



2026:CGHC:21466

HIGH COURT OF CHHATTISGARH, BILASPUR

Order Sheet

W.P.(S) No. 4179 of 2022

Kamlesh Kumar Soni S/o Late Shri Darbari Lal Soni Aged About 78 Years R/o Old Sarkanda, Near Shivghat, Koni Road, Bilaspur, Distt. Bilaspur, Civil And Revenue Distt. Bilaspur (C.G.)

---- **Petitioner**

Versus

1. State of Chhattisgarh Through - Secretary, School Education Department, Mahanadi Bhavan, Mantralaya, Atal Nagar, New Raipur (C.G.)
2. The Director School Education Department, Indrawati Bhavan, Mantralay, Atal Nagar, New Raipur (C.G.)
3. The Accountant General Zero Point, Baloda Bazar Road, Raipur, District : Raipur, Chhattisgarh
4. The District Treasury Officer Bilaspur Distt. - Bilaspur, District : Bilaspur, Chhattisgarh
5. The Principal Govt. Higher Secondary School, Chapora, (Via Ratanpur), District : Bilaspur, Chhattisgarh

---- **Respondents**

<u>22/06/2022</u>	Mr. M.K. Sinha, counsel for the petitioner. Mr. Sunita Jain, G.A. for the State-respondents No.1, 2, 4 & 5. Mr. R.K. Gupta, counsel for respondent No.3. Heard. Admit. Also heard on application for grant of interim relief.



It is submitted by the learned counsel for the petitioner that the petitioner has retired from the post of Accountant from the institution of respondent No.5 on 31.10.2004. After passing of about more than 17 years, the recovery order has been issued, which is dated 26.04.2022 directing recovery of Rs.1,98,788/- on the ground that some excess payment has been made to the petitioner.

It is submitted that according to the ratio laid down by the Supreme Court in case of **State of Punjab Vs. Rafiq Masih**, reported in **(2015) 4 SCC 334**, no such recovery can be made from a retired Clause-III or Clause -IV employee after his retirement. Hence, interim relief be granted.

Learned State counsel appearing for respondents No.1, 2, 4 and 5 opposes the submissions.

Learned counsel for the respondent No.3 also opposes the submission and submits that the ground on which the recovery order has been passed is different as some excess payment has been made to the petitioner. Hence, ratio laid down by the Supreme Court in **Rafiq Masih** (supra) will not be applicable. Time may be granted for filing reply.

After considering on the submissions, it is ordered that recovery proceeding on the basis of the impugned order shall remain stayed until the next date of hearing.

In the meanwhile, the reply may be filed by the respondents.

List this case after four weeks.

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Sd/-
(Rajendra Chandra Singh Samant)
Judge