

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2334 of 2020

- 1.1. Bibi Saleha Khatoon Wife of Late Samiur Rahman Resident of Village Dilshadpur, Rizwanpur, P.O. - Belaganj, P.S. - Balia Belon, District- Katihar.
- 1.2. Abu Saleha Son of Late Samiur Rahman, Resident of Village Dilshadpur, Rizwanpur, P.O. - Belaganj, P.S. - Balia Belon, District- Katihar.
- 1.3. Abu Sama D/o Late Samiur Rahaman, Resident of Village Dilshadpur, Rizwanpur, P.O. - Belaganj, P.S. - Balia Belon, District- Katihar.
- 1.4. Sabah Fatima D/o Late Samiur Rahaman, Resident of Village Dilshadpur, Rizwanpur, P.O. - Belaganj, P.S. - Balia Belon, District- Katihar.

... .. Petitioner/s

Versus

1. The State of Bihar through Principal Secretary, Department of Education, Government of Bihar, Patna.
2. The Principal Secretary, Department of Education, Government of Bihar, Patna.
3. The Additional Secretary, Department of Education, Government of Bihar, Patna.
4. Bihar State Madarsa Education Board, through its Chairman, Vidyapati Marg, Chajju Bagh, P.S. Kotwali, District- Patna.
5. The Secretary, Bihar Sate Madarsa Education Board, Vidyapati Marg, Chajju Bagh, P.S. Kotwali, District- Patna.
6. The Secretary, Managing Committee, Madarsa Shamsia, Village Sihipur, P.O. Dhoom Nagar Via Salmari, District- Katihar.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Md. Helal Ahmad, Advocate
For the State	:	Mr. Madanjeet Kumar (GP-20)
For the Madarsa Board	:	Mr. Shahzad Hassan Khan, Advocate
		Mr. Md. Aslam Ansari, Advocate

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

7 28-07-2025 Heard Mr. Md. Helal Ahmad, learned counsel appearing on behalf of the petitioners; Mr. Madanjeet Kumar, learned GP-20 for the State and Mr. Shahzad Hassan Khan, learned counsel along with Mr. Md. Aslam Ansari, learned counsel for the Bihar State Madarsa Education Board.



2. The petitioners in paragraph no. 1 of the present writ petition have sought *inter alia* following relief(s), which is reproduced hereinafter:

"i) To issue an appropriate writ, order or direction to the Respondents to allow the petitioner to mark his attendance in the attendance register and to release the salary of the petitioner along with arrears of salary since April 2018.

ii) This Hon'ble Court may further adjudicate and hold that the action of the Respondents in not releasing the salary to the petitioner who is teacher in Madarsa No. 637, Madarsa Shamsia, Village Sihipur, P.O. Dhoom Nagar Via Salmari, District Katihar, is an act of mala fide and completely arbitrary exercise of power / jurisdiction.

iii) This Hon'ble Court may award the cost of litigation and suitable compensation to the petitioner for the loss and damages caused on account of the illegal and arbitrary actions of the Respondent Authorities.

iv) To grant any other relief or reliefs which the Petitioner may be found entitled to in the facts and circumstances of the case."

3. The petitioners, who are legal representatives of the original petitioner (deceased employee), namely, Shamimur Rahaman @ Md. Shamurahaman, are aggrieved by the order dated 20.07.2018 passed by the Secretary, Madarsa Sihipur, Azamnagar Madarsa No. 637, who has not even placed the matter relating to the original petitioner (deceased employee) before the Managing Committee and bypassing the Managing Committee and without seeking approval of the Bihar State Madarsa Education Board, he had restrained the original



petitioner (deceased employee) from working and as a consequence of which, the original petitioner (deceased employee) was not being paid his due salary. The original petitioner (deceased employee) was appointed by the Managing Committee after seeking approval of the Bihar State Madarsa Education Board on 09.04.2007. Thereafter, the original petitioner (deceased employee) was working without any hindrance and he was also paid salary regularly.

4. Mr. Shahzad Hassan Khan, learned counsel appearing on behalf of the Bihar State Madarsa Education Board, upon verifying the records, submitted that no approval has been taken from the Bihar State Madarsa Education Board till date and the action of the Secretary, Madarsa Sihipur, Azamnagar Madarsa No. 637 is required to be deprecated.

5. The action of the the Secretary, Madarsa Sihipur, Azamnagar Madarsa No. 637, namely, Mr. Md. Abdul Ali, is against the provision of Clause (vii) of Rule 8 (b) of the Bihar State Non-Government Recognized Aided Madarsas (upto Moulvi Standard) Teaching and Non-Teaching Staffs Service Condition Rules, 2022 and requires interference of this Court even though there is constitutional bar as per the provision of Article 30 of the Constitution of India. Accordingly, the order



dated 20.07.2018 passed by the Secretary, Madarsa Sihipur, Azamnagar Madarsa No. 637 is hereby set-aside and quashed.

6. The petitioners, who are the legal representatives of the original petitioner (deceased employee), namely, Shamimur Rahaman @ Md. Shamurahaman, are required to be paid the due salary and other terminal benefits, which has not been paid for period in question, which the original writ petition has prayed for in the present writ petition, in accordance with law.

7. The Chairman of the Bihar State Madarsa Education Board, is directed to take appropriate steps for approval and sanction of due salary of the original petitioner (deceased employee) so that the same can be sanctioned by the District Programme Officer (Establishment), Katihar for its payment to the legal representatives of the original petitioner (deceased employee), who have already been substituted vide order dated 08.07.2025, expeditiously, not beyond a period of six weeks.

8. Accordingly, the present writ petition stands disposed of.

(Purnendu Singh, J)

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