

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.12758 of 2021**

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1. Rajeshwar Roy son of Bhola Roy, resident of B.N. Mandal University, Ward No. 01, P.O. and District- Madhepura, Pin Code- 852113.
2. Chandra Kishor Gupta son of Bhim Prasad Gupta resident of Near Sader Hospital, Ward No. 13, Main Road, P.O., P.S. and District- Madhepura, Pin Code- 852113.
3. Bimal Kishor Bimal son of Yogendra Narayan Yadav resident of Near Electricity Board, Ward No. 01, North of Electricity Board, P.O., P.S. and District- Madhepura, Pin Code- 852113.
4. Narendra Kumar son of Premchandra Mandal resident of Ward No. 04, Krishnapuri Mohalla, P.O., P.S. and District- Madhepura, Pin Code- 852113.
5. Rajesh Kumar son of Krishna Kumar resident of B.N. Mandal University, Ward No. 01, P.O., P.S. and District- Madhepura, Pin Code- 852113.
6. Santosh Kumar son of Mithu Prasad Yadav resident of Ward No. 01, Village-Navatoliya, P.O., P.S. and District- Madhepura, Pin Code- 852113.
7. Viveka Nand son of Rameshwar Prasad Yadav resident of Mahavir Sadan, Ward No. 05, Professor Colony, P.O., P.S. and District- Madhepura, Pin Code- 852113.
8. Ghanshyam Kumar Roy son of Rajendra Prasad Ward No. 01, resident of B.N. Mandal Campus Qr No. 23, P.O., P.S. and District- Madhepura, Pin Code- 852113.
9. Hari Kumar son of Late Basudev Yadav resident of Ward No. 05, Village-Tetrahi, P.O., P.S.- Ladugarh, Banmankhi, District- Purnea, Pin Code- 854202.
10. Jawahar Lal son of Jagdish Prasad Yadav, resident of P.O.- Gamharia, P.S.- Rampur, District- Saharsa, Pin Code- 852221.
11. Rajesh Kumar Singh son of Rambhadur Singh resident of Ward No. 01, Navtolia, P.O., P.S. and District- Madhepura, Pin Code- 852113.
12. Hirendra Kumar Mandal son of Shivnarayan Mandal resident of Ward No. 10, P.O.- Murho, P.S. and District- Madhepura, Pin Code- 852114.
13. Birendra Kumar son of, resident of Ward No. 06, P.O.- Bariyahi, P.S.- Jitapur, District- Madhepura, Pin Code- 852114.
14. Devendra Prasad Yadav son of Maheshwar Prasad Yadav, resident of 104, Main Road, B.N. Mandal University, Ward No. 01, P.O., P.S. and District- Madhepura, Pin Code- 852113.
15. Kamal Kishor Yadav son of Janardan Prasad Yadav resident of By Pass Road, Ward No. 18, Vidyapuri Mohalla, P.O., P.S. and District- Madhepura, Pin Code- 852113.
16. Chandra Shekhar Pandey son of Tarkeshwar Pandey resident of 91 Korara, P.O.- Kodara, P.S.- Kushinagar, Bankata Bharpurawa, District- Uttar Pradesh, Pin Code- 274149

... .. Petitioner/s



Versus

1. The State of Bihar through the Additional Chief Secretary, Education Department, Bihar, Patna.
2. Director, Higher Education, Bihar, Patna.
3. B.N. Mandal University, Madhepura through its Registrar.
4. Vice Chancellor, B.N. Mandal University, Madhepura
5. Registrar, B.N. Mandal University, Madhepura

