

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12675 of 2023

1. Md. Ataul Moin, Son of Md. Moinuddin, Resident of Village-Ufrail Tetalia, P.O.-Kuruhela Bobra, P.S.-Kadwa, District-Katihar working as an Assistant Teacher in Madarsa Islamia Mohiul Uloom, Shukul Toli, P.S. and District-Siwan (Bihar).
2. Md. Rafi Anjum, Son of Late Najmuddin, Resident of Village-Rainyapur, P.S.-Kadwa, District-Katihar, working as an Assistant Teacher in Madarsa Islamia Mohiul Uloom, Shukul Toli, P.S. and District-Siwan (Bihar).
3. Tabrez Akhter, Son of Md. Abbas, C/o Rahman Manzil, Resident of Village-Shukul Toli, P.S. and District Siwan, working as an Assistant Teacher in Madarsa Islamia Mohiul Uloom, Shukul Toli, P.S. and District-Siwan (Bihar).
4. Zamir Ahmad, son of Late Basir Ahmad, Resident of Shaikh Mohalla P.S. and District Siwan, working as an Assistant Teacher Madarsa Islamia Mohiul Uloom, Shukul Toli, P.S. and District-Siwan (Bihar).
5. Md. Tauseef Raza, Son of Md. Nurul Haque, Resident of Village-Bachharpur, P.S. Pupri, District Sitamarhi, working as an Assistant Teacher in Madarsa Jameul Uloom Sharif Jalalpur, P.S. Basantpur, District-Siwan (Bihar).
6. Sartaj Ahmad, son of Late Md. Yaseen, Resident of Village-Sharif Jalalpur, P.S. Basantpur, District Siwan working as an Assistant Teacher in Madarsa Jameul Uloom Sharif Jalalpur, P.S. Basantpur, District-Siwan (Bihar).
7. Md. Farooque Azam, son of Mumtaz Ali, Resident of Village-Sharif Jalalpur, P.S. Basantpur, District Siwan working as an Assistant Teacher in Madarsa Jameul Uloom Sharif Jalalpur, P.S. Basantpur, District-Siwan (Bihar).
8. Md. Qaisar Raza, son of Abdul Hakim, Resident of Village-Bairia, P.S. Baisi, District-Purnea, working as an Assistant Teacher in Madarsa Jameul Uloom Sharif Jalalpur, P.S. Basantpur, District-Siwan (Bihar).
9. Md. Alquama, son of Md. Shakir, Resident of Village-Shakri, P.S. Shakri, District Madhubani, working as an Assistant Teacher in Madarsa Jameul Uloom Haidariya Rahmania Bhaurajpur, P.S. Andar, District-Siwan (Bihar).
10. Md. Aijaz Ahmad, son of Mohammad Noor Alam, Resident of Village-Singhiya, P.S. Dagarwa, District Purnea, working as an Assistant Teacher in Madarsa Maqsoodul Uloom Haidariya Rahmania Bhaurajpur, P.S. Andar, District-Siwan (Bihar).
11. Md. Kausar Ali, son of Md. Qasim, Resident of Village-Majia, P.S. Goraul, District Vaishali, working as an Assistant Teacher in Madarsa Maqsoodul Uloom Haidariya Rahmania Bhaurajpur, P.S. Andar, District-Siwan (Bihar).
12. Fakhruddin Ali, son of Muinuddin, Resident of Village-Patna, P.S. Lar, District Deoria, U.P. working as an Assistant Teacher in Madarsa Arabia Anwarul Uloom Village Balua, P.S. Guthani, District-Siwan (Bihar).
13. Md. Afroz Alam, son of Md. Gheyasuddin, Village-Paharpur, P.S. Barharia, District Siwan, working as an Assistant Teacher in Madarsa Islamia Raghunathpur, P.S. Barharia, District-Siwan (Bihar).



14. Zakiullah Ansari, son of Zafrullah Ansari, Village-Habibpur, P.S. Barharia, District-Siwan, working as an Assistant Teacher in Madarsa Islamia Raghunathpur, P.S. Barharia, District-Siwan (Bihar).
15. Abdul Haque, son of Shamshul Haque, Village Paharpur, P.S. Barharia, District Siwan working as an Assistant Teacher in Madarsa Islamia Raghunathpur, P.S. Barharia, District-Siwan (Bihar).
16. Sakir Hussain, Son of Shahid Hussain, Resident of Village-Mohan Bazar, P.S. Maharajganj, District-Siwan, working as an Assistant Teacher in Madarsa Darul Uloom Azizia Ashrafia at P.S. Maharajganj, District-Siwan (Bihar).
17. Md. Masoodul Haque, son of Late Md. Madni, Resident of Village-Pachahi, P.S. Madhepur, District Madhubani, working as an Assistant Teacher in Madarsa Islamia Nooria Pachahi, P.S. and District-Madhubani (Bihar).
18. Md. Hussain, son of Late Md. Idris, Resident of Village-Pachahi, P.S. Madhepur, District Madhubani, working as an Assistant Teacher in Madarsa Islamia Nooria Pachahi, P.S. Madhepura, District-Madhubani (Bihar).
19. Nahid Noori, Wife of Motiur Rahman, resident of Village-Pachahi, P.S. Madhepur, District-Madhubani, working as an Assistant Teacher in Madarsa Islamia Nooria Pachahi, P.S. Madhepura, District-Madhubani (Bihar).
20. Meraj Ali, s/o Ataur Rahman, Resident of Village-Pachahi, P.S. Madhepur, District Madhubani, working as an Assistant Teacher in Madarsa Islamia Nooria Pachahi, P.S. Madhepura, District-Madhubani (Bihar).
21. Md. Nasim Haider, son of Late Mahboob Ansari, R/o Village Atiyadih, P.S. Madhepur, P.O. Pachahi, District Madhubani, working as an Assistant Teacher in Madarsa Islamia Nooria Pachahi, P.S. Madhepura, District-Madhubani (Bihar).
22. Fatma Noori, W/o Late Md. Reyaz, Resident of Village-Pachahi, P.S. Madhepur District Madhubani, working as an Assistant Teacher in Madarsa Islamia Nooria Pachahi, P.S. Madhepura, District-Madhubani (Bihar).

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Education Department, Government of Bihar, Patna.
3. The Special Director, Secondary Education, Education Department, Government of Bihar, Patna.
4. The Joint Secretary, Education Department, Government of Bihar, Patna.
5. The District Education Officer, Siwan, District-Siwan.
6. The District Education Officer, Madhubani.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Md. Anisur Rahman, Advocate



For the Respondent/s : Mr. Md. Akram Naiyer, Advocate
Mr.P.K. Shahi, A.G.

**CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)**

Date : 18-12-2023

The issue raised herein revolves around two resolutions, one dated 15.02.2011 and the other dated 31.08.2013; which controversy was resolved by the judgment of this Court in CWJC No. 985 of 2015 dated 27.03.2019. A reading of the said decision would indicate that there were 1128 Madarsas in the State of Bihar that were recognized as aided Madarsas managed by private bodies. The resolution dated 15.02.2011 took note of 2459 unrecognized and unaided Madarsas, registered with the Madarsa Board which were also sought to be brought into the grant-in-aid list, for the purpose of extending State benefit to them. The resolution dated 15.02.2011 specifically provided for granting Government aid to such unrecognized Madarsas for which purpose a departmental survey was contemplated to determine the status of the said Madarsas and enable grant-in-aid to those found eligible. As far as grant-in-aid with respect to salaries to be paid to the employees of the Madarsas, a fixed rate was provided which was applicable only to those unrecognized Madarsas as on



15.02.2011. Later, by the impugned resolution dated 31.08.2013, the fixed rate was sought to be applied in respect of all appointments in the Madarsas and Sanskrit schools irrespective of their status of recognition and receipt of grant-in-aid prior to 15.02.2011. In essence, the argument of the State was that the resolution of 15.02.2011 applied to all the Madarsas, both recognized and un-recongized. The Division Bench held that the resolution dated 15.02.2011 was only applicable to the un-recongized Madarsas and appointments made to such Madarsas after recognition is granted to enable grant-in-aid. The said resolution did not at all deal with the Madarsas which were receiving grant-in-aid before 15.02.2011. It was by the resolution dated 31.08.2013 that the condition of a consolidated sum of salary was sought to be imposed on all the Madarsas and Sanskrit schools. The said resolution could not have been applied retrospectively to appointments made before 31.08.2013; especially when the resolution of 15.02.2011 did not at all bring in such condition to the appointments made in Madarsas which were already receiving grant-in-aid. The persons who were appointed to the Madarsas recognized and aided prior to 15.02.2011; between 15.02.2011 and 31.08.2013, were appointed to and occupying regular posts with regular pay



scales which could not have been interfered with retrospectively, thus, depriving those persons of the regular pay of scale. We bow to the above proposition and find no reason to depart from the same.

2. In Para-9 of the writ petition, it is stated that Madarsa Board has been pleased to accord approval of the appointment of the petitioners as Madarsa Teachers vide letters dated 15.07.2013, 27.02.2012, 13.09.2012, 29.07.2011, 29.07.2011, 11.04.2012, 26.07.2013, 02.06.2011, 28.07.2011, 04.07.2012 and 12.07.2013. Hence, it is the contention of the petitioners that they have been appointed prior to said dates.

3. We do not, however, see any averment as to the petitioners' appointments having been made to Madarsa which was recognized prior to 15.02.2011. In any event, if the separate appointments of the petitioners were made to such Madarsa, which was recognized prior to 15.02.2011 and which received grant-in-aid prior to that date, necessarily, the petitioners would be entitled to be continued in the pay scale to which they were appointed, if they were appointed prior to 15.02.2011 or between 15.02.2011 and 31.08.2013 and there could be no modification made based on the subsequent resolution dated 31.08.2013.



4. With the above declaration, the writ petition is disposed of directing the petitioners to make appropriate representation before Respondent No. 3 specifically indicating their date of appointment and also furnishing evidence as to their date of appointment as also the recognition of their Madarsa prior to 15.02.2011. The representation shall be considered and disposed of based on the cited decision within a period of three weeks from the date of furnishing of evidence.

(K. Vinod Chandran, CJ)

(Partha Sarthy, J)

Sujit/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	19.12.2023
Transmission Date	

