

# Hafizur Rahman vs State Of U.P. And Others on 1 May, 2025

**Author: Saurabh Shyam Shamshery**

**Bench: Saurabh Shyam Shamshery**

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Neutral Citation No. - 2025:AHC:69298

Court No. - 6

Case :- WRIT - A No. - 32879 of 2012

Petitioner :- Hafizur Rahman

Respondent :- State Of U.P. And Others

Counsel for Petitioner :- Ashok Khare, Siddhartha Khare

Counsel for Respondent :- Paritosh Kumar Malviya

Hon'ble Saurabh Shyam Shamshery, J.

1. Heard Sri Ashok Khare, learned Senior Advocate assisted by Sri Kauntey Singh, learned counsel for petitioner, Sri Ashish Kumar Nagwanshi, learned Additional Chief Standing Counsel for State-Respondents and Sri Paritosh Kumar Malviya, Advocate for Respondent-5.

2. Petitioner was non suited as his experience certificate was considered to be a forged document on basis of statement of Principal of concerned Madarsa and, therefore, petitioner's appointment on the post of Headmaster of respondent Madarsa was set aside vide order dated 16.04.2012.

3. Aforesaid order was subject matter of challenge in Writ-A No. 20631 of 2012, which was disposed of vide order dated 27.04.2012 and the said order is reproduced hereinafter:

?This petition is directed against an order of the Committee of Management of Madarsa Aljameatul Islamia Tilakhara, Shivpati Nagar, District Siddharth Nagar which is an aided and recognized Madarsa. Under the order impugned, the

Committee of management of the Madarsa has decided to dismiss the petitioner after holding a departmental enquiry, after finding him guilty of the charges levelled against him.

Learned counsel for the petitioner raised various grounds for challenging the order.

On behalf of the respondents it is stated that under Rule 34 of the Arbi tatha Farsi Madarsa Mandatory Niyamawali, 1987, power of visitation has been conferred upon the Inspector/Registrar, Arbi and Farsi Madarsa and, therefore, the petitioner may be relegated to the remedy so provided.

Reference in that regard is made to the judgment of this Court in the case of "Mohd. Saleem Vs. Committee of Management Madarsa Rafiqul Islam, Gaura Badshahpur And others" Special Appeal No. 80 of 2010.

This Court is of the opinion that the petitioner may first approach the Inspector/Registrar Arbi tatha Farsi Madarsa Board for ventilating his grievance at the first instance. It is provided that if such representation is filed by the petitioner within one week along with a certified copy of this order, the Registrar of the Board shall decide the same in accordance with law by means of a reasoned speaking order after affording opportunity to the management of the petitioner preferably within four weeks thereafter.

Since the vacancy has already been advertised, it is further provided that any selection/appointment made in the meantime shall abide by the orders to be passed by the Registrar as indicated above.

With the aforesaid observations, the writ petition is disposed of.?

4. In aforesaid circumstances, petitioner has filed a representation before Registrar, U.P. Madarsa Shiksha Parishad and in support of his claim that experience certificate was genuine, specific averments were made in paras 16 and 18 of representation. For reference the same are reproduced hereinafter:

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5. Petitioner was provided all relevant documents by Registrar and accordingly 18.06.2012 was fixed for hearing. However, by means of impugned order dated 22.06.2012 representation of petitioner was rejected mainly relying on the earlier version without application of any independent mind.

6. In this regard, the argument of learned Senior Advocate appearing for petitioner has substance that in impugned order petitioner's version has not even noted or considered and only on basis of a report which states the earlier version, impugned order was passed. No opportunity was provided to petitioner to place his case before said authority. For reference relevant part of impugned order is reproduced hereinafter:

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7. Learned counsels appearing for respondents submit that during pendency of this writ petition on basis of a fresh advertisement appointment has already been made, therefore, at this stage, no relief cant be granted to petitioner.

8. In reply to above submission, learned Senior Advocate appearing for petitioner submits that this Court has passed following order on 10.07.2012:

?Learned Standing Counsel has accepted notice on behalf of the respondent nos. 1,2,3, and 4 and Sri M.D. Misra, Advocate along with Sri Paritosh Malviya, advocate has entered appearance on behalf of the respondent no.5.

Each one of the respondents is granted six weeks time to file counter affidavit. Rejoinder affidavit may be filed within two weeks thereafter.

List after eight weeks.

Any action taken during this period, shall abide by final order to be passed by this court.?

9. He further submits that such appointment, if any, shall abide by final order to be passed in this writ petition.

10. In aforesaid circumstances, the Court is of the view that consideration of representation of petitioner by concerned respondent is only an eye wash. The contention of petitioner is not even referred in impugned order. Contents of representation were also not considered and only on basis of earlier documents, specifically the letter of Principal of erstwhile Madarsa that experience certificate was not genuine, impugned order was passed. This approach being erroneous, therefore, illegality is perpetuated.

11. In aforesaid circumstances, the Court is of the view that observations made in impugned order dated 22.06.2012 that petitioner was provided complete opportunity of hearing, is contrary to record.

12. In view of above, writ petition is allowed. Impugned order dated 22.06.2012 is hereby set aside and matter is remitted back to concerned respondent to pass a fresh order within a period of four weeks from today, after giving opportunity of hearing to petitioner and for that petitioner shall appear before Registrar, Uttar Pradesh Madarsa Shiksha Parishad on 15th May, 2025.

Order Date :- 1.5.2025 AK