

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.8509 of 2020

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1. Md. Hashim Raza S/o Md. Kalamuddin Resident of Village- Murauli, P.O.- Pipra Baghi, P.S.- Kutumba, District- Aurangabad.
 2. Jamil Ahmad S/o Bashir Ahmad Resident of Village Mahsu, P.O.- Basdiha, P.S.- Navinagar, District- Aurangabad.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Education Department, Government of Bihar, Patna.
2. The Principal Secretary, Education Department, Govt. of Bihar, Patna.
3. The Director, Primary Education, Education Deptt., Govt. of Bihar, Patna.
4. The District Magistrate, Aurangabad, District- Aurangabad.
5. The District Education Officer, Aurangabad, District- Aurangabad.
6. The District Programme Officer, Establishment (Education), Aurangabad, District- Aurangabad.
7. The Block Development Officer, Kutumba, District- Aurangabad.
8. The Block Education Officer, Kutumba, District- Aurangabad.
9. The Block Development Officer, Navinagar, District- Aurangabad.
10. The Block Education Officer, Navinagar, District- Aurangabad.
11. The Panchayat Secretary, Gram Panchayat Raj, Piprabaghi, Block- Kutumba, District- Aurangabad.
12. The Mukhiya, Gram Panchayat Raj, Piprabaghi, Block- Kutumba, District- Aurangabad.
13. The Panchayat Secretary, Gram Panchayat Raj, Chandragarh, Block- Navinagar, District- Aurangabad.
14. The Mukhiya, Gram Panchayat Raj, Chandragarh, Block- Navinagar, District- Aurangabad.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Mrityunjay Kumar, Advocate
Mr. Mukesh Kr. Singh, Advocate

For the State : Mr. Prabhakar Jha, GP 27
Mr. Umesh Narayan Dubey, AC to GP 27

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL JUDGMENT

Date : 04-02-2025

Heard Mr. Mrityunjay Kumar along with Mr.



Mukesh Kr. Singh, learned counsels appearing on behalf of the petitioners and Mr. Prabhakar Jha, learned GP 27 along with Mr. Umesh Narayan Dubey, learned counsel for the State.

2. Petitioners have *inter alia* prayed for following reliefs in the paragraphs No.1 of the writ petition:-

“(i) For issuance of a writ in the nature of Certiorary or any other appropriate writ/order/direction to quash or set aside the letter no.543 and 545 dated 05.05.2020 issued by the District Programme Officer (Establishment), Aurangabad by which the Block Teacher Employment Unit, Kutumba and Navinagar respectively and all the concern Panchayat Teacher Employment Unit of Kutumba & Navinagar Block have been directed to remove those teachers who are working on the basis of the certificates which are not recognized by the State Government.

ii. Further for issuance of a writ in the nature of mandamus or any other appropriate writ/order/direction to direct the respondents to pay the salary to the petitioners which is due since the month of December, 2019.

III. Further for issuance of a writ in the nature of mandamus or any other appropriate writ/order/direction to the respondents to stay the operation of impugned letter no.543 and 545 dated 05.05.2020 (Annexure -1 & 1/A) and direct the respondents not to disturb the petitioners from discharging their duties and pay the salary regularly to the petitioners.

And / or

For any other relief/relief(s) for that the petitioners may be found to be entitled to as per the facts and circumstances of the present case.”

3. Learned counsel appearing on behalf of the petitioners submitted that petitioners were initially appointed as Panchayat Siksha Mitra and thereafter they were absorbed as Block Teacher after coming into force of the Bihar Panchyat



Elementary Teachers (Employment and Service Conditions) Rules, 2006 (hereinafter referred to as the “Rules, 2006”) and in light of the policy decision of the State Government. It is the case of the petitioners that at the time of their appointment, petitioners were holding degree of Adeeb-e-mahir [equivalent to Intermediate (10+2)] from Jamia Urdu, Aligarh, duly recognized by the University Grant Commission. Learned counsel submitted that the appointment of the petitioner no.1 and 2 was made in the year 2005 and 2006 respectively and at the relevant time, petitioners were appointed on the basis of their qualification being equivalent to Intermediate. He further submitted that the District Programme Officer (Establishment), Aurangabad has directed the concerned authority to remove the teachers, who are working on the basis of certificates, which are not recognized by the State Government, without considering the facts relating to the petitioners and subsequent training undergone by the petitioners, as they have also passed Diploma in Primary Education (D.P.E.) course from Indira Gandhi National Open University (IGNOU) and the same has been brought on record by way of Annexure 6 series. Learned counsel further submitted that the memo No.543 in respect of petitioner no.1 and Memo No.545 in respect of petitioner no.2



