

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1832 of 2023

1. Nitish Kumar Son of Manoj Kumar Mandal Resident of illage Ghaghri, Police Station Raniganj, District Araria.
2. Shalu Kumar Sahay Son of Nirmal Kumar Sahay Resident of Village Vishunpura, Police Station Yadavganj, District Gopalganj
3. Rabindra Kumar Son of Manager Ray Resident of Village Jalalpur Police Station Sidhwaliya District-Gopalganj.
4. Rahul Kumar Son of Rajju Paswan Resident of Village Naudhariya, Police Station Bunly, District-Gaya.
5. Shankar Kumar Sah Son of Ganga Bishun Sah Resident of Village Bishunpura, Police Station Sidhwaliya District-Gopalganj.
6. Mritunjay Kumar Son of Dev Narayan Choudhary Resident of Village Babhani, Police Station Gambaria, District-Madhepura.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Revenue and Land Reforms Department, Government of Bihar, Patna.
3. The Director, Directorate of Land Records and Survey, Government of Bihar, Patna.
4. The Assistant Director, Directorate of Land Records and Survey, Government of Bihar, Patna.
5. The Assistant Settlement Officer, Supaul.
6. The Assistant Settlement Officer, Katihar.
7. The Assistant Settlement Officer, West Champaran at Bettiah.
8. The Assistant Settlement Officer, Kishanganj.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Ravindra Nath Dubey, Adv.
For the Respondent/s : Mr.Manoj Kumar Sinha, AC to SC 19

CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT

Date : 16-06-2026

Heard Mr. Ravindra Nath Dubey, learned
Advocate for the petitioners and Mr. Manoj Kumar Sinha,



learned Advocate for the State.

2. The petitioners are aggrieved by Memo No. 1818 dated 21.07.2022 issued by the respondent no. 3 so far it relates to the petitioners as also Letter No. 528 dated 29.07.2022, Letter No. 656 dated 23.08.2022 and Letter No. 657 dated 23.08.2022, whereby a direction has been given to recover the honorarium/salary paid to the petitioners on being found the very appointment of the petitioners is procured on the basis of educational certificates.

3. In terms with Advertisement No. 1 of 2019 issued by the Director, Directorate of Land Records and Survey, Government of Bihar, Patna, the petitioners applied for the post and after having participated in counselling, the appointment letter was issued on different dates to the petitioners for their appointment to the post of Special Survey Amin. The said appointment was contractual in nature for 11 months, which may be extended subject to the satisfactory performance to be assessed on periodic basis. Having been appointed on the aforesaid post, the petitioners have discharged the duty at different places and in the meanwhile the educational certificates of the petitioners, especially the certificate of B.Tech/Diploma in Civil



Engineering were sent for verification to the concerned Universities/Institutions. However, on being found that the certificates have not been issued by the respective Universities/Institutions, the services of altogether 78 persons have been terminated vide Memo No. 1818 dated 21.07.2022. The petitioners before this Court are also one of those.

4. By the aforesaid Memo No. 1818 dated 21.07.2022, it has been made clear that the certificates of the petitioners and others identically situated persons were sent for verification to the concerned University/Institutions. However, their certificates have not been approved and stated to be forged. On receipt of such verification report, show cause notices were issued to the petitioners but no satisfactory response has been found, which led to the termination of the contractual appointment of the petitioners with a further direction to recover the salary/honorarium paid to them.

5. Learned Advocate for the petitioners further submitted that since during the pendency of the present writ petition, certain subsequent development has taken place and, as such, he is confining the writ petition



only to the extent whereby direction has been issued to recover the amount paid to the petitioners for the services rendered by them after their appointment. It has been urged that a co-ordinate Bench of this Court vide its order dated 10.08.2023 in CWJC No. 3260 of 2023 has been pleased to set aside the identical order to the extent whereby recovery was directed on account of non-compliance of the principles of natural justice. Taking this Court through the decision aforenoted, learned Advocate for the petitioners, Mr. R.N. Dubey, further submitted that from the impugned order it appears that prior to the termination of the contractual appointment of the petitioners, though notices were served and duly represented individually but there is no consideration of the response filed by the petitioners. Moreover, there is no separate notice with respect to the recovery of the amount, which is distinct from the termination order, severely affecting the rights and entitlements of the petitioners.

6. On the other hand, learned Advocate for the State, dispelling the aforesaid contention submitted that once the petitioners have obtained the services based on forged educational certificate, in no circumstances, they are entitled



for any relief. Since the very appointment is *void ab initio*, the petitioners are not entitled to any salary, as the right to salary springs out from a valid appointment, which the petitioners do not have in the present case.

7. After having heard the rival submissions of the learned Advocates for the respective parties and on perusal of the impugned order, there is no doubt that prior to issuance of the termination order the petitioners were served with the notices. However, the notice does not even whisper that, in case show cause reply is found unsatisfactory, not only the contractual employment of the petitioners would be terminated, but the salary already paid to them would also be recovered. The show cause notice also does not contain the verification report submitted by the respective Universities through which it has been informed that the educational certificates of the petitioners have been found to be forged and fabricated. It would suffice to observe here that a show cause notice must not only contain the material facts which necessitated initiation of proceeding but also the proposed punishment, in case the reply/explanation of the persons charged is found to be unsatisfactory.

8. The co-ordinate Bench of this Court in CWJC



No. 3260 of 2023 also held that before recovery of the amount which has been paid to the incumbent in lieu of rendering their services, the principles of natural justice is required to be followed and an opportunity should be given by serving a separate show cause notice; but the same has not been done. On account of the aforesaid reasons, the learned Court held the order of recovery as unsustainable and accordingly quashed the same. However, the learned co-ordinate Bench has rightly not precluded the authorities concerned from proceeding by way of show cause after furnishing a copy of the letters received from the University. It would be worth benefiting to encapsulate the relevant paragraphs of the order of the learned co-ordinate Bench, which read as follows:

“5. On consideration of the rival submissions, this Court would find that in so far as the consequence of recovery is concerned, such penal consequences cannot be inflicted on the petitioners based on replies dated 4-9-2021 and 9-9-2021 sent by the University, wherein they have stated that the petitioners' certificates are not confirmed from the records in the University, simply for the reason that copy of these letters have not been made available to the petitioners and no opportunity has been given to the petitioners to even submit a show-cause in respect of the said communications issued by the University. Nonetheless the moment the



petitioners are to be visited with penal consequences, at least the authorities are required to comply with the principles of natural justice by issuing a show- cause with reference to the letters received from the University denying the petitioners' diploma.

6. The impugned order dated 15-12-2021, insofar as the consequence of recovery of amounts paid to the petitioners during their contractual services is concerned, is unsustainable and hereby quashed. No recovery is to be made on the basis of the said order from the petitioners.

7. The authorities, however, are not precluded from proceeding by way of show-cause after furnishing a copy of the letters received from the University.”

9. In view of the aforesaid discussions and to maintain uniformity with the petitioners of the present case along with those of CWJC No. 3260 of 2023, this Court finds and holds the impugned order to the extent whereby recovery has been sought to be directed without issuance of appropriate show cause notice unsustainable and fit to be interfered with. Accordingly, the impugned order to the extent whereby recovery has been sought for is hereby set aside. However, it is made clear that the authorities are not precluded from proceeding by way of proper show cause after furnishing a copy of the letters received from the University.



10. The writ petition stands allowed to the extent indicated hereinabove.

(Harish Kumar, J)

Anjani/-

AFR/NAFR	
CAV DATE	
Uploading Date	17.06.2026
Transmission Date	

