

**BEFORE THE HONOURABLE PESHAWAR HIGH COURT**  
**MINGORA BENCH, SWAT**

Written Reply

IN

Execution Petition No: 516-M/2020

Mustafa and others

VERSUS

Dr. Muhammad Farooq project Director University of Buner.

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Assistant Registrar Legal  
University of Buner.

**FILED TODAY**

**28 MAY 2020**

**Additional Registrar**

1

**BEFORE THE HONOURABLE PESHAWAR HIGH COURT**  
**MINGORA BENCH, SWAT**

Written Reply

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Dr. Muhammad Farooq project Director University of Buner.

**COMMENTS ON BEHALF OF RESPONDENTS NO 1**

Respectfully Submitted:

**Preliminary Objections**

- A. There is no violation of the fundamental rights of the Applicants.
- B. The Petitioners' instant Execution Application is liable to be dismissed as they failed to approach the right forum.
- C. The Petitioner's instant Execution Application is pre mature.

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**Para Wise Reply**

1. Paragraph 1 is not correct being misconceived. As set out in the comments to the main Writ Petition, the Petitioners were appointed by the administration of the Abdul Wali Khan University Mardan at the time when the University of Buner was not established. Therefore, the University of Buner had never appointed these petitioners.
2. Paragraph 2 is correct to the extent that this Honorable Court allowed the Writ Petition of the Petitioners.
3. Paragraph 3 is correct to the extent that the Respondent University of Buner challenged the judgment of this Honorable Court before the Honorable Supreme Court of Pakistan. Rest of the Paragraph is denied. The Honorable Apex Court disposed of the subject matter with the clear directions that "the University of Buner may, in case any grounds are lawfully available to them, issue notices to Respondents seeking relevant queries regarding

their appointment and pertaining to the process thereof, and thereafter proceed in the matter in accordance with law". A mere glimpse of the above directions of the Honorable Apex Court makes it clear that the University of Buner has been asked to initiate a process of enquiry against the Applicants, regarding their appointment, and then to proceed against them in accordance of law.

*(Order of the Honorable Supreme Court is attached as Annexure A)*

4. Paragraph 4 is not correct being misconceived. The Project Director of the University of Buner has been initiated the execution process with the Chancellor of the University/Governor Khyber Pakhtunkhwa for implementing the order of Honorable Supreme Court keeping in view all parties on board as per laws and rules. However, due to the current pandemic, most of the offices are closed and even Quarantine Center has been established in the University of Buner which is a global issue and could not be taken unilaterally in someone individual's account. Consequently, the pace of work at all the public offices have either been stopped or slowed down. We are hopeful that a high level committee will soon be formed for the implementation of the order of the Honorable Apex Court in its letter and spirit.

*(Letters of communication between the administration of University of Buner and Chancellor's Office are attached as Annexure B)*

5. Paragraph 5 is not correct. Detailed reply has been given in paragraphs 3 and 4 which is reiterated here. It is also pertinent to brought into court's knowledge here that the Applicants have already approached the Chancellor of University of Buner/Governor Khuber Pakhtunkhwa for the implementation of the order of the Honorable Apex Court which is an appellant authority. Accordingly, the Chancellor's office has sought comments from University of Buner which have already been submitted. Therefore, as set out above, the process has already been started, and the instant Application of the Applicants is pre-mature as they didn't wait for the outcome of their earlier representation to the Chancellor of the University of Buner/Governor KP.

*(Copy of Appeal of the Petitioners to the Governor/ chancellor of the university of Buner is attached is annexure C)*

6. Paragraph 6 is not correct being a baseless allegation. The Respondent University of Buner has no interest in delaying the matter of the Applicants. As set out above, the fate of the Applicants will be decided after the decision of the enquiry committee as per the order of the Honorable Supreme Court.

**FILED TODAY**

**28 MAY 2020**

PRAYER


**Additional Registrar**

In view of the above submissions, it is humbly prayed that the instant Execution Application of the Applicants may kindly be dismissed.

3

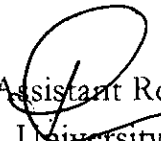
Comments of Respondents No.1

Through

  
Assistant Registrar legal  
University of Buner.

CERTIFICATE

It is certified that, no such like reply has earlier been filed before this Honorable Court in the instant matter.

