

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16473 of 2023

1. **Md. Shabbir Alam** Son of -Md. Zainul Abdin @ Md. Zainul Abedin, Resident of- Sahebpur Kamal, P.O. and P.S.-Sahebpur Kamal District- Begusarai, Presently working as Madarsa Teacher in Madarsa Hussainia, At- Mander District- Khagaria, Madrasa no.-202.
2. **Murshid Alam @ Moulvi Murshid Alam**, Son of- Saleemuddin @ Md. Salim Uddin, Resident of village- Bhuriyatari, Mushkipur, P.S.- Gogri District- Khagaria Presently working as Madrasa Teacher in Madrasa Hussainia, At- Mander District- Khagaria, Madrasa no.-202.
3. **Md. Ataullah**, Son of Abdul Jabbar, Resident of village- Rampur, P.S.- Gogri District-Khagaria Presently working as Madrasa Teacher in Madrasa Rashidia At.- P.O.- Dewari Pipra Latif, District- Khagaria.
4. **Md. Taskin Manzar**, Son of Shaukat Ali Ansari @ Md. Shaukat Ali Ansari, Resident of Laruara P.S- Mufassil District- Begusarai, Presently working as Madrasa Teacher in Madrasa Asadul Uloom, Sajjad Nagar, Laruara District- Begusarai Madrasa no. 212.
5. **Kulshum Khatoon**, D/o- Md. Tanweer Alam, W/o- Shahbaj Alam, Resident of village- Makkhachak, Ward no.- 06 P.S.-Bakhari District- Begusarai, Presently working as Madrasa Teacher in Madrasa Islamia P.S.- Bakhari District- Begusarai, Madrasa no.-198.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Govt. of Bihar, Patna.
2. The Finance Secretary, Finance Department, Govt. of Bihar, Patna.
3. The Principal Secretary, Education Department, Govt. of Bihar, Patna.
4. The Joint Secretary, Education Department, Govt. of Bihar, Patna.
5. The Special Director, Secondary Education, Education Department, Govt. of Bihar, Patna.
6. The District Education Officer, Begusarai District- Begusarai.
7. The District Education Officer Khagaria, District- Khagaria.
8. The Bihar State Madrasa Education Board, Patna through its Secretary, Phulwari Sharif District-Patna.
9. The Chairman, Bihar State Madrasa Education Board, Patna, Phulwari Sharif, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr.Md. Ziaul Quamar, Advocate
For the Respondent/s	:	Mr.Sarvesh Kumar Singh (AAG-13)
For the Madarsa Board	:	Mr.Md. Shahzad Hassan Khan, Advocate
		Mr. Aslam Ansari, Advocate



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

Date : 21-08-2024

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-recognized. The Division Bench held that the resolution dated 15.02.2011 was only applicable to the un-recognized 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-4 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 21.02.2021, 09.06.2011, 25.08.2011 and 28.09.2011. 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. 5 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)

ranjan/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	22.08.2024
Transmission Date	NA