both dated 05.05.2020 is based on the subsequent guidelines of the State Government dated 07.05.2013 (Anneuxre A to the supplementary counter affidavit filed on behalf of the respondents no.5 and 6) but the same is not in respect of the course Adeeb-e-mahir, rather the same relates to Moallim-E-Urdu degree in respect of eight writ petitioners of CWJC No.9131 of 2012 (**Md. Shamim Anwar & Ors. Vs. the State of Bihar & Ors.**). The said consideration was made in respect of failure of the institution to seek recognition of NCTE for its course and as such the appointment of those petitioners, who had obtained degree after 1996 were held invalid. It has further been clarified that in light of the order dated 11.05.2012 passed in CWJC No.9131 of 2012, the matter was considered and clarification was made with respect to the Jamia Urdu, Aligarh that the said course Moallim-E-Urdu degree being not recognized by the N.C.T.E. in respect of Session 1997 and the appointment was held to be illegal.

4. *Per contra*, learned counsel appearing on behalf of the State submitted that petitioners no.1 and 2 were appointed as Panchayat Siksha Mitra on 27.08.2005 and 21.02.2006 respectively on the basis of Adeeb-e-Mahir (10+2) certificates from Jamia Urdu, Aligarh, which are equivalent to



Intermediate and thereafter the petitioners were absorbed as Block Teacher after 01.07.2006 in light of Rules, 2006. However, the Director, Research and Training, Education Department, Government of Bihar *vide* Memo No.334 dated 24.07.2017 issued a letter stating therein that the Jamia Urdu Aligarh (U.P.) is not recognized by the Government of Bihar, UGC, as well as, DEC (Annexure B to the counter affidavit). Thereafter, the Director, Primary Education, Government of Bihar *vide* Memo No.1264 dated 25.09.2018 issued a letter stating therein that the candidates cannot be appointed on the post of teacher on the basis of certificates issued by the Jamia Urdu, Aligarh (U.P.) (Annexure C to the counter affidavit). Thereafter, petitioner no.1 was issued show cause notice *vide* letter no.161 dated 03.06.2019 and subsequently another show cause notice was issued *vide* letter no.571 dated 29.05.2020 and letter no.18 dated 12.06.2020 to petitioners no.2 and 1 respectively asking them as to why they should not be dismissed for being appointed on the basis of an invalid certificate. The District Programme Officer (Establishment), Aurangabad issued letter no. 543 and 545 dated 05.05.2020, by which the Block Teacher Employment Unit, Kutumba and Navinagar was directed to remove the teachers, who are working on the basis



of certificate which are not recognized by the State Government. The petitioners are still working as final action has not been taken against them. In these backgrounds, learned counsel submitted that the writ petition is pre-mature and is fit to be dismissed.

5. Heard the parties.

6. Having considered the rival submissions made on behalf of the parties, I find that the petitioners have been appointed on the basis of Adeeb-e-mahir degree from Jamia Urdu, Aligarh as a Panchayt Shiksha Mitra and after coming into force of Rules, 2006, the State Government took a decision to absorb all the Panchayat Shiksha Mitra to Panchayat teachers/Block teachers and petitioners continued to work as Block Teachers and were getting salary admissible for the Block teacher and all benefits. The record reveals that the eight aggrieved teachers filed writ petition being CWJC No.9131 of 2012, whose training certificate was issued by Jamia Urdu Aligarh, having recognized as minor educational institution by the National Commission for Minority Education Institution, India and was also approved by the National Council for Promotion for Urdu Language way back on 28.06.1978 by the Ministry of Home Affairs / Home Ministry (Department of