  
Assistant Registrar legal  
University of Buner.

**FILED TODAY**

**28 MAY 2020**

**Additional Registrar**

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**BEFORE THE HONOURABLE PESHAWAR HIGH COURT**  
**MINGORA BENCH, SWAT**

Execution Petition No: 516-M/2020

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VERSUS

Dr. Muhammad Farooq project Director University of Buner.

**AFFIDAVIT**

I Mr. Tariq Hassan Assistant Registrar legal University of Buner, do hereby solemnly affirm and declared that all the contents of the above cited comments are true and correct to the best of my knowledge and belief, and nothing has been kept concealed therein.

Deponent

Mr. Tariq Hassan  
*[Signature]*  
Assistant Registrar legal  
University of Buner

**FILED TODAY**  
**28 MAY 2020**  
*[Signature]*  
**Additional Registrar**

S.No 1880  
Certified that the above was verified on Solemn  
affirmation before me on this 28<sup>th</sup> day  
of May 2020 by Tariq Hassan  
S/o Saeed Ramzan No Shangla who  
was identified by Self  
~~Who is personally known to me~~

*[Signature]*  
**ADDL. REGISTRAR**  
Peshawar High Court  
Mingora Bench/Dar-ul-Qaza, Swat.

**IN THE SUPREME COURT OF PAKISTAN**  
(Appellate Jurisdiction)

5

**PRESENT**

Mr. Justice Maqbool Baqar  
Mr. Justice Yahya Afridi  
Mr. Justice Qazi Muhammad Amin Ahmed

**Civil Petitions No. 2321 & 385-P/2019**

(Against the judgments dated 26.03.2019 of the Peshawar High Court, Mingora Bench passed in WP No. 1084-M/2018)

***Project Director, University of Buner at Daggar, District Buner & another  
Govt. of KPK thr. Secretary Higher Education Peshawar***

*Petitioner(s)*

***Versus***

***Mustafa & others***

*Respondent(s)*

For the Petitioner(s) : Mr. Afnan Karim Kundi, ASC  
Syed Rifaqat Hussain Shah, AOR  
(in CP 2321/2019)

Mr. Zahid Yousaf Qureshi, Addl. AG  
(in CP 385-P/2019)

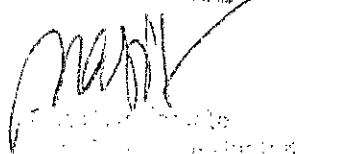
For the Respondent(s) : Mr. Muhammad Shoaib Shaheen, ASC

Date of Hearing : 13.02.2020

**ORDER**

**Maqbool Baqar, J.** After Mr. Afnan Karim Kundi, learned counsel for the petitioners (in CP 2321/2019) has argued the case at great length, and with ability, he conceded to the proposal of the Court for the disposal of the petitions with an observation that the petitioners may, in case any grounds are lawfully available to them, issue notice to the respondents seeking the relevant queries regarding their appointment and pertaining to the process thereof, and thereafter proceed in the matter in accordance with law. Mr. Muhammad Shoaib Shaheen, learned

ATTESTED



  
Afnan Karim Kundi  
Counsel for Petitioner(s)

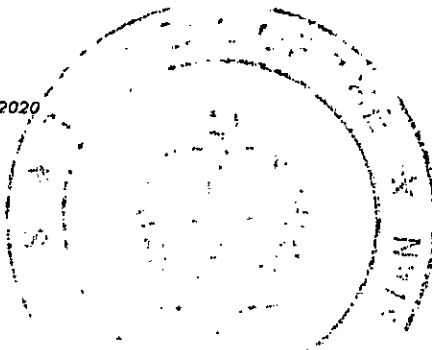
counsel for the respondents also agrees to the above. The petitions are therefore converted into appeals and disposed of in the foregoing terms. However, the respondents' claim regarding the service back benefits shall be dependent upon the outcome of the proposed proceedings.

2. By way of clarity, it may be noted that case of those who continued to be in the employment of Abdul Wali Khan University was distinguishable from the present, as no vacancies were sanctioned and available in the said University, at the relevant time, to accommodate the said employees.

