

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6659 of 2025

Md. Irshad Ansari son of Late Zabiullah Ansari resident of Village- Tendua, P.O- Dhaupokhar, P.S- Karamchat (Saar), Block- Rampur, District- Kaimur (Bhabhua), at present posted as Head Master, in Utkarmit Madhyamik School, Baheri, Rampur, Kaimur (Bhabhua).

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Education Department, Govt. of Bihar, Patna.
2. The Director, Mid-Day Meal Scheme Directorate, Bihar, Patna.
3. The District Magistrate, Kaimur, Bhabhua.
4. The District Education Officer, Kaimur at Bhabhua.
5. The District Programme Officer (Establishment), Education Department, Kaimur at Bhabhua.
6. The District Programme Officer (Mid-Day Meal Scheme), Education Department, Kaimur at Bhabhua.
7. The District Programme Manager, Mid Day Meal, Kaimur at Bhabhua.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Pawan Kumar Singh, Advocate
For the State	:	Mr. Manoj Kumar Sinha, AC to GA-9
For the M.D.M.	:	Mr. Girijish Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT

Date : 24-04-2025

Heard Mr. Pawan Kumar Singh, learned counsel appearing on behalf of the petitioner; Mr. Manoj Kumar Sinha, learned AC to GA-9 for the State and Mr. Girijish Kumar, learned counsel for the Mid Day Meal.

2. The petitioner in paragraph no. 1 of the present writ petition has sought *inter alia* following relief(s), which is reproduced hereinafter:

"A. For issuance of an appropriate writ, order or direction, particularly in the nature of writ



of Certiorari;

i) To quash the order contained in Letter No. File No. 234/2024 dated 10.02.2025 passed by the Director, Mid-day Meal Scheme Directorate, Education Department, Bihar, Patna (the Respondent No.2), which has been passed in light of the direction issued by this Hon'ble Court in a case bearing CWJC No. 14637/2019 (Bhimsen and others Vs. State of Bihar & Ors.) and CWJC No. 4452/2020 order dated 03.09.2024, by which the earlier order regarding recovery of the amount due to irregularities found in Mid-day Meal Scheme committed by the petitioner is upheld.

ii) To quash the order/letter dated 26.06.2018 contained in memo no. V-I-2018, 541 issued by respondent no. 6 by which he has directed to recover Rs.80328/ from the petitioner due to irregularity found in Mid-day Meal to the students,

B. To pass any other relief or reliefs to which the petitioner is found entitled to in the facts and circumstances of the case."

3. The petitioner is aggrieved by the action of the officer, who had inspected his school namely, Utkramit Vidyalaya, Bahari Anchal Rampur, District- Kaimur, where, in the year 2017, upon inspection, it was found that in place of 290 students were present as per the attendance register while only 132 students were found at the time of inspection on which basis, the inspecting team assessed total swindling of Rs. 80,328/- on account of the food materials, which was not consumed on the said date and the District Programme Officer (Mid Day Meal Scheme) Kaimur had issued Letter No. 989 dated 23.11.2017 for recovery of the said amount from the salary of the petitioner. Aggrieved by the aforesaid action, the



petitioner had preferred CWJC No. 4452 of 2020, which was heard along with batch cases and by general direction, this Court had directed the Director, Mid Day Meal Scheme, Government of Bihar, Patna to "*pass final order upon the letter of recovery issued by the District Programme Officer, Mid Day Meal after affording opportunity of hearing to the petitioners of batch cases*". The Director, Mid Day Meal Scheme, Bihar, Patna had passed order contained in Letter No. 372 dated 10.02.2025 after giving opportunity of hearing to the petitioner, by which, order of recovery contained in Letter No. 989 dated 23.11.2017 passed by the District Programme Officer (Mid Day Meal Scheme) Kaimur was upheld and initiation of proceeding for recovery of the aforesaid amount was proposed.

4. Learned counsel appearing on behalf of the Mid-day Meal submitted that sufficient reason has been assigned in the order contained in Letter No. 372 dated 10.02.2025 and as per the past several weeks assessment, it was found upon inspection that altogether 289 children used to be there at the time of Mid-day Meal and less than half the number of students were present on the date of inspection held in the year 2017, which shows that the petitioner, with *malafide* intention and to misappropriate the food materials, had exaggerated the number



of students in the attendance register and, as such, the order of recovery contained in Letter No. 372 dated 10.02.2025 cannot be said to be without authority of law.

5. Heard the parties.

6. Having considered the rival submissions made on behalf of the parties, as well as, materials available on record and I have perused the order contained in Letter No. 372 dated 10.02.2025. The assessment to impose penalty on the basis of suggestion of the District Programme Officer (Mid Day Meal Scheme), Kaimur, by the Director, Mid Day Meal, appears to be not on his own objective conclusion based on the material and evidence available on the record. There is no reference in the order about documents, which were produced and which were perused by the Director, Mid Day Meal. This Court doubts the conduct of the District Programme Officer (Mid Day Meal), who has admitted that in past, he has registered presence of 289 children average but allegedly found 132 out of 290.

7. Rule of law has been explained in several decisions. It has been clearly explained by the Supreme Court in the Constitution Bench judgment in the case of ***S.G. Jay Singh Vs. Union of India*** reported in ***AIR 1967 Supreme Court 1427*** that absence of arbitrary power is the first essence of the rule of



law. If the decision is taken without any principle or without any rule, it is unpredictable and is against the rule of law.

8. The order contained in Letter No. 372 dated 10.02.2025 appears to be non-speaking order passed in violation of *quasi-judicial* authority, I find that the same being penal in nature, cannot be sustained in the eye of law in want of any assessment on the basis of material. Accordingly, the order contained in Letter No. 372 dated 10.02.2025 is hereby set aside and quashed.

9. This Court finds it proper to suggest that extra duty cast upon the School Headmasters and teachers has not only affected the education of the children and the mandate of Right to Education Act, 2009 but at the same time, has given rise to malpractice at different level of officers in Education Department, Bihar. No doubt, the Government is under its obligation to take care of the nutrition of the children but at the same time, implementing the same must not effect the quality of education. The Headmaster of the school solely cannot be held responsible in alleged act of misappropriation of money, which is based on attendance of children. The role of the District Programme Officer (Mid Day Meal) is also doubtful in the present case against whom, in any inspection held earlier to the



present found no irregularity or misappropriation, which also require action in accordance with law.

10. Accordingly, the present writ petition stands disposed of.

(Purnendu Singh, J)

Niraj/-

AFR/NAFR	A.F.R.
CAV DATE	N/A
Uploading Date	29.04.2025
Transmission Date	N/A