Personnel and Administrative Reforms). The validity of their qualification of Moallim-E-Urdu obtained from Jamia Urdu Aligarh was found to be non-recognized by the State Government, as well as, UGC and DEC. Therefore, their claim made on the basis of degree issued from the institution from where the petitioners have obtained the Moallim-E-Urdu was rejected *vide* order dated 07.05.2013. The Director, Primary Education, Government of Bihar *vide* Memo No.1264 dated 25.09.2018 issued a letter stating therein that the candidates cannot be appointed on the post of teacher on the basis of certificates issued by the Jamia Urdu, Aligarh (U.P.) (Annexure C to the counter affidavit). A counter affidavit has been filed and it has not been denied that degree Adeeb-e-mahir has been found by the Educational Department to be non-recognized by the UGC or the State Government or the DEC, rather the whole counter affidavit is based on the facts of the case relating to CWJC No.9131 of 2012, wherein the degree of Moallim-E-Urdu, claimed by those writ petitioners to be equivalent to the training degree having found to be not recognized by competent authority. The petitioners possess Adeeb-e-mahir degree which is equivalent to intermediate. Their selections were also made on the said basis in the year 2005 and 2006.



Thereafter, the State Government found them to be appointed as Block teacher in accordance with Rules, 2006. The petitioners have made out a case that in absence of non-recognition of the said degree obtained from Jamia Urdu Aligarh, the degree held by the petitioners cannot be held to be without having got the recognition by the State Government or by the competent authority. Now the State Government has disputed in this regard. A list of colleges issued *vide* Notification No.3152 dated 25.08.2008 by the State Government has been brought on record by way of Annexure 14 in respect of 28 non-recognized institutions in the year 2008, which don't contain the name of the petitioners' institution from which the petitioners have obtained such degree.

7. It appears that the District Programme Officer (Establishment), Aurangabad communicated the order passed in CWJC No.9131 of 2012 and the Government issued communication to the effect that the appointment made on the basis of degree obtained from non-recognized institution situated outside the State is required to be terminated. Subsequent to the said communication, the petitioners were issued show cause *vide* letter no.161 dated 03.06.2019 and subsequently another show cause notice was issued *vide* letter



no.571 dated 29.05.2020 and letter no.18 dated 12.06.2020. The petitioners replied to the show cause so issued, giving specific facts and particulars about their appointment and have also informed that the Education Department or the State Government has not declared the degree of Adeeb-e-mahir obtained from Jamia Urdu Aligarh to be not recognized. It has also been informed that the entire world was facing Covid 19 pandemic and, as such, against the order, petitioners could not file their appeal. Thereafter, the petitioners are continuing to work on the post of Block Teachers till date.

8. I also find that Ministry of Home Affairs Department of Personnel and Administrative Reforms, Government of India had issued office memorandum dated 28.06.1978, wherein it has been communicated that the recommendation of the Board of assessment for educational qualifications, four different course including Adeeb-e-mahir has been recognized for the purpose of employment to the post which requires knowledge of Urdu of intermediate standard. On the basis of communication contained in Annexure 1 from time to time, illegally the District Programme Officer (Establishment), Aurangabad has used to stop payment of salary to the petitioners in spite of, the absentee being submitted before



him by the principal of the school regularly.

9. In above background, without going into the legality, in respect of the eligibility of the petitioners whether they can teach the students of Class I to VIII, this Court is only concern, as to whether, the degree of Adeeb-e-mahir, which has been recognized by the Government of India in respect of the institution in question, namely, Jamia Urdu Aligarh, can be held to be invalid.

10. From the aforesaid discussions and evidence, I hold that the petitioners were appointed on the basis of the equivalent degree of intermediate to teach class I to VIII and were declared qualified to be appointed on the post of Panchayat Siksha Mitra on the basis of Adeeb-e-mahir degree, equivalent to Intermediate. The petitioners thereafter had obtained training degree from IGNOU and have also been declared successful in teacher efficiency test as per provision of Amendment Rules, 2009, as such, the communication/show cause contained in memo No.543 and Memo No.545 both dated 05.05.2020 call for interference of this Court and accordingly, the same are set aside and quashed for being misconceived and without any basis.

11. The writ petition is, accordingly, allowed.



12. There shall no order as to cost.

(Purnendu Singh, J)

Sanjay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	07.02.2025
Transmission Date	NA