Sd/- J  
Sd/- J  
Sd/- J

Islamabad, the  
13<sup>th</sup> February, 2020  
Rizwan

Amir  
20/2/20



Certified to be True Copy  
*[Signature]*  
Court / Justice  
Supreme Court of Pakistan  
Islamabad

Accepted  
to the Registry



# OFFICE OF THE PROJECT DIRECTOR

UNIVERSITY OF BUNER AT SAWARAI, BUNER KHYBER PAKHTUNKHWA.

ANNEX B (7)

No. 32/PD/UOB/2020

Date: 13.03.2020

The Governor/Chancellor of the Universities

Khyber Pakhtunkhwa

Through

Secretary, Higher Education;

Archives and Libraries Department, Peshawar

Subject: **legal action, in respect of eleven employees appointed by Abdul Wali Khan University Mardan (AWKUM) for Buner campus of AWKUM against advertisement of No.48**

Reverend Sir

- 1) That on 21.10.2016 Abdul Wali Khan University Mardan appointed 271 employees against advertisement no.48/2015 for its Garden, Chitral, Timergara and Buner Campuses. Among those 271 employees, eleven employees including three Demonstrators (BPS 17), six Office Assistants, one Lower Division Clerk and one Key Punch Operator were appointed on regular basis at the Buner Campus of Abdul Wali Khan University Mardan.
- 2) That the Buner campus of AWKUM was upgraded through a notification no. SO (UE-II) HE/11-2/2016 dated 30-11-2016 into a full-fledged University namely "The University of Buner", and a Project Director was appointed to look after the affairs of the newly established University. Thereafter on 22-05-2017, all the movable and immovable assets and liabilities of the Buner campus of WKUM were transferred to the University of Buner. The services of the employees including the eleven employees working at the Buner campus were also handed over to the University of Buner on 19-07-2017.  
(AWKUM office order dated 19-07-2017 is attached as annexure "A")
- 3) The criticism against merit, favoritism and corruption in recruitments under advertisement No. 48 was widely publicized in letters and media which led the National Accountability Bureau to conduct an inquiry and request the Vice Chancellor of AWKUM through its letter dated 22-12-2017 to take appropriate legal action. AWKUM's Syndicate in its 25<sup>th</sup> (Emergency) meeting held on 26.02.2018 constituted a twelve member inquiry committee to probe the appointments made in response to the advertisement No.48 and contract appointments.

- (Letter dated 22-12-2017 and minutes of 25<sup>th</sup> syndicate emergency meeting is attached as annexure "B")
- 4) That recommendation of the inquiry committee the AWKUM's Syndicate in its 26<sup>th</sup> meeting held on 28-06-2018 unanimously declared all the appointments to be "illegal, without lawful authority and of no legal effect. Subsequently, individual termination notices dated 29.06.2018 were issued to all employees terminating their services.  
(Minutes of the 26<sup>th</sup> syndicate meeting is attached as annexure "C")
  - 5) That the report of inquiry committee, conducted by Syndicate AWKUM against these employees is attached as annexure "D"
  - 6) That the aforesaid terminations were challenged by the employees before Peshawar High Court through various writ petitions. The Honourable High Court through its judgment dated 18-10-2018 dismissed all petitions and held that the appointments under advertisement No. 48 were made against "non-sanctioned and non-vacant posts through a questionable process and in colorful exercise of authority/powers by the then administration of AWKUM which could not be sustained on any ground.  
(Judgment dated 18-10-2018 is attached as annexure "E")
  - 7) That after approval of the Syndicate, the AWKUM wrote to the University of Buner on 29.08.2018 that the decision of the Syndicate applies to all employees appointed pursuant to advertisement No. 48 and appropriate action should be taken against the eleven employees handed over to University of Buner in pursuance of the approval of the Syndicate AWKUM and judgment of Peshawar High Court dated 18-10-2018, University of Buner terminated the services of the those eleven employees handed over to University of Buner vide notification No. 1514/Reg/Uob/2018 dated 13-11-2018.  
(Copy of letter dated 29-08-2018 and notification dated 13-11-2018 is attached as annexure "F")
  - 8) That in the meanwhile, the above said judgment of the Peshawar High Court dated 18-10-2018 was assailed by AWKUM employees before the August Supreme Court of Pakistan, vide its order dated 02-04-2019 in CP No. 808-P/2018 and other connected petitions and upheld the judgment of Peshawar High Court.  
(Judgment dated 02-04-2019 is attached as annexure "G")
  - 9) That the eleven employees terminated by University of Buner being aggrieved of their termination impugned the notification dated 13-11-2018 before the Peshawar High Court Mingora Bench Darul Qaza Swat through writ petition No. 1084-M/2018. The Hon'ble Mingora Bench of Peshawar High Court through its judgment dated 26-03-2019 set aside the notification of termination of the above cited eleven employees and hereby allowed the writ petition.  
(Judgment dated 26-03-2019 is attached as annexure "H")
  - 10) That after setting aside the termination order of the eleven employees by the Hon'ble Bench of Peshawar High Court, the Higher Education Archives and Libraries Department took notice of the peculiarity of the matter and the matter was forwarded to Provincial Scrutiny Committee of the Government of Khyber Pakhtunkhwa Law, Parliamentary affairs and Human Rights Department for approval of filing CPLA in August Supreme Court of Pakistan. Meeting of the said committee held on 02-05-2019 wherein it was declared that the matter is a fit case for filing a CPLA in Supreme Court and directed University of Buner and Office of