... .. Respondent/s

with

**Civil Writ Jurisdiction Case No. 13446 of 2021**

1. Dayanand Kumar, Son of Late Parmeshwar Prasad Yadav, Resident of Professor Colony, Ward No. 5, At., P.O., P.S. and District - Madhepura.
2. Abhay Kumar, Son of Sri Bhupendra Prasad Yadav, Resident of Village - Rampur, Ward No. 5, P.S. - Rampur, District - Madhepura.
3. Suren Singh, Son of Sri Kamal Singh, Resident of Ward No. 1, Patharaha, P.S. and District - Madhepura.
4. Ravindra Kumar, Son of Sri Sukhdeo Yadav, Resident of Berava, Ward No. 7, P.S. - Matiahi, District - Madhepura.
5. Yogendra Mahto, Son of Sri Bhagwan Mahto, Resident of Tulsibari, Rajpur Maliya, Belhaghat, P.S. - Shakarpur, District - Madhepura.
6. Mahesh Kumar Yadav, Son of Sri Shiv Lal Yadav, Resident of Navtoliya, Ward No. 1, Nagarparishad, Madhepura, P.S. and District - Madhepura.
7. Ashok Kumar Keshri, Son of Sri Lalbabu Keshri, Resident of Ward No. 18, Gudri bazar, Main Road, Madhepura, P.S. and District - Madhepura.
8. Md. Gaffar Alam, Son of Md. Habib Alam, Resident of Purani Bazar, Ram Rahim Road, Ward No. 4, Madhepura, P.S. and District - Madhepura.
9. Ram Naresh Bharti, Son of Sri Anirudh Prasad Yadav, Resident of Ward No. 1, Nav Toliya, Madhepura, P.S. and District - Madhepura.
10. Rajesh Kumar, Son of Sri Bhupendra Prasad Yadav, Resident of Aadarsh Nagar, Ward No. 8, Madhepura, P.S. and District - Madhepura.
11. Shambhu Yadav, Son of Sri Dashrath Yadav, Resident of Ward No. 15, S.H. 55, Kankaul, P.S. - Chilmil, District - Begusarai.
12. Ravindra Kumar, Son of Sri Deep Narayan Yadav, Resident of Navtoliya, Ward No. 1, Nagar Parishad, Madhepura, P.S. and District - Madhepura.
13. Ganesh Kumar, Son of Sri Dukha Yadav, Resident of Ward No. 2, Navtoliya, Madhepura, P.S. and District - Madhepura.
14. Md. Irshad, Son of Md. Sahid, Resident of Ward No. 15, Majarhat, Ishlampur, P.S. - Singheshwar, District - Madhepura.
15. Pawan Kumar, Son of Sri Chandra Kishore Yadav, Resident of Ward No. 1, Village and P.O. - Jairam Parsi, Chatra, P.S. - Gwalpara, District - Madhepura.



16. Janeshwari Yadav, Son of Sri Badaur Yadav, Resident of Ward No. 1, Navtoliya, Nagar Parishad Madhepura, P.S. and District - Madhepura.
17. Jay Krishna Yadav, Son of Late Mithu Mandal, Resident of Ward No. 1, Navtoliya, Nagar Parishad Madhepura, P.S. and District - Madhepura.
18. Abdul Sattar, Son of Md. Jumrati Marham, Resident of Tikuliya, Ward No. 8, P.S. - Bishunpur Sundar, District - Madhepura.
19. Murlidhar Yadav, Son of Vijendra Yadav, Resident of Ward No. 12, Manhara, P.O. - Sukhasan Barhi, Madhepura, P.S. - Hasanpur, District - Madhepura.
20. Surendra Kumar, Son of Sri Malik Prasad Yadav, Resident of Ward No. 13, Basdewa, Madhepura, P.S. and District - Madhepura.
21. Sachidanand Yadav, Son of Sri Bandelal Yadav, Resident of Bela Naubad, P.S. - Bela Nawada, District - Khagaria.
22. Md. Shahid, Son of Md. Suleman, Resident of Ward No. 15 Majarhat, Tola - Ishlampur, P.O. and P.S. - Singheshwar, District - Madhepura.
23. Shyam Sundar Sah, Son of Sri Sita Ram Sah, Resident of Ward No. 06, Shakarpura, P.S. and District - Madhepura.
24. Sajjan Kumar, Son of Sri Sukhdeo Yadav, Resident of Ward No. 07, Mathahi, P.S. - Mathahi, District - Madhepura.
25. Parmeshwari Sharma, Son of Mungalal Sharma, Resident of Ward No. 04, College Chowk, Belhaghat, Nagar Parishad Madhepura, P.S. and District - Madhepura.
26. Jojan Thakur, Son of Sri Jayanti Thakur, Resident of Ward No. 2, Navtoliya, Madhepura, P.S. and District - Madhepura.
27. Md. Kalamuddin, Son of Md. Jamaluddin, Resident of Naulakhiya, Ward No. 1, Nagar Parishad, Madhepura, P.S. and District - Madhepura.
28. Gauri Shankar Poddar, Son of Sri Ganesh Poddar, Resident of Navtoliya, Ward No. 1, Near University, Madhepura, P.S. and District - Madhepura.
29. Raj Kishore Kamti, Son of Sri Ram Prasad Kamti, Resident of Pastpar, Ward No. 11, Patarghat, Saharsa, P.S. and District - Saharsa.
30. Halim Hassan, Son of Md. Alijan, Resident of Naulakhiya, Ward No. 1, Nagar Parishad, Madhepura, P.S. and District - Madhepura.
31. Kumar Pushpraj Pratap, Son of Sri Kaleshwar Sah, Resident of Ward No. 5, Rajni Babhangama, P.S. and District - Madhepura.
32. Ratan Kumar, Son of Late Sukhdeo Yadav, Resident of Village - Bairwa, P.O. - Mathahi, P.S. and District - Madhepura.
33. Kusheshwar Yadav, Son of Sri Chhedi Yadav, Resident of Pathraha, Ward No. 04, Nagar Parishad Madhepura, P.S. and District - Madhepura.
34. Dashrath Yadav, Son of Sri Anuplal Yadav, Resident of Ward No. 15, Kankule, P.S. - Chilmil, District - Begusarai.
35. Binod Yadav, Son of Sri Lakshman Prasad Yadav, Resident of Ward No. 1, Navtoliya, Nagar Parishad Madhepura, P.S. and District - Madhepura.
36. Santosh Kumar Rajak, Son of Dhanik Lal Rajak Resident of Jajhat Sabela, Ward No. 11, P.S. -Singheshwar, District - Madhepura.



