HIGH COURT OF JUDICATURE AT ALLAHABAD

CONTEMPT APPLICATION (CIVIL) No. - 2725 of 2021

C/M Madrasa Islamia Safinatul And Another

.....Applicant(s)

Versus

Sri K. Ravindra Nayak,Principal/Additional Chief Secretary

.....Opposite Party(s)

Counsel for Applicant(s)	:	J.P. Singh
Counsel for Opposite Party(s)	:	Shad Khan, Shishir Prakash

Court No. - 7

HON'BLE PIYUSH AGRAWAL, J.

1. Heard Mr. G.K. Singh, learned Senior Advocate assisted by Mr. J.P. Singh, learned counsel for the applicants and Mr. Manish Goyal, learned A.A.G. assisted by Mr. Brijesh Kumar, learned Standing Counsel.

2. In pursuance of earlier order, respondent no.4/Ms. Sanyukta Samaddar, Principal Secretary, Minority Welfare and Waqf, U.P. Government, Lucknow, is present before the Court who has been identified by Mr. Brijesh Kumar, learned Standing Counsel.

3. On 24.09.2026, the following order was passed:

> "*1. This Court on 08.09.2026 proceeded to pass the following orders:-*
>
> *"1. On 24.08.2026, this Court proceeded to pass the following orders were passed.-*
>
> *"1. The present contempt petition has been preferred alleging non-compliance of the order dated 25.11.2020 passed in Writ-C No. 13568 of 2020, the order whereof is quoted hereinunder:*
>
> *"Heard learned counsel for the petitioner and learned Standing Counsel for the respondents.*
>
> *The present petition has been filed by the petitioner claiming itself to be registered Society, it is stated that the said Society registered as Madarsa known as "Islamia Safinatul Hedaya, Meerpur Rahimabad, Mau" (hereinafter referred to as 'Madarsa') and also a Primary School known as "Dalit Chetna Primary School, Meerpur, Rahimabad, Mau".*

The Madarsa in question was recognized on 15.6.2002 by the Registrar, Arbi Persian Examination, U.P. It is stated that in the year 2013, the State Government decided to include 146 Madarsas permanently recognized upto Alia level in the grant-in-aid list. In pursuance of the said decision, on 27.2.2013, a Government Order was issued including 71 Madarsas, out of the said 146 Madarsas in the list of Madarsas grant-in-aid in first phase i.e. 2013-14.

It is further argued that initially the State Government had issued the list of 244 Madarsas which would be eligible for being brought under grant-in-aid, subject to they fulfilling the conditions. The name of the petitioner-Madarsa appeared at Serial No. 239 of the said list (Annexure 3 to the writ petition).

On 21.5.2013, the Government Order was issued providing cutoff dated i.e. 30.7.2013 by which date the application forms were to be filed by the said 246 Madarsas, if they fulfilled the condition.

The petitioner submitted the application on 20.6.2013 before the District Minority Welface Officer, Mau which was forwarded to the Registrar, U.P. Madarsa Education Board on the same day.

On 23.7.2015, a list of Madarsa was issued by the State Government bringing 75 Madarsas under grant-in-aid, despite the petitioner being eligible their names was rejected on hyper-technical grounds.

On account of the fact that technical objections were raised with regard to the consideration of the petitioner's institution, a correspondence took place in between the Government authorities and the petitioner which defect, according to the petitioner, was duly removed.

On 13.8.2015, the State Government issued another order to include 17 Madarsas in the list besides 71 Madarsas which were already included in the list on 27.2.2013. The petitioner claims to have removed all the defects as pointed out from time to time pertaining to the title of the property owned by the society, however, no decision was taken as such the petitioner approached this Court by filing Writ-C No. 63594 of 2015 (C/M Madarsa Islamia Safinatul Heday vs. State of U.P. and 3 others) which was disposed off by this Court on 20.11.2015. As no decision was taken and certain other queries were raised, the petitioner once again approached this Court by filing Writ-C No. 28933 of 2019 which was again disposed of vide order dated 13.9.2019.

In pursuance of the said order, passed by this Court dated 13.9.2019, the impugned order dated 30.7.2020 has been passed rejecting the

application of the petitioner on the ground that the State Government has informed that the State is having very limited funds as well as in view of the Government Order dated 18.5.2020 providing that in view of the Covid-19 situation, no further posts be created and, in the event, the petitioner is included in the list of grant-in-aid, automatically, new posts will be created. The said order is under challenge in the present writ petition.