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Advocate General Khyber Pakhtunkhwa through Higher Education Department vide its letter dated 08-05-2019 for doing the needful.

(Minutes of the meeting dated 02-05-2019 and letter dated 08-05-2019 is attached as annexure "I")

11) In compliance of the above directions, University of Buner filed CPLA No. 2321/2019 through private counsel and Higher Education Department approached the Office of the Advocate General Khyber Pakhtunkhwa, and filed CPLA No.385P/2019 in Supreme Court of Pakistan.

(Copy of CPLA notice by Govt. of Khyber Pakhtunkhwa through Secretary Higher Education Department, Peshawar is attached as annexure "J")


12) That August Supreme Court vide its order dated 13-02-2020 disposed of the petitions with an observation that the **"petitioners may, in case any grounds are lawfully available to them, issue notices to the respondents seeking the relevant queries regarding their appointment and pertaining to the process thereof, and thereafter proceed in the matter in accordance with law"**.

(Copy of order dated 13-02-2020 is attached as annexure "K")

13) It is pertinent to mention here that University of Buner is still going through transitional phase headed by a Project Director, following statutes, rules and regulations of University of Peshawar under section 46B of the Khyber Pakhtunkhwa Universities Act 2012. Being in transitional phase lack its own authorities; like Senate, Syndicate and Academic Council which are the competent fora to proceed in the matter in hand in accordance with law against the eleven employees.

14) Beside this there is also clear directions of Higher Education Department vide its letter no. SO (U-II) HE/3-1/General Misc. /Peshawar dated 10<sup>th</sup> February 2020, that no policy decisions shall be taken till next orders. (Copy of letter dated 10-02-2020 is attached as annexure "L")

Keeping in view the above facts about the matter the Honourable Governor/Chancellor of Universities Khyber Pakhtunkhwa is humbly requested to kindly order high level inquiry committee to proceed into the matter as per directives of the Honourable Supreme Court of Pakistan.

  
Project Director  
University of Buner

Copy forwarded to.

1. Registrar Supreme Court of Pakistan.
2. Registrar Peshawar High Court Darul Qaza Swat.

Project Director  
University of Buner





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GOVERNOR'S SECRETARIAT,  
Khyber Pakhtunkhwa, Peshawar

No. LO/1-1/GS/2013/  
Dated: 12<sup>th</sup> March, 2020/132-33  
w/c

To

✓ The Vice Chancellor,  
University of Buner at Daggar, District Buner.

Subject: - **Civil Petitions No. 2321 & 385-P/2019 Project Director,  
University of Buner etc vs Mustafa & others**

Dear Sir,

I am directed to refer to the subject cited above.

2. Copies of the appeal along with enclosures received from the respondents in the subject CPLA, are enclosed.
3. It is, therefore, requested to kindly furnish your views/comments on the same within seven (07) days, for the perusal/orders of the Appellate Authority/Governor, Khyber Pakhtunkhwa, please.

Enclosed as above.

Yours faithfully,

  
(Muhammad Adnan)  
Law Officer

Copy forwarded to:

- PS to Principal Secretary to Governor, Khyber Pakhtunkhwa.

