

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3371 of 2026

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1. Vijay Kumar Son of late Siya Sharan Prasad Singh, Resident of Village Boria Dih Ward no.-07, P. S. Samastipur, District - Samastipur.
 2. Ejaj Ahmed, son of Abdur Rahim, resident of Mohalla Ward no. 01, Bardauni 2. P.S Bithan, District - Samastipur.
 3. Md. Wokeel Ahmad, son of Late Solim Moayb Yaqub, resident of Village Dharampur, P. S. Samastipur, District Samastipur.
 4. Surendra Razak, son of Late Jungi Baitha, resident of Village Wajitpur, P. S Ujiyarpur, District Samastipur.
 5. Smt. Urmila Kumari Devi, wife of Surendra Razak, resident of Village-Wajitpur, P.S Ujiyarpur, District - Samastipur.
 6. Md. Imam Afzal, Son of Md. Anwarul Haque, resident of Village Ward no.-02, Rahua P. S. Samastipur, District - Samastipur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Additional Chief Secretary, Education Department, Govt. of Bihar, Patna.
2. The Additional Chief Secretary, Education Department, Govt. of Bihar, Patna.
3. The District Magistrate, Samastipur.
4. The District Education Officer, District - Samastipur.
5. The District Programme Officer (Establishment), District-Samastipur.
6. The Accountant General (A and E), Bihar, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Shailendra Kumar, Adv.
For the Respondent/s	:	Mr. Addl. Advocate General (13)
For the AG	:	Mr. Arun Kumar Arun, Adv.

CORAM: HONOURABLE MR. JUSTICE AJIT KUMAR
ORAL ORDER

2 11-03-2026 In this writ petition, the petitioners have prayed for the following relief:-

“(i) For issuance of writ in the nature of Certiorari to quash the letter no.- 202211101794PO dated- 23.05.2022, letter no.-10/ PEN 030222101285 /



202211101462 PO dated 16.03.2022, letter no.- 202211101711PO dated 02.05.2022, letter no.- 10/PEN 060722102749 / 202211102205PO dated-27.08.2022, letter no. 202211102152PO dated - 20.08.2022 letter no.- 10 / PEN 300124101397/202211101810P1 dated 01.03.2024, whereby and whereunder the respondent no.- 6 has issued an order for recovery from the Gratuity / death cum gratuity of the petitioners which is in the teeth of the order dated- 23.09.2022, passed by the Hon'ble High Court in C.W.J.C No.- 2783 of 2021 (Chandrakant and others Vs. The State of Bihar and others) with analogous cases.

(ii) For a direction to the respondent authorities to refund the total amount with penal interest to the petitioners which has been recovered without reason and the recovery order is in the teeth of the order of the Hon'ble High Court.”

2. Counsel for the petitioners submits that the instant case is squarely covered by the judgment dated 23.09.2022 rendered by the Co-ordinate Bench of this Court in the case of Chandrakant & Ors. Vs. The State of Bihar & Ors. and other analogous cases, wherein, the Co-ordinate Bench has been pleased to pass the following order;

“28. In the opinion of this Court, therefore, merely because the decision would affect several teachers who have been wrongly granted said benefit and who have also retired, illegality cannot be allowed to be perpetuated.



29. The prayer to quash the letter, dated 10.11.2020, is therefore liable to be rejected.

30. However, in the case of Syed Abdul Quadir (*supra*) the Supreme Court examined whether recoveries are required to be made in such circumstances and found that the fault does not lie with the individual teachers to whom the benefit has already been advanced and, therefore, any amount which has already been released is not required to be recovered. The view expressed in the case of Syed Abdul Quadir has been reiterated by the Apex Court in the case of **State of Punjab & Ors. Vrs. Rafiq Masih (white washer) & Ors.** reported in (2015) 4 SCC 334 and further again reiterated in the case of **Thomas Daniel Vrs. State of Kerala & Ors.** reported in 2022 SCC Online SC 536 wherein it has been held as under:

"14. Coming to the facts of the present case, it is not contended before us that on account of the misrepresentation or fraud played by the appellant, the excess amounts have been paid. The appellant has retired on 31.03.1999. In fact, the case of the respondents is that excess payment was made due to a mistake in interpreting Kerala Service Rules which was subsequently pointed out by the Accountant General."

31. In view of the above, the contention raised by the petitioners of having benefit of ACP Scheme or MACP Scheme fails and the order passed by the respondents, dated 10.11.2020 and consequential orders thereto are upheld holding that the petitioners would only



be entitled to the benefits granted to them under Circular, dated 16.11.2000.

32. However, it is further held that the petitioners and other teachers who were wrongfully granted benefit of ACP/MACP would have to get their pay fixation revised and if they have retired, their pension would also be accordingly revised. But, no recovery shall be made for the extra amount which they have received.

33. All writ petitions are accordingly decided. No costs.”

3. Counsel for the petitioners further submits that the relief in the instant writ petition is only with regard to the recovery order passed by the respondents which is in the teeth of the order of the Hon’ble Apex Court in the case of ***State of Punjab & Ors. vs. Rafiq Masih (white washer) & Ors.*** reported in ***(2015) 4 SCC 334*** and ***Thomas Daniel Vs. State of Kerala & Ors.*** reported in ***2022 SCC Online SC 536*** and as also the order passed by the Co-ordinate Bench in the case of Chandrakant (supra).

4. On the other hand, counsel for the State submits that since the issues have already been put at rest by the Co-ordinate Bench relying upon the various judgments passed by the Hon’ble Apex Court and the said order has attained finality, there is no reason for taking a divergent view in the case of the petitioners.



5. Considering the fact that the issues have already been put at rest and the recovery, which is said to have been made from the death-cum-retiral gratuity of the petitioners has already been held to be in teeth of the order dated 23.09.2022 passed by the Co-ordinate Bench of this Court in the case of Chandrakant (supra), this Court has no hesitation in granting the similar relief to the petitioners and, accordingly, the letter nos. 202211101794PO dated-23.05.2022, letter no.-10/ PEN 030222101285 /202211101462 PO dated 16.03.2022, letter no.- 202211101711PO dated 02.05.2022, letter no.- 10/PEN 060722102749 / 202211102205PO dated-27.08.2022, letter no. 202211102152PO dated 20.08.2022 letter no.- 10 / PEN 300124101397/202211101810P1 dated 01.03.2024 are quashed.

6. Accordingly, the writ petition stands allowed.

(Ajit Kumar, J)

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