# BEFORE THE HONORABLE KHYBER PAKHATUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No: 1876/2023

Naseer Ahmad, SST(G)BPS-16 GMS Mian Essa Lund Khwar, Mardan.

.....Appellant

## VERSUS

Govt; of Khyber Pakhtunkhwa through Secretary E&SE Department Khyber Pakhtunkhwa & others......Respondents

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Respondent

District Education Officer (Male) Mardan

# BEFORE THE HONORABLE KHYBER PAKHATUNKHWA SERVICE TRIBUNAL PESHAWAR.

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Naseer Ahmad, SST(G)BPS-16 GMS Mian Essa Lund Khwar, Mardan.

......Appellant

VERSUS

Khyber Pakhtukhwa Service Tribunai

Diary No. 8405,

# JOINT PARAWISE COMMENTS ON BEHALF OF RESPONDENTS

### Respectfully Sheweth,

The Respondents submit as under:

## PRELIMINARY OBJECTIONS.

- 1 That the Appellant has got no cause of action/locus standi to file the instant appeal before this Honorable Tribunal.
- 2 That the appellant is not an aggrieved person within the meaning of Article 212 of the constitution of Islamic Republic of Pakistan.
- 3 That the appellant has concealed material facts from this Honorable Tribunal in the titled appeal.
- 4 That the Appellant has not come to this Honorable Tribunal with clean hands.
- 5 That the appeal is badly time barred by law of limitation Act.
- 6 That the case is bad for mis-joinder and non-joinder of the necessary parties.
- 7 That the transfer Order dated 05/06/2023 of the Respondent No.3 with legal sphere & liable to be maintained.

## (Copy of order is as Annexure A)

## ON FACTS.

1 Para-No 1 is correct to the extent of appointment of the appellant and the remaining Para is incorrect, as each & every Civil Servants is legally bound to do his duty honestly, but there is a complaint received against the appellant through Citizen Portal regarding embezzlement in school building auction and in School assets by appellant, namely

Naseer Ahmad SST(HM) GMS Mian Essa Lund Khwar Mardn, hence need no comments. (Copy of Complaint is as Annexure B)

- 2 Para- No 2, is incorrect as the respondent department has been conducted inquiry dated 11/-05-/2023 and the Inquiry Committee has recommended that  $_{
  m the}$ appellant has been transferred administrative ground because the local community are always at dagger dawn with appellant and do not bear him in the GMS Essa lund khwar. The respondent department has been issued transferred order since 05/06/2023 at GMS Anar Baig on administrative ground on the recommendation of the inquiry committee. The appellant has admitted that he has taken all the items and the Surplus books are laying in the school which shows mismanagement of the appellant i-e Head Master. The charges is fully proved against the appellant, hence needs no comments. (Copy of Inquiry Report is as Annexure C)
- 3 That Para No-3 is incorrect as Another complaint received by the contractor namely waqas and has stated that the appellant forcibly has taken away the auction building materials (Bricks, widows and grills). A complaint received by the community members and they have stated that the appellant has taken away various school items like Fans, motors, Pumps and widows etc. The charges is fully proved against the appellant and the appellant has been again transfer since 13/06/2023 in the near station GHS Hadi Kalli Takht Bhai due to disability of the appellant and the appellant will be further facilitate if there is a vacant post available in his locality, hence needs no comments.

# (Copies of Complaints & Transfer Order are as Annexure D & E)

- 4 That Para-4 is correct, need no comments.
- 5 That Para-5 on the following grounds inter alia:-

## ON GROUNDS.

- A. <u>Incorrect & not admitted</u>, on the grounds that the plea of the appellant is illegal as the order dated 05/06/2023 is legally competent and maintainable.
- B. Incorrect & not admitted. As the act of the Respondent Department with regard to the cited order are within legal para meter & liable to be maintained. The respondent Department has violated Article-4 and 25 of the Constitution of Islamic Republic of Pakistan, 1973.
- C. <u>Incorrect & not admitted</u>. The Transfer order dated 05/06/2023 has been issued on the basis of complaints of the community members and the recommendation of the inquiry committee.
- D. <u>Incorrect & not admitted</u>. The plea of the appellant is illegal & even against the factual position of the case, hence, liable to be rejected as the respondent department has not issued transfer order on the basis of discrimination, favoritism and nepotism and the inquiry committee disclose the real facts which show the appellant