  
Law Officer

  
Attested  
to be true copy.



# UNIVERSITY OF BUNER

Khyber Pakhtunkhwa - Pakistan

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Ref. No. 3540/REG/UoB/2020

Date 18-3-2020

To,

Mr. Muhammad Adnan, Law Officer Governor's Secretariat, Khyber Pakhtunkhwa Peshawar.

Subject: **CIVIL PETITION NO.2321 & 385-P/2019 PROJECT DIRECTOR, UNIVERSITY OF BUNER ETC VS MUSTAFA & OTHERS.**

I am directed to refer your letter No.LO/1-1/GS/2013/532-33 w.e, dated March 12, 2020 on the subject noted above.

The reply along with detailed annexures on the subject matter has already been forwarded to the Honourable Governor, Khyber Pakhtunkhwa vide this officer letter No. 32/PD/UoB/2020, dated 13-03-2020 through Secretary Higher Education Archives & Libraries Department for further proceedings into the matter. (A copy of the letter referred above is enclosed as a reference).

It is requested that the Honourable Governor, Khyber Pakhtunkhwa may kindly be approached for constituting a committee to conduct inquiry in light of Supreme Court's decision into the matter for further necessary action by the competent authority in the instant case.

Registrar,

University of Buner

**Copy forwarded to:**

1. PS to Principal Secretary to Governor, Khyber Pakhtunkhwa, Peshawar.
2. PS to Secretary Higher Education, Archives & Libraries Department, Khyber Pakhtunkhwa, Peshawar.
3. Section Officer (Litigation) Higher Education, Archives & Libraries Department, Khyber Pakhtunkhwa, Peshawar with reference to his letter U.O. No.SO(LIT)/HE/CPLA-61/CP#2321/2019/Mustafa & Others dated 09-03-2020
4. PA to Deputy Secretary (Litigation) HED Peshawar.

Attached to the copy

o/c



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To

The honorable Governor  
Khyber Pakhtunkhwa  
Governor Sectriate Peshawar

**Subject. Request for the implementation of the order of the supreme court**

Respected Sir.

It is humbly stated in your kind honor that the applicants were working on different posts in University of Buner. All of a sudden the applicants were terminated on 13-11-2018 through a notification (copy attached) by the order of the project director University of Buner without any inquiry and without any show cause notice. Being the aggrieved party the applicants filed a writ petition in the Peshawar High court Mingora bench which was allowed by honorable court declaring the mentioned termination notification as null and void (attested copy of the judgment dated 26-03-2019 attached). It is pertinent to mention here that thereafter the applicants have repeatedly requested to project director to implement the order of the honorable high court but all such requests were turned down by the high ups of the University, meanwhile the University filed a CPLA in the supreme court of Pakistan against the judgment of the high court. The said CPLA was then decided the honorable supreme court in favour of the applicants on 13-02-2020 (attested order of the supreme court attached). It is quite astonishing to state at this moment even after clear directions issued by the high court, (the judgment is still intact) then by the supreme court, the project director and registrar university of Buner are still not responding to any request (letters attached) of the applicants and are using delaying tactics in this regard against those who have already suffered almost 16 months without any fault, mistake on their side.

Being the honorable Governor and chancellor of University of Buner. It is now kindly stated in your honor to take appropriate action in this issue as the matter involve violation of basic human rights disobedience towards orders of honorable courts. It is also a fact that in the current situation there is no alternate such forum available to the applicants who can provide fastest remedy and justice to the in the matter in hand. Furthermore, it is now crystal clear on the record that the applicants and their families have suffered a lot during the mentioned period both financially as well mentally. It is therefore once again requested in your honor to kindly direct the relevant authorities of the University of Buner to implement the judgment, order of the honorable courts positively please

Regards

  
Sd/-  
Secretary

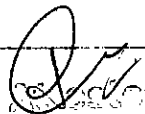
14

S.No	Name	Designation	Signature
1	Muhamamd Alam	Demonstrator (BPS 17)	
2	Sohail Ahmad	Demonstrator (BPS 17)	
3	Luqman	Demonstrator (BPS 17)	
4	Mustafa	Office Assistant (BPS 16)	
5	Abdur Rahman	Office Assistant (BPS 16)	
6	Zaid Bøcha.	Office Assistant (BPS 16)	
7	Shahid Iqbal	Office Assistant (BPS 16)	
8	Muhammad Asif	Office Assistant (BPS 16)	
9	Sajjad Khan	Office Assistant (BPS 16)	
10	Amjad Khan	Computer operator BPS 16)	
11	Maveed Ahmad	LDC (BPS 11)	