37. Sushil Mallik, Son of Sri Boku Malik, Resident of Ward No. 4, Madanpur Barahi, P.S. - Barahi, District - Madhepura.
38. Shatrughan Ram, Son of Sri Jagdish Ram, Resident of Tulsibari, Raipur Maliya, Gosai Tola, Ward No. 5, P.S. - Shakarpur, District - Madhepura.
39. Lalan Mallick, Son of Sri Turanti Mallick, Resident of Gaushala Chowk, Ward No. 4, Nagar Parishad Madhepura, P.S. and District - Madhepura.
40. Ravindra Kumar Rajak, Son of Sri Narayan Rajak, Resident of Jajhat Sabaila, Ward No. 11, P.S. - Singheshwar, District - Madhepura.
41. Ranjit Mallik, Son of Fuleshwar Mallik, Resident of Ward No. 4, Krishnapuri Mohalla, P.S. and District - Madhepura.
42. Shanti Devi, Wife of Sri Gauri Shankar Poddar, Resident of Near University, Ward No. 1, Navtoliya, P.S. and District - Madhepura.

... .. Petitioner/s

Versus

1. The State of Bihar, through the Additional Chief Secretary, Education Department, Govt. of Bihar, Patna.
2. The Director, Higher Education, Govt. of Bihar, Patna.
3. Bhupendra Narayan Mandal University, Madhepura through its Registrar, P.O., P.S. and District - Madhepura.
4. The Vice-Chancellor, B.N. Mandal University, Madhepura, P.O., P.S. and District - Madhepura.
5. The Registrar, B.N. Mandal University, Madhepura, P.O., P.S. and District - Madhepura.

... .. Respondent/s

with

**Civil Writ Jurisdiction Case No. 13843 of 2021**

1. Bimal Kumar, Son of Sri Ramesh Singh, Resident of Mohalla - Vishwanath Nagar, Ward No. 23, P.O., P.S. And District - Begusarai.
2. Sudhir Kumar, Son of Sri Baikunth Sah, Resident of Village - Majarahat, Ward No. 14, P.O.- Majarahat, P.S. - Singheshwar, District - Madhepura.
3. Vikash Kumar, Son of Sri Basant Sah, Resident of Mashraf Bazar, Ward No. 10, P.O. - Lalbagh, P.S. - Town, District - Darbhanga.
4. Upendra Kumar, Son of Sri Ramchandra Paswan, Resident of Sundarpur Bela, Ward No. 02, P.O. - Lalbagh, P.S. - LNMU Campus, District - Darbhanga.
5. Dinkar Kumar, Son of Sri Rajendra Paswan, Resident of Village - Gopipur Basmatia, Ward No. 15, P.O. - Hingwa, P.S. - Bhargama, District - Araria.
6. Raj Kumar, Son of Sri Kailash Rajak, Resident of Village - Gangjala, Ward No. 16, P.O., P.S. and District - Saharsa.
7. Anil Kumar, Son of Late Kapleshwar Ram, Resident of Village - Sahugarh-1, Ward No. 11, P.O. - Sahugarh, P.S. and District - Madhepura.



