

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12848 of 2019

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1. Meera Kumari W/o Anil Kumar Resident of Balajee Extention, P.S. Bhagwanpur, District- Baranasi, presently residing at village- sinduari, P.S.- Konch, district- Gaya.
 2. Devendra Kumar Singh S/o Chhedi Singh Resident of Village- Tilori, P.S.- Paraiya, district- Gaya.

... .. 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 Primary Education, Bihar, Patna.
4. Accountant General Bihar, Patna.
5. District Magistrate Gaya.
6. The District Education Officer Gaya.
7. The District Programme Officer (Establishment) Gaya.
8. The Treasury Officer Gaya.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Dharmendra Kumar Raju, Advocate
For the AG	:	Mrs. Nivedita Nirvikar, Sr. Advocate
		Mr. Shashank Shekhar, Advocate
For the Respondent/s	:	Mr. Subhash Chandra Mishra (SC-16)

CORAM: HONOURABLE MR. JUSTICE AJIT KUMAR
ORAL ORDER

8 20-07-2026 Heard learned counsel for the petitioner and learned
counsel for the Respondents-State.

2. The instant writ application has been filed for the
following relief(s):-

(i) For commanding/direction upon the respondents authorities to fix Graduate Trained pay scale of the petitioners by adding an amount equal to the last increment in the time scale of the lower post in view of Bihar Taken Over Elementary School Teachers' Promotion Rules, 1993 as well as rule 22(1)(a)(1) of "The



Fundamental Rules”.

(ii) For commanding/direction upon the respondents authorities to not recover excess amount of pay on account of alleged wrong fixation of pay of the petitioners in Graduate Trained pay scale, which was fixed by adding an amount equal to the last increment in the time scale of the lower post.

(iii) For commanding the respondent authorities to grant all consequential benefits including the difference of arrears of salary from the due date of promotion in Graduate Trained scale as well as revision of pension and to refund the recovered amount, including payment of difference of arrears of pension.

(iv) To any other relief(s) to which the petitioners are found entitled in law in the facts and circumstances of the present case.

3. Learned counsel for the petitioner with regard to the recovery, which is sought to be made from petitioner No.1 to the tune of Rs.69,073/-, submits that such recovery has been directed without following the principles of natural justice and even no procedures known to law were adopted.

4. Taking note of such submission made by the counsel for the petitioner, this Court directed the counsel for the State to file an affidavit explaining the reasons of recovery and as also the procedures so adopted and the order passed 03.02.2026 is reproduced hereunder:-

Learned counsel for the State is directed



to bring on record the materials based on which the recovery to the tune of Rs.69,073/-, is said to have been made.

2. While filing such response, the State authorities would be obliged to bring on record the procedures adopted for quantifying such amount and the reasons for such recovery shall also be placed on record for further consideration by this Court on the next date of hearing.

3. List this case on 17.02.2026.

5. Learned counsel for the State does not dispute the contention of the petitioner and by referring to the statement made in supplementary counter affidavit at Para-5 and 9, which has been filed in compliance of the order dated 03.02.2026, submits that a thorough search and verification of relevant records was undertaken in the office of the answering respondents to ascertain factual and documentary basis for recovery made against the petitioner No.1 and on verification, it has been found that rectification was made as per the discrepancies pointed out by the Office of Accountant General and there is nothing on record to show that the petitioner No.1 was ever given hearing.

6. Having considered the stand taken in the supplementary counter affidavit, said to have been filed on behalf of the District Programme Officer, Gaya, in which there is no denial of the violation of principles of natural justice at the level of the Authorities, as has been submitted by the counsel for



the petitioner, indicated as aforesaid, therefore, in view of Hon'ble Apex Court judgment rendered in the case of Thangam and Anr. Vs. Navamani Ammal in Civil Appeal No. 8935 of 2011 (2024 INSC 164), wherein it has categorically been held that if there is no specific denial to averments made by the petitioner, the same shall be deemed to have been accepted.

7. In view of the stand of the parties, since the specific averment of the petitioner that the recovery so directed is in violation of the principles of natural justice and same having not been denied by the respondents, this Court is convinced that there has been infraction of the procedure established in law, while effecting the recovery from petitioner No.1.

8. In so far, the other reliefs sought by these petitioners are concerned, with regard to promotion and consequential benefits, it is made clear that once appropriate representation is made by these petitioners, individual cases, shall be examined, of both the petitioners in terms of the provisions of Bihar Taken Over Elementary School Teachers' Promotion Rules, 1993 and in the event, if these petitioners are found to have already obtained graduate training, and the eligibility for grant of graduate trained pay scale is not under dispute, in such event, necessary orders shall be passed within a



period of eight weeks from the date of such representation.

9. Since, the recovery was directed pursuant to the fixation, and there is no material to show that there was any misrepresentation on the part of these petitioners, and admittedly, no established procedure was adopted to fasten such liability upon them, the recovery so directed from petitioner No.1 is set aside. If any recovery has already been made, the same shall be refunded. However, fixation, in accordance with the applicable rules and the entitlement of these petitioners, may be carried out in accordance with law after affording an opportunity of hearing to the petitioners.

10. With the aforesaid observations and directions, the present writ petition stands disposed of.

(Ajit Kumar, J)

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