Date: 07/03/2020

Copy for Information to

1. The Principal Secretary to Prime Minister of Pakistan, Islamabad.
2. The Registrar Supreme Court of Pakistan, Islamabad.
3. The Secretary to Government of Pakistan, Law, Justice Parliamentary Affairs Division, Islamabad.
4. The Principal Secretary to Chief Minister, Khyber Pakhtunkhwa.
5. The Secretary Higher Education Department, Khyber Pakhtunkhwa.
6. The Registrar Peshawar High Court, Peshawar.
7. The Chairman Human Right Commission, Islamabad.
8. The Principal Secretary To President of Pakistan, Islamabad.

  
to be true copy

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**BEFORE THE HONOURABLE PESHAWAR HIGH COURT**  
**MINGORA BENCH, SWAT**

Execution Petition No: 516-M/2020

Mustafa and others

VERSUS

Dr. Muhammad Farooq project Director University of Buner.

**AUTHORITY LETTER IN THE MATTER OF EXECUTION PETITION NO:  
516-M/2020 IN W.P NO. 1084-M/2018.**

I respondent's number 1 Project Director University of Buner do hereby authorize Mr. Tariq Hassan Assistant Registrar legal university of Buner, to represent me in the above cited case into submit any statement, para wise comments on my behalf.

Respondent No 1

  
Project Director

University of Buner.



# بعدالت عالیہ پشاور ہائی کورٹ مینگورہ بینچ (دارلقضاء) سوات

منجانب سید ادریس فرید

2020

مورخہ

بزرگ ملک دارالکبر و غیرہ

بنام

مصطفیٰ وسیرہ

مقدمہ

دعویٰ

W.P.No. 516 M/2020

cm-516-M/2020

جرم  
FILED TODAY

28 MAY 2020

باعث تحریر آنکہ

Additional Registrar

مقدمہ مندرجہ عنوان بالا میں اپنے طرف سے واسطے پیروی و جواب دہی وکل کاروائی متعلقہ آن مقام مینگورہ/دارلقضاء کیلئے سید الرحمن ریزو و سید سواتی مقرر کر کے اقرار کیا جاتا ہے کہ صاحب موصوف کو مقدمہ کی کل کاروائی کا کامل اختیار ہوگا۔ نیز وکیل صاحب کو راضی نامہ و تقرر ثالث و فیصلہ برحلف دینے جواب دہی اور اقبال دعویٰ اور درخواست ہر قسم کی تصدیق زر اور اس پر دستخط کرنے کا اختیار ہوگا۔ نیز بصورت عدم پیروی یا ڈگری ایک طرف اپیل کی برآمدگی اور منسوخ مذکور کے مکمل یا جزوی کاروائی کے واسطے اور وکیل یا مختار قانونی کو اپنی ہمراہ یا اپنی بجائے تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی جملہ مذکورہ بالا اختیارات حاصل ہونگے اور اسکا ساختہ برواختہ منظور قبول ہوگا۔ اور دوران مقدمہ میں جو خرچہ و ہرجانہ التوائے مقدمہ کے سبب سے ہوگا اسکے مستحق وکیل صاحب ہونگے۔ نیز بقایا و خرچہ کی وصولی کرتے وقت کا بھی اختیار ہوگا۔ اگر کوئی تارتخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند نہ ہونگے کی پیروی مقدمہ مذکور لہذا وکالت نامہ لکھ دیا کہ سند رہے

2020

ماہ

المرقوم

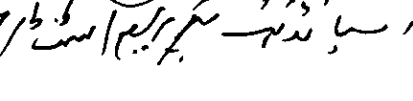
العبد

گواہ شہد

العبد



سید ادریس فرید  
بوسید ادریس فرید



العبد

گواہ شہد

العبد

Attested  
Bones & A. S. A. W. Rahman  
A. S. A. W. Rahman  
0333-464646

بمقام مینگورہ/دارلقضاء سوات کیلئے منظور ہے۔