8. Dolly Kumari, Daughter of Sri Mahanand Bhagat, Resident of Mohalla - Simrahi Bazar, Ward No. 05, P.O. - Simrahi, P.S. - Raghapur, District - Supaul.
9. Pawan Harijan Son of Sri Surendra Harijan, Resident of Village - Madarganj, Ward No. 07, P.O. - Madarganj, P.S. - Amdanda, District - Bhagalpur.
10. Naman Kumar, Son of Sri Sanjay Mahto, Resident of Village - Murli Basantpur, Ward No. 15, P.O. - Murli Basantpur, P.S. - Bangaon, District - Saharsa.
11. Siddu Kumar, Son of Sri Ramdeo Prasad Yadav, Ward No. 06, P.O. - Shankarpur, P.S. - Mufassil, District - Munger.
12. Surjit Kumar, Son of Sri Suresh Prasad Sah, Resident of Mohalla - Dalhatta, Ward No. 4, P.O. - Munger, P.S. - Kotwali, District - Munger.

... .. Petitioner/s

Versus

1. The State of Bihar, through the Additional Chief Secretary, Education Department, Govt. of Bihar, Patna.
2. The Director, Higher Education, Govt. of Bihar, Patna.
3. Bhupendra Narayan Mandal University, Madhepura through its Registrar, P.O., P.S. and District - Madhepura.
4. The Vice-Chancellor, B.N. Mandal University, Madhepura, P.O., P.S. and District - Madhepura.
5. The Registrar, B.N. Mandal University, Madhepura, P.O., P.S. and District - Madhepura.

... .. Respondent/s

**Appearance :**

(In Civil Writ Jurisdiction Case No. 12758 of 2021)

For the Petitioner/s : Mr.Abhinav Srivastava, Adv.  
For the Respondent/s : Mr.Prabhakar Jha (Gp27)  
For the University : Mr. Ritesh Kumar, Adv.

(In Civil Writ Jurisdiction Case No. 13446 of 2021)

For the Petitioner/s : Mr.Bipin Bihari Singh, Adv.  
For the Respondent/s : Mr.Madhaw Prasad Yadaw ( Gp23 )  
For the University : Mr. Ritesh Kumar, Adv.

(In Civil Writ Jurisdiction Case No. 13843 of 2021)

For the Petitioner/s : Mr.Bipin Bihari Singh, Adv.  
For the Respondent/s : Mr.Jitendra Kumar Roy ( Sc)  
For the University : Mr. Ritesh Kumar, Adv.

**CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH SHARMA**

ORAL ORDER

6 20-10-2022

1. Heard the parties.

2. It is stated that supplementary affidavit has been



filed by the State, wherein the respondent State is seeking to reopen the issue which has already been settled and decided by this Court in the earlier writ petition bearing C.W.J.C. No. 14196 of 2015 on 01.12.2016.

3. Learned counsel for the petitioner submits that the order passed in C.W.J.C. No.14196 of 2015 dated 01.12.2016 was not complied with and the petitioner no.1 preferred an M.J.C. before the Court which resulted in compliance of the order and the same was disposed of on 26.02.2018. However, the petitioners have not been paid salary and again now in the counter affidavit the respondents are taking up the plea that the roster clearance by making appointment was not proper, and therefore, salary shall not be paid.

In the opinion of this Court, the petitioners, who are performing their duties cannot be denied their salary merely because the respondents have now found that the roster at the time of appointment was not properly followed. If at best any back log of any particular post is to be filled, the procedure is otherwise. It cannot be a ground to deny salary to the petitioners and other persons, who are performing their duties and serving in the university.

In the case of Umesh Kumar Suman & Ors. Vs. The



State of Bihar & Ors in C.W.J.C. No.7648 of 2020, the Additional Chief Secretary-cum-Head of the Education Department was personally called in the Court with regard to non-payment of salary to the teachers and he had stated before this Court that if any person is performing his duty he is entitled for receiving salary. Not only the Additional Chief Secretary stated so, he implemented his statement by passing orders to the education department authorities for payment of salary to all the teachers who are performing their duties. The said principal would apply to the staff and petitioners also, who are performing their duties in the teeth of such statement made by the Additional Chief Secretary, the supplementary affidavit filed by the Deputy Secretary, Higher Education is found to be contrary to the stand of the government. The State authorities are expected to follow same norms in all the cases and unnecessary litigation should be avoided. Even otherwise, in terms of Article 23 of the Constitution of India, no person can be asked to perform duties without payment of salary. In other words, Begar is prohibited but in the present cases, this court finds that since March, 2020 salary has not been released.

Keeping in view thereto, these writ petitions are allowed with direction to the respondents to release the salary



forthwith not later than 10 days from the receipt of the order of  
this Court. No cost.

**(Sanjeev Prakash Sharma, J)**

amit/-  
Item no.11

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