

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2214 of 2017

1. Md. Manzer Alam, Son of Md. Yasin Resident of village Satal Nihal Bhag P.O. P.S. Bahadurganj District Kishanganj, At present Science Teacher Madarsa Fazilatul Isla, Shekaur P.O. Natwapa P.S. Bahadurganj District Kishanganj Madrasa No. 445.
2. Anisur Rahman son of Md. Quamuiddin Resident of village Palaimani Ward No. 2, P.O. P.S. Bahadurganj District Kishanganj, At present Science Teacher, Madarsa Hibgjul Aqugdul Hakka Kanhaiya Bari Koacha Dhaan Madrasa No. 484.
3. Naim Akhtar Son of Jasiruddin Resident of Kumhar Toli P.O. Meharganj, P.S. District Kishanganj, At present Science Teacher Madrasa Imdadia Kumhar Toli P.O. Meharganj, P.S. District - Kishanganj Madrasa No. 501.
4. Zikrul Haque Son of Late Md. Siddique Resident of Village Khahtrahi, P.O. Hafania, P.S. Baisi District Purnea, At present Science Teacher Madrasa Noorul Islam Patalwa, P.O. Shurjapur P.S. Kishanganj District Kishanganj Madrasa No. 704.
5. Md. Khalilur Rahman Son of Md. Suleman Resident of village Chandra Gaon P.O. Loucha, P.S. Bahadurganj, District Kishanganj.
6. Md. Samsul Haque Son of Abdul Guffar Resident of Village Mahesh Bathna P.O. Mahesh Bathna P.S. Bahadurganj, District Kishanganj.
7. Izharul Hussain son of Mohiuddin Resident of village Dehal Bari P.O. Singhiya, P.S. Pahar Katta District Kishanganj At present Science Teacher Madrasa Islamia Hanfiya Belpokhar P.O. Panasi Hat P.S. Pahar Katta District Kishanganj M.N. 569.
8. Md. Iftewkhar Alkam Son of Md. Sarfuddin Resident of village Sohagi, P.O. Chattargach, P.S. Poothiya, District Kishanganj at present Science Teacher Madrasa Noore Tanjumia Kathal Bari Idgah P.S. Chattargach District Kishanganj, Madrasa No. 603.
9. Md. Maimur Sultan Son of Md. Abdul Hussain Resident of Village Mahat Gach P.O. Chattargach, P.S. Pothiya District Kishanganj at present Science Teacher Madrasa Islamia Muksubia Nawnadi P.O. Chhatargach P.S. Pothiya District Kishanganj Madrasa No. 740.
10. Ahmad Reza Son of Zainul Abidin Resident of Village Post Pahar Katta, P.S. Pahar Katta District Kishanganj, At present Science Teacher Madrasa Tajijul Qurir Pahar Katta District Kishanganj, Madrasa No. 990.
11. Md. Shabbir Alam Son of Md. Rakibuddin Resident of Village P.O. Jhala, P.S. Teragachh District Kishanganj, At present Science Teacher Madrasa Mohsania Sihia Hat Chilhania P.O. Matiyari, P.S. Teragachh District Kishanganj Madrasa No. 498.
12. Md. Mansoor Alam Son of Md. Mozibur Rahman Resident of Village Malin Gaon, P.O. Pawwa Khali, P.S. Pawwa Khali District Kishanganj, At present Science Teacher Madrasa Asrafia Malin Gaon P.O. P.S. Pawwa Khali District Kishanganj Madrasa No. 1250.
13. Shamim Azar Son of Alauddin Ahmad Resident of Village Dola P.O. Hatwar, District Kishanganj, At present Science Teacher Madrasa Darul



Uloom Kathaliya Porla Bari P.S. District Kishanganj, Madrasa No. 536.

14. Md. Washique Aklam Son of Ainul Haque Resident of Village Belka P.O. Dalmarpur Hat P.S. Aour District Purnea At present Science Teacher Madrasa Majharul Islam Dalmalpur Hat P.S. Amour, District Purnea, Madrasa No. 354.
15. Md. Siddique Salam Son of Allauddin village Birpur P.O. Bisanpur, P.S. Bahadurganj, At present Science Teacher Madrasa Islamia Tanjimul Birpur Bahadurganj, Kishanganj Madrasa No. 489.
16. Shoaib Ahmad son of Jarjis Ahmad Resident of Village P.O. - Ruidhasa, P.S. Thakurganj, District Kishanganj, At present Science Teacher Madrasa Abibia Kashibari Bangdogra, P.O. Ruidhasa, P.S. Thakurganj, District Kishanganj Madrasa No. 585.
17. Hurmtaul Ekram Son of Md. Hasibur Rahman Resident of Village Sunghari P.O. Piyaji District Purnea, At present Science Teacher Madrasa Imdadul Muslamini At Singhari, P.O. Piyaji, P.S. Rouda, District Purnea.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. The Special Director Secondary Education, Bihar, Patna.
3. The Chairman, Bihar State Madrasa Education Board, Patna.
4. The Secretary Bihar State Madrasa Education Board, Patna.
5. The Govt. of India through Secretary Human Resources Development Department, Education Department,

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Md. Ziaul Quamar, Advocate
For the State	:	Mr.Prabhakar Jha-GP-27
For UOI	:	Mr. S.D.Sanjay, Addl. S.G.
		Mrs. Puman Kumari Singh, CGC
For Madarsa Board	:	Mr. Shahzad Hassan Khan, Advocate

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY
ORAL ORDER

8 01-08-2019 Heard learned counsel for the petitioners, Central Government, State Government and the Madarsa Board.

The petitioners have filed the present writ petition for a direction to the respondents to pay arrears of salary as the petitioners claim that they have been appointed under the



scheme of the Central Government as Science Teachers.

Learned counsel for the petitioners submits that the Central Government has allocated fund for payment of salary to the teachers appointed under the scheme in different Madarsas but notwithstanding the decision of the Special Director and the recommendation of the District Programme Officer, Kishanganj, payment has not reached to the petitioners.

Mr. S.D. Sanjay, learned Additional Solicitor General assisted by Mrs. Punam Kumari Singh, CGC would submit that the Central Government has already released the fund and has nothing to do with the grievance raised by the petitioners as there is no allegation that the fund was not released by the Central Government.

Learned counsel appearing on behalf of the State would submit with reference to paragraphs 7 to 10 of the counter affidavit that the claim of these petitioners is unsustainable. For ready reference paragraphs 7 to 10 of the counter affidavit is quoted below:

“7. That the background of the matter is that the Government of India launched the scheme of Area Intensive Programme for Educationally Backward minorities in 1993 and Financial Assistance for Modernization of Madarsas in 1994. In 2002-03, a new



Scheme Area Intensive and Madarsa Modernization Programme (AIMMP) was launched by clubbing above said both schemes. The objective of the AIMMP was to provide basic educational infrastructure and facilities in areas of construction of educationally backward minorities which do not have adequate provision for elementary and secondary education. The Area Intensive and Madarsa Modernization Programme (AIMMP) was recast into two schemes in 2008-09, namely, the (a) Scheme of Providing Quality Education in Madarsas (SPQEM) and (b) Scheme for Infrastructure Development in Private Aided/Unaided Minority Institutes (IDMI).

8. That objective of the SPQEM is to encourage traditional institutions like Madarsas and Maktabas to introduce modern subjects in their curriculum for academic proficiency. The scheme provides opportunities to students of these institutions to acquire education comparable to the National Education System especially for secondary and senior secondary levels.

9. That the instant petitioners are claiming that they were appointed by the different managing committee of the concerned Madarsas in view of the aforesaid programme launched in the year 1998 but it



is a fact that those persons who were appointed under the said scheme have already been paid. The answering deponent further humbly submits that from the perusal of the annexure 2 of the writ application it is apparent that any proposal received after 30.08.2001 with respect to the appointment which had been made by the managing committee of the concerned Madaras would not be considered at the level of the Education Department and accordingly the proposal related to these petitioners was never received with respect to their claim through proper channel and as such in the year 2018 their claim cannot be entertained.

10. That it is further pertinent to submit here that in the year 2014 the first time the DPO Kishanganj had sent a letter to the Secretary, Madarsa Board in which it had been stated that these petitioners are working in the concerned Madaras as a science teacher in view of the advertisement of annexure 2 of the writ application which cannot be appreciated itself in view of the condition laid down in the said advertisement and as such the present writ application is totally misconceived and as such deserves to be dismissed.

Learned counsel appearing on behalf of the petitioners



would submit that the affidavit filed by the Special Director referring to the lapses of the District Programme Officer that the basis of the claim of the petitioners is thoroughly misconceived and unsustainable as no action was taken against the District Programme Officer, Kishanganj or the Special Director who has passed order or recommended the case of the petitioner and in such a situation denying benefit of salary to the petitioners on the ground of doubt created by the District Programme Officer or the Special Director is unsustainable.

As indicated above, the Central Government has already released fund. It is only the problem of the State and its instrumentality in distribution of the fund received from the Central Government. There is claim and counter claim based on the recommendation or the decision of the District Programme Officer, Kishanganj as well as the Special Director.

Under the aforesaid circumstances, the Court is constrained to dispose of the present writ petition with a direction to the Principal Secretary, Education Department to cause an enquiry and decide the claim of the petitioners at the earliest preferably within a maximum period of 3 months from the date of receipt/production of a copy of this order.

In the event the Principal Secretary comes to the



conclusion that the then District Programme Officer, Kishanganj and the then Special Director have passed any order or recommended the case of the petitioners contrary to the record, it shall be his obligation to take appropriate action for attempt to misuse the public fund. In the event it is found that the claim of the petitioners is well founded, he shall ensure payment of salary for the period the petitioners have worked as Science Teacher in the concerned Madarsas. Necessary decision after enquiry may be taken by the Principal Secretary within the time frame indicated above.

With the aforesaid, the writ petition stands disposed of.

(Anil Kumar Upadhyay, J)

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