Sri J.P. Singh, counsel for the petitioner, argues that the impugned order has the effect of denying the benefit of grant-in-aid despite the entitlement of the petitioner's institution in terms of the Scheme of the State and the Government Order dated 27.3.2013, he argues that once the State Government takes a policy decision, the Government cannot retract on the ground that the State Government has limited resources as has been done by means of the impugned order. He further argues that the resort to the Government Order dated 18.5.2020 and the present Covid-19 situation is wholly baseless as there is no provision in either the Government Order or otherwise to the effect of wiping out a policy decision of the Government. He further submits that the impugned order, in fact, wipes out the policy decision of the Government and also the entitlement of the petitioner-Institution for all times to come.

Sri J.P. Singh, learned counsel, has placed heavy reliance on the judgement of this Court in Misc. Single No. 5313 of 2015 (C/M Madarsa Faizanul Uloom Thr its Manager Shri Mohammad Ali vs. State of U.P. Thru Secy. Minorities Welfare & Waqf Deptt. & Ors) whereby this Court after analyzing the entire law granted relief to the petitioner therein.

In sum and substance, counsel for the petitioner argues that the application of the petitioner for inclusion in the list of grant-in-aid ought to have been considered in the light of the Government Order dated 27.2.2013 and the rejection on the grounds as taken in the impugned order is wholly arbitrary and illegal.

The Standing Counsel, on the other hand, while replying to the averments to the writ petition has pleaded in the counter affidavit that the order passed is a reasoned order. The said para 20 of the counter affidavit also accepts that the short-falls in the petitioner-Madarsa have now been completed as and when a decision is taken by the Government for taking the Madarsa in the list for grant-in-aid, the petitioner's Madarsa shall be given preference based on merits. Para 26 of the counter affidavit is quoted here-in-below:

"That in reply to the contents of paragraph no. 47 to 61 of the writ

petition it is stated that in compliance of the order dated 13.9.2019 pased by this Hon'ble Court in writ petition no. 28933 of 2019, after considering the facts and circumstances, the representation of the petitioners dated 20.9.2019 has been disposed of by a reasoned and speaking order dated 30.7.2002 (Annexure No. 34 to the writ petition). It is further stated that the shortfalls which were in the Madarsa has now been completed. It is further stated that if in future, the decision is taken by the Government for taking the Madarsa on the grant-in-aid list, the Madarsa of the petitioner will be given preference based on merits."

In view of the submissions made by the parties what is to be considered is whether the non-inclusion of the petitioner-Institution for consideration to be included in the list of Madarsas which were brought into grant-in-aid list pursuant to the Government Order dated 22.2.2013 was justified or not and whether the impugned order dated 30.7.2020 refusing to consider the claim of the petitioner for being brought into grant-in-aid list is a valid exercise of power or not.

The counsel for the petitioner has placed heavy reliance on the judgement of this Court dated 05.2.2020 passed in Misc. Single No. 5313 of 2015 wherein this Court considered the issue as to when a person is denied inclusion in the list for grant-in-aid can necessary directions be issued or not. In the said decision before the High Court, the Court had also considered this aspect in the context of instructions of the Additional Advocate General that there was no proposal to take the remaining Madarsas under grant-in-aid. The Court after considering the rival submissions held that the non-inclusion of the Madarsas of the petitioner therein was unjustified and, accordingly, directions were issued to take the petitioner-Institution under grant-in-aid with effect from 23.7.2015, the date wherein the 1975 batch Madarsas were included in the list for grant-in-aid list.

The Court cannot ignore the facts in the counter affidavit wherein the State has clearly admitted that the petitioner has fulfilled the short-falls which were there in the application when the decision was first taken to include 92 Madarsas in the list for grant-in-aid. Thus, once the State Government itself has admitted that the short-falls in the application filed by the petitioner herein for inclusion in the list for grant-in-aid have been completed, the non-inclusion in the list of Madarsas cannot be justified as even on the date of the application actually there were no short-falls and only technical objections were raised on the basis of report of the Tehsildar whose report was prima facie erroneous and did not take into consideration the relevant land records furnished by the petitioner. It may

not be out of place to mention that even the directions for spot inspection issued by the Director, the Minority Welfare Officers were not adhered to. It is further on record that even the report dated 13.8.2015 showed the ownership of the petitioner and the petitioner fulfilling the requisite infrastructure qualifications and thus it was incumbent upon the State to have included the name of the petitioner in the list issued on 13.8.2015 in respect of 17 Madarsas. Thus, in view of the facts recorded above, it is clear that the petitioner actually did fulfill the requisite qualifications for being considered in the list of institutions which were brought into grant-in-aid, but was left out only on account of technical objections which too were removed prior to 13.8.2015. I have no hesitation in holding that the non-inclusion of the petitioner-Institution in the list of Madarsas entitled for being brought under grant-in-aid was wholly justified.

Coming to the ground taken in the present impugned order dated 30.7.2020 denying the benefit of inclusion of the petitioner's Madarsa in the list solely on the ground that the Director has issued directions for considering the claim on the basis of the limited financial resources at the command of the State and in view of the Government Order dated 18.5.2020 issued during the pendency of the present Covid-19 situation restraining the creation of new posts is also arbitrary and illegal for sole reason that once a policy decision is taken in the present case on 27.2.2013 for inclusion of the Madarsa in the grant-in-aid list, the State Government cannot turn around and deny the benefit on account of paucity of funds more so as the said policy has not been discontinued and no new policy has been framed, superseding the earlier policy dated 27.2.2013 similarly, Covid-19 restrictions, restricting the creation of new posts cannot have the effect of negating the policy decision dated 27.2.2013. This aspect also looses relevance in view of the submission of counsel for the petitioner that their claim be considered from the next financial order i.e. 01.04.2021, if the State Government has any hesitation in considering the same with immediate effect on account of pending covid-19 situation.

The order dated 30.7.2020, in fact, has the effect of negating the claim of the petitioners which stood fructified in pursuance of the guidelines issued pursuant to policy decision dated 27.2.2013 and the same could not have been denied by means of an administrative order as has been done by means of the impugned order dated 30.7.2020.
In view of the findings recorded above, the order dated 30.7.2020 is set aside and the Mandamus is issued to the respondent to include the petitioners' Madarsa in the grant-in-aid list with effect from 01.04.2021 in the light of their entitlement under the policy dated 27.2.2013 and the

Government Order dated 21.5.2013.

The writ petition is allowed in terms of the said order."

2. It has been apprised to the Court that an intra court appeal came to be preferred, being Special Appeal Defective No. 313 of 2021 which came to be dismissed on 13.07.2021, order whereof is quoted hereinunder:

"(Civil Misc. Exemption Application No. 1 of 2021)

Heard Sri Rama Nand Pandey, learned counsel for the appellant and Sri Ashok Khare, learned senior counsel assisted by Sri J.P.Singh, learned counsel for the respondents.

This is an application for exemption from filing certified copy of the judgment of the learned single Judge dated 25.11.2020.

Learned counsel for the side opposite submits that he has no objection if filing of the certified copy of the judgment of the learned single Judge is exempted.

In view of the aforesaid, the application is allowed.

The filing of the certified copy of the judgment dated 25.11.2020 is exempted.

Special Appeal

By this appeal, a challenge is made to the the judgment dated 25.11.2020 whereby writ petition preferred by the petitioner was allowed. The writ petition was filed by the institution to cover by the grant in aid scheme pursuant to the policy dated 27.2.2013 and Government Order dated 21.5.2013.

The petitioner's Institution was denied coverage by grant-in-aid scheme in absence of the financial resources with the State. This is after the verification of record and the land. The Madarsa of the petitioner was recognized by the Registrar, Arbi Persian Examination, State of U.P. by order dated 15.6. 2002.

In the year 2013, the State decided to include 146 Madarsas in the grant-in-aid list and in pursuance to it 71 Madarsas were included in grant-in-aid list. The State Government, otherwise issued a list of 244 Madarsas eligible for the benefit of grant-in-aid. The petitioner submitted an application for grant-in-aid but was not accepted. The petitioner, thus approached this Court by maintaining Writ C No. 63594 of 2015. It was

disposed of by the order dated 20.11. 2015. When no decision with regard to grant-in-aid to the petitioners Institution was taken, it again approached this Court by Writ C No. 28933 of 2019 which was decided by order dated 13.9.2019.

In pursuance of the direction given in the order dated 13.9.2019 the appellant passed an order dated 13.7.2020 rejecting the application of the petitioner for the benefit of grant in aid. It was informed that the State has limited funds and due to Covid 19 situation. The learned single Judge found petitioner's entitlement to grant-in-aid as counter to the writ petition was confirming the eligibility of the petitioner?s Institution as all the shortcomings were removed by them. An inspection was also conducted for verification of the land and nothing adverse was found therein. The appellant has yet denied the benefit of grant-in-aid to the petitioner's Institution. It was mainly on the ground of limited funds. It could not have been a ground when policy still exists. The denial to grant-in-aid to the eligible institutions could not have been out of Covid-19. Looking to all these facts, learned single Judge set aside the order dated 13.7.2020 to deny benefit of grant-in-aid to the petitioner's institution yet, while allowing the writ petition, the Institution has been brought in grant-in-aid list with effect from 1st April, 2021.

We do not find any illegality in the judgment and otherwise could not be pointed out by the learned standing counsel appearing for the State. It is more so when even as per the counter to the writ petition, no shortcoming was found in regard to the eligibility to place the Institution in grant in aid list.

The appeal accordingly fails and is dismissed."

3. Against which a Special Leave to Appeal (C) No. 17932 of 2021 came to be preferred which was dismissed on 22.11.2021, order whereof is quoted hereinunder:

"We are not inclined to interfere with the impugned judgment passed by the High Court. Special Leave Petition is dismissed.

Pending applications, if any, also stand disposed of."

4. Alleging non-compliance, the present contempt application came to be preferred. In the meantime, according to the learned counsel for the applicant on 22.04.2022, an order came to be passed by the Registrar / Inspector of U.P. Madarsa Education Board, Lucknow on the recommendation dated 21.04.2022 of the U.P. Madarsa Education Board whereby the recognition so accorded to the petitioner was revoked which

was subject matter of challenge in Writ-C No. 12128 of 2022, in which on 19.05.2022, the following orders were passed:

"1. Impleadment application filed today by Sri G.K. Singh, learned Senior counsel on behalf of teachers of the institution in question is allowed in terms of Chapter XXII Rule 5-A of the Allahabad High Court Rules, 1952.

2. Heard Sri Ashok Khare, learned Senior Advocate assisted by Sri J.P. Singh, learned counsel for the petitioner, Sri G.K. Singh, learned Senior Advocate appearing for applicants-teachers, Sri Manish Goyal, learned Additional Advocate General assisted by Sri A.K. Roy, learned Additional Chief Standing Counsel for respondent no.1 & 4 and Sri Pranav Mishra, learned counsel for respondents no.2 & 3.

3. The petitioners before this Court run and manage Madarsa Islamia Safinatul Hedaya, Meerpur Rahimabad, Mau (hereinafter referred to as 'Madarsa') recognised by the then Registrar, Arbi Persian Examination, U.P. (hereinafter referred as 'Registrar'). The recognition was accorded to the Madarsa by the Registrar on 15.06.2002/06.07.2002.

4. The petitioners are aggrieved against the decision of the Board namely U.P. State Madarsa Education Board i.e. respondent no.2 recommending the revocation of recognition granted to the petitioners' Madarsa as well as final/consequential order passed by the Registrar dated 22.04.2022 revoking the recognition.

5. The argument advanced for assailing the recommendation and the order is that the Board has failed to appreciate documents of title in their correct perspective, inasmuch as, there being no fact finding inquiry of any officer or committee constituted for the purposes of revocation of recognition under the U.P. Non-Governmental Arabic and Persian Madarsa Recognition, Administration & Services Regulation, 2016, the Board ought to have got inquiry conducted independently of the complaint into the title of the petitioners' institution and the revenue entries, and having not done so, the recommendation made by the Board for revocation of recognition deserves to be set aside. Similar reasons have been assigned to assail the order passed by the Registrar.

6. Yet another argument advanced is that in absence of any findings of fact returned by the committee for which no fact finding inquiry was conducted, the Registrar himself could not have embarked upon the inquiry to investigate into the facts relating to the title of the petitioner and that too without giving opportunity of hearing to the petitioners.

7. Sri Khare, learned Senior Counsel appearing for the petitioner in

support of his above arguments has taken the Court to the documents of title and other documents that were available with the Board itself in its record relating to the institution and demonstrated that as per revenue entry of the Fasli year 1409 which would relate to year 2002, the year in which recognition was accorded to the Madarsa, the petitioners' institution through its Manager was recorded as Class-1 tenure holder i.e. bhumidhar with transferable rights and the Column-3 of the Khatauni/revenue extract showed that such title has continued since the Fasli year 1378 i.e. 1971.

8. It is, therefore, argued that revenue entry being prima facie document of title unless and until such an entry is held to be bad by a competent revenue court in an appropriate proceeding drawn under the revenue law, the entry by itself cannot be presumed to be bad. He submits that long standing revenue entry has been held to be of presumptory value unless and until it is rebutted and established to the contrary in lawful proceedings prescribed under the relevant laws.

9. The counsel for the petitioner has relied upon the judgment of Division Bench of this Court in case of Shri Ram & ors vs. DDC Allahabad Camp Fatehpur & ors, 2011 (4) ADJ 289 (DB) regarding rights of tenure holders qua long standing entries.

10. Still further taking the Court to paragraph 2 of the recommendations made by the Board, learned Senior Advocate has argued that no reason has been assigned as to why those documents of entry of Khatauni were bad. He argues that question of fraud is a question of fact and in the absence of any fact finding inquiry made in respect of the revenue entries available in the revenue records of the Tehsil concerned, the presumption of fraud raised by the Board regarding revenue entry is unsustainable. He argues that merely because a hand written Khatauni was there, it would not become itself a forged document unless upon inquiry by revenue authorities it so held.

11. He has further drawn the attention of the Court towards finding part of Board's recommendation in which vide paragraph 2 it held documents to be forged but has failed to refer to any fact finding inquiry report and the authority that did conduct such inquiry so as to justify such findings of fact.

12. Learned Senior Advocate has further argued that the long drawn litigation for bringing the institution for grant in aid when ultimately ended in dismissal of special leave petition being Special Leave Petition (for short 'S.L.P.') (Civil) No.1793 of 2021 vide order dated 22.11.2021, it

was the respondent no.5 who got collusive complaints filed by two individuals namely Amjad Hussain as dated 12.11.2021 and another one by Ramesh Kumar Dwivedi on 25.03.2022. The first complaint, it is alleged, is dated 12.11.2021 but endorsement taking notice of the same, was made for the first time on 23.11.2021 after the disposal of the S.L.P. by the Supreme Court and the respondents have just proceeded to hold recognition of the petitioners' institution granted on 15.06.2002/06.07.2002 to be bad for fraud and revoked the same with the only purpose to frustrate the judgment and order of this Court dated 25.11.2020 passed in Writ C No.13568 of 2020 which stood affirmed by the Apex Court with disposal of S.L.P. and for compliance of which Contempt Application (Civil) No.27251 of 2021 was still pending.

13. Sri G.K. Singh, learned Senior Advocate who has appeared on behalf of teachers has adopted the arguments of Sri Khare and additionally submits that the manner in which the Registrar in hot haste proceeded to pass order on the very next day of the recommendation made by the Board, it shows that virtually the authorities have colluded in the matter maneuvering third party complaints with the only intention to frustrate the contempt proceedings.

14. He argues that even by virtue of permissive possession or adverse possession in the alternative, the land vested with the Madarsa and no other person having claimed any title in respect of the land in question and the Madarsa having continued to be recorded as Class-1 heir, it did not lie within the domain of the authority of the Registrar of the Madarsas to hold that a document from which the title might have flown, was bad and so the consequential entry was also bad. The Registrar, he argues, is neither the revenue authority, nor is the authority otherwise competent in law to question the title of a recorded tenure holder and the long standing revenue entries. He argues that extraneous considerations have weighed more the mind of the authorities to rely upon private complaints, notice of which was taken after the judgment of the Apex Court just to revoke the recognition of the institution. He, thus, submits that the entire exercise and the consequential action at the end of the respondents is vitiated for mala fides as well, which is attributable to respondent no.5.

15. Meeting the above arguments, Sri Manish Goyal, learned Additional Advocate General has firstly defended the recommendation of the Board by showing that there is a finding of fact that forged Khatauni was submitted at the time of obtaining recognition. He has also taken the Court to the relevant findings returned by the Registrar, Madarsas in his consequential order wherein he has returned a finding that no document

can pass on the tile in respect of an immovable property if it is not registered one and the document of title in question, therefore, cannot be held valid, inasmuch as, the rent deed was signed by the witnesses who were minor. He also submitted before the Court that there was a fact finding inquiry conducted on the basis of which the entire proceedings have come to be drawn and, therefore, he submits that this Court may not interfere with the order passed by the Registrar at this stage.

16. On a pointed query being made to Sri Goyal as to what exactly was the fact finding inquiry if any available before the Board of Madarsas upon which it had proceeded to make recommendation as there was no whisper in the entire recommendation of the Board referring to any particular report much less a fact finding report, so as to form a prima facie view regarding fraud, learned Additional Advocate General could not give reference to any such report that may at least give a prima facie impression regarding correctness/truthfulness of the findings arrived under the impugned recommendation of the Board. So also the learned Additional Advocate General could not cite any report as referred to in the consequential order passed by the Registrar upon which he has passed his finding and passed the order impugned.

17. Learned Advocate General also could not satisfy the Court as to while the Madarsa was litigating before this Court for being brought on Grant-in-aid list of the State Government why title was not examined and investigated though throughout State contested the matter upto Supreme Court. Learned Advocate General also could not demonstrate as to how those private complainants were associated with the institution and why the complaint was processed for inquiry only on 23.11.2021, a day after dismissal of S.L.P. while it is stated to have been moved on 12.11.2021.

18. In view of the above, prima facie, the arguments advanced by the learned counsel appearing for the petitioner appears to have substance and matter requires consideration.

19. Let detailed counter affidavits be filed by the respondents within a period of six weeks from today. Rejoinder affidavit, if any, may be filed within two weeks thereafter.

20. Issue notice to respondents no.5 & 6 fixing date 10.08.2022.

21. Steps for service be taken within two weeks.

22. List on 10.08.2022.

23. In the meanwhile, until further orders of this Court, the

recommendation dated 21.04.2022 made by respondent no.2 namely U.P. Madarsa Education Board and so also the effect and operation of order dated 22.04.2022 passed by the Registrar/Inspector of U.P. Madarsa Education Board, Lucknow shall remain stayed."

5. Shri Brijesh Kumar, learned standing counsel has invited the attention of the Court towards the affidavit of the opposite party No. 4, dated 04.09.2025 wherein in para-11 has been asserted as under:

"11. That, in compliance of the order dated 25.11.2020, passed by the Hon'ble High Court in Writ Petition No.13568/2020, the proceedings were going to present a proposal before the Hon'ble Council of Ministers to include Madrasa Islamia Safinatul Hedaya Mirpur Rahimabad Mau in the grant-in-aid list from 01.04.2021. Meanwhile, a complaint has been received regarding the recognition of the Madrasa in question, in which it was complained that the recognition of the Madrasa in question has been obtained on the basis of forged and fabricated documents. After examining the complaint in question, the competent authority Registrar UP Madrasa Education Council Lucknow, prima facie, found that the recognition of the Madrasa in question has been obtained on the basis of forged and fabricated documents. In this regard, in pursuance of the orders of the Registrar Uttar Pradesh Madrasa Education Council, the First Information Report No.0112/2022 was lodged against the manager of the Madrasa and others, in the Police Station Hazratganj at Lucknow on 29.03.2022. Apart from this, the recognition of the Madrasa in question was also terminated, vide order dated 22.04.2022 issued by the Registrar Uttar Pradesh Madrasa Education Council."

6. A perusal of the same would reveal that the only ground which has been sought to be taken is termination regarding recognition of the Madarsa on 22.04.2022.

7. Interestingly, the same has been stayed in Writ-C No. 12128 of 2022 on 19.05.2022. Though according to Shri Brijesh Kumar, learned standing counsel, there happens to be a pendency of a review application seeking review of the order dated 25.11.2020 passed in Writ-C No. 13560 of 2020 but till date, according to the parties, the said order has not been reviewed, thus, the opposite parties are in contempt of the court's order.

8. At this stage, though the Court was to proceed with the matter, Shri Brijesh Kumar, learned standing counsel has sought time till 08.09.2026 to obtain instructions in the matter regarding compliance / file affidavit.

9. List this case on 08.09.2026 at 2.00 PM."

2. Today, a document has been produced before this Court dated 07.09.2026 of Special Secretary, State of Uttar Pradesh, addressed to the Standing Counsel, which is quoted hereinunder and marked as Appendix-A.-

"रिट संख्या-203/52-3-2026-(2087892)

प्रेषक,

शीलधर सिंह यादव,
विशेष सचिव,
उत्तर प्रदेश शासन।

सेवा में,

मुख्य स्थायी अधिवक्ता,
मा० उच्च न्यायालय,
इलाहाबाद।

अल्पसंख्यक कल्याण एवं वक्फ अनुभाग-3
लखनऊः दिनांक 07 सितम्बर, 2026

विषयः- मा० उच्च न्यायालय इलाहाबाद में योजित अवमाननावाद संख्या-2725/2021 प्रबन्ध समिति मदरसा इस्लामिया सफीनतुल हेदाया मीरपुर, रहीमाबाद, मऊ व अन्य के संबंध में।

महोदय,

उपर्युक्त विषयक अवमाननावाद संख्या-2725/2021 प्रबन्ध समिति मदरसा इस्लामिया सफीनतुल हेदाया मीरपुर, रहीमाबाद, मऊ व अन्य में मा० उच्च न्यायालय इलाहाबाद द्वारा पारित आदेश दिनांक 24-08-2026 का कृपया संदर्भ ग्रहण करने का कष्ट करें।

2- प्रश्नगत अवमाननावाद वाद में मा० उच्च न्यायालय इलाहाबाद के आदेश दिनांक 24-08-2026 का कार्यकारी अंश निम्नवत हैः-

.....6. A perusal of the same would reveal that the only ground which has been sought to be taken is termination regarding recognition of the Madarsa on 22.04.2022....

7. Interestingly, the same has been stayed in Writ-C No. 12128 of 2022 on 19.05.2022. Though according to Shri Brijesh Kumar, learned standing counsel, there happens to be a pendency of a review application seeking review of the order dated 25.11.2020 passed in Writ-C No. 13560 of 2020 but till date, according to the parties, the said order has not been reviewed, thus, the opposite parties are in contempt of the court's order.

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Brijesh Kumar, learned standing counsel has sought time till 08.09.2026 to obtain instructions in the matter regarding compliance/file affidavit.

9. List this case on 08.09.2026 at 2.00 PM.

उक्त आदेश दिनांक 24-08-2026 में मा० उच्च न्यायालय द्वारा प्रकरण में अनुपालन शपथ-पत्र दिनांक 08.09.2026 तक दाखिल किये जाने के आदेश दिए गए हैं। प्रश्नगत वाद की अगली सुनवाई दिनांक 08-09-2026 को निर्धारित है।

3- इस संबंध में अवगत कराना है कि रिट याचिका संख्या-13568/2020 में पारित आदेश दिनांक 25-11-2020 के क्रम में योजित अवमाननावाद संख्या-2725/2021 प्रबन्ध समिति मदरसा इस्लामिया सफीनतुल हेदाया मीरपुर, रहीमाबाद, मऊ व अन्य में मा० उच्च न्यायालय इलाहाबाद द्वारा पारित आदेश दिनांक 24-08-2026 के अनुपालन में मदरसा इस्लामिया सफीनतुल हेदाया, रहीमाबाद, मऊ को अनुदान सूची पर सम्मिलित किए जाने के संबंध में कार्यवाही प्रचलित है, जिसमें समय लगने की सम्भावना है।
4- अतः इस संबंध में मुझे यह कहने का निर्देश हुआ है कि कृपया प्रकरण में उपर्युक्त वस्तुस्थिति से मा० उच्च न्यायालय को अवगत कराते हुए एक माह का अतिरिक्त समय प्रदान किए जाने हेतु मा० उच्च न्यायालय इलाहाबाद से अनुरोध करने का कष्ट करें तथा प्रश्नगत वाद की प्रभावी पैरवी भी करने का कष्ट करें।

भवदीय,

(शीलधर सिंह यादव)
SHILDHAR SINGH YADAV
Date: 07-09-2026 17:40:46

संख्या एवं दिनांक तदेव
प्रतिलिपि निम्नलिखित को सूचनार्थ एवं आवश्यक कार्यवाही हेतु प्रेषितः-
1- निदेशक अल्पसंख्यक कल्याण उ०प्र० लखनऊ।
2- जिला अल्पसंख्यक कल्याण अधिकारी, प्रयागराज/मऊ को इस निर्देश के साथ प्रेषित कि कृपया प्रकरण में मुख्य स्थायी अधिवक्ता मा० उच्च न्यायालय इलाहाबाद से समन्वय स्थापित करते हुए प्रभावी पैरवी सुनिश्चित कराने का कष्ट करें।":-

3. Sri Rajeshwar Tripathi, learned Chief Standing Counsel assisted by Sri Brijesh Kumar, learned Standing Counsel seeks accommodation for one month.

4. On a pointed query being raised as to what is the reason for deferring the contempt proceedings for being accommodated for one month.

5. Sri Tripathi submits that the matter is to be placed before the Cabinet.

6. This Court on 11.04.2022 proceeded to pass the following orders.-

"Sri Himanshu Kumar, Principal Secretary, Minority Welfare and Waqf,

U.P. Government is present in the Court, who is identified by Sri P.K. Giri, learned Additional Chief Standing Counsel. An affidavit of compliance has been filed today, which is taken on record.

In para nos. 4 and 5, it has been stated that proposal has been sent for consideration to the Council of Ministers on 06.04.2022 and no information as to the decision taken by the Council has been received back.

The writ Court while allowing the writ petition on 25.11.2020 relying upon the guidelines issued pursuant to policy decision dated 27.02.2013 and Government Order dated 21.05.2013 had allowed the writ petition fled by the applicant and set aside the order dated 30.07.2020 and directed the opposite party to include the applicant in grant-in-aid list.

Earlier the matter was taken on 07.03.2022 wherein the matter was deferred on the ground that the Model Code of Conduct was effective in the State and State was busy in elections and the matter was posted for today. Today, again an affidavit has come up from the side opposite on the ground that decision has not been taken by Cabinet till date.

This Court finds that explanation given in the affidavit is not acceptable to the Court as the decision of the writ Court cannot be subject-matter of consideration before the Cabinet and the mandamus issued has to be complied by officers of the State.

Keeping in view the above fact, as a last opportunity, two weeks' and no more time is granted to opposite party to comply the order of writ Court and apprise the Court as to whether the guidelines of 2013 as well as Government Order of 2013 are still in existence and if there so, then why till date the opposite party has not complied the order of writ Court by taking the applicant Madrasa in grant-in-aid list.

List this matter again on 29.04.2022.

It is made clear that in case the order of writ Court having been complied with, an affidavit would suffice. In case of non-compliance, the officer shall remain present."

7. A bare look of the order dated 11.04.2022 passed in the present contempt application would reveal that the said explanation was not found to be acceptable.

8. Since accommodation has been sought, put up this case on 24.09.2026 under the same caption.

9. Instructions filed today are taken on record and marked as Appendix 'A'.

"2. Today, an affidavit has been filed on behalf of Opposite Party No. 4/ Sanyukta Samaddar, Principal Secretary, Political Pension and Civil Defence Department by Sri Rajeshwar Tripathi, learned Chief Standing Counsel-II, assisted by Sri Brijesh Kumar. In the affidavit, it has been recited as under:- "7. That the deponent most respectfully submits that in compliance of the order dated 08.09.2026 passed in the present contempt application, it is to be informed that the policy in effect for inclusion of Madrasa in the grant-in-aid list in the State has been abolished by Government Order No. 795/52-3-2022-52-3099/84/2021 dated 30.05.2022 after the approval of the Hon'ble Council of Ministers. Hence, at present there is no policy for inclusion of any Madrasa in the grant-in-aid list. 8. That in such situation, if in view of the legal obligation of compliance with the order of the Hon'ble High Court, action is to be taken to include any Madrasa on the grant list, then in the absence of a Policy at present, the approval of the Hon'ble Council of Ministers (Cabinet) will be necessary and without the approval of the Hon'ble Council of Ministers, action to include any Madrasa on the grant-in-aid list will not be in accordance with the Rules. 9. That it is also noteworthy that in view of the compliance/legal obligation of the order dated 05.02.2020 passed by Hon'ble High Court in Writ Petition No. 5313 (M/S)/2015; order dated 05.02.2024 passed in Special Appeal No. 316 (D)/2020 and order dated 20.01.2025 passed by Hon'ble Supreme Court in Special Leave Petition, Case Diary No. 2300/2025 SLP No. 001889-001890/2025 and orders passed in Contempt Case (Civil) No. 218/2021, the action of including Madrasa Faizanul Uloom, Machhlishahr, District Jaunpur in the grant-in-aid list has been taken on 28.02.2025 only after the expiry of the said Policy and after the approval of Hon'ble Council of Ministers. 10. That in the present case, in compliance with the order dated 25.11.2020 passed by the Hon'ble High Court in Writ Petition-13568/2020, in relation to inclusion of the Madrasa Sanfinatul Hidaya, Rahimabad, District Mau, on the grant-in-aid list, in view of the legal position involved, proceedings are going on to present the proposal before the Hon'ble Council of Ministers. 11. That in view of the aforesaid facts and circumstances, the order dated 25.11.2020 passed in Civil Misc. Writ Petition (C) No. 13568 of 2020 (C/M Madrasa Islamia Safinatul Hedaya, Mau & another vs. State of U.P. and 4 others) as well as order passed in the present contempt proceeding has not been disobeyed or violated by the deponent."

3. A bare look of para 10 of the Affidavit filed today would depict that

with regard to inclusion of the applicant Madarsa in grant-in-aid list, proceedings are going on to present the proposal before the Hon'ble Council of Ministers. In the order dated 08.09.2026, in particular recital has been made in para-6 of the order dated 11.04.2022, wherein the ground taken by the opposite parties for referring the matter for consideration before the Cabinet was found unacceptable.

4. Today again, by means of the affidavit dated 24.09.2026, as referred to above, the same stand has been taken that a proposal is going to be presented before the Hon'ble Council of Ministers. The said explanation cannot be said to be tenable in law and further nothing is there on record to show compliance.

5. Put up this case on 15.10.2026 in the additional cause list, by which time the affidavit of compliance complying with the order, be filed. In case the order of the writ Court is not complied with, the opposite party no. 4 shall remain present."

4. Today, an affidavit has been filed on behalf of respondent no.4 which is taken on record.

5. On the strength of paragraph nos.7 & 8 of the affidavit, Mr. Manish Goyal, learned A.A.G., submits that subsequent event has taken place, therefore Cabinet approval is required for which the matter has been referred to the Cabinet which could not be held. He prays for a month's further time to comply the Writ Court order.

6. The said submission has vehemently been opposed by Mr. G.K. Singh, learned Senior Advocate and submits that time and again, same plea has been raised that the Cabinet could not be formed and the approval could not be obtained.

7. The record shows that after passing of the order by this Court, the matter traveled up to Hon'ble Supreme Court but the respondent could not succeed in getting any favourable order. Despite the said fact, the order passed by this Court has not been complied with till date. A plea again has been taken that the Cabinet could not be formed as such approval is awaited. Therefore, respondent is helpless.

8. The record further shows that on the last two occasions, similar plea has been taken but no material has been brought on record to show that any sincere effort has been made by the Contemnor for compliance of the order

passed by this Court.

9. The Court was about to draw contempt proceedings against the officer, then, a request has been made by Mr. Manish Goyal that some breathing time may be allowed to comply the order passed by this Court.

10. Mr. Manish Goyal, on instructions being received by the Contemnor who is present in the Court, submits that the order of Writ Court will be complied within a month.

11. In view of the categorical statement made by Mr. Manish Goyal, learned A.A.G., the matter is adjourned.

12. List this matter again on 16.11.2026.

13. In case affidavit of compliance is not filed on the next date, the respondent shall be present for framing of charges.

October 15, 2026
Abhishek Gupta

(Piyush Agrawal,J.)

Digitally signed by :-
ABHISHEK GUPTA
High Court of Judicature at Allahabad