. Zila Parishad, Through Deputy Development Commissioner-Cum-Chief Executive Officer Zila Parishad, Saran, District- Saran
6. Deputy Development Commissioner-Cum-Chief Executive Officer, Zila Parishad, Saran, District- Saran

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Gyan Prakash, Advocate Ms. Parul Priya, Advocate
For the Respondent/s	:	Mr. Raisul Haque, SC 10

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT

Date : 02-05-2024

Heard Mr. Gyan Prakash, learned counsel along with Ms. Parul Priya, learned counsel appearing on behalf of the petitioner and Mr. Raisul Haque, learned SC 10 for the State.

2. Petitioners have *inter alia* prayed for following reliefs in the paragraphs No.1 of the writ petition:-

“That this writ application is being filed for



issuance of appropriate writ, order or direction for quashing the order dated 3rd of December, 2008, passed by Deputy Director, Panchayati Raj, Respondent No.3 (contained in Annexure-2), by which the benefits of A.C.P. Scheme, given to the petitioner have been taken by the respondents and for quashing the order dated 20th of June, 2012, passed by Deputy Development Commissioner-cum-Chief Executive Officer, Zila Parishad, Saran (Annexure-3), by which an order has been passed after recovery of the amount paid to the petitioners by way of A.C.P. Scheme and for stay of operation of the orders contained in Annexure-2 and 3, pending final hearing of this application.”

3. Learned counsel appearing on behalf of the petitioners informs that all petitioners have now superannuated and they restrict their prayer seeking to file representation for its disposal in light of law laid down by the Apex Court in the case of **State of Punjab & Ors. etc. Vs. Rafiq Masih (White Washer) etc.**, reported in **2015(4) SSC 334**, they seek interference of this Court with the order contained in Memo No. 294 dated 20.06.2012 (Annexure 3 to the writ petition) to the extent that no recovery of any money be made pursuant to the said order.

4. Considering the aforesaid submission made on behalf of the petitioners, I find that recovery from a retired Class III employee or in eventuality of his death cannot be made in light of the law laid down by the Apex Court in the case of **Rafiq Masih (Supra)**, specially paragraph 18 of the said judgment.



5. The writ petition is allowed to the above extent.

6. It is made clear that this Court has not gone into the merits of the case, so far as applicability of benefit of ACP to the employees of Saran Zila Parishad is concerned, as the petitioners have already retired and till the period they had received the benefit of ACP, it was guided by the decision taken by the Board of Zila Parishad on 16.06.2007, as contained in Annexure B to the counter affidavit.

7. The writ petition stands disposed of.

(Purnendu Singh, J)

Sanjay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	03.05.2024
Transmission Date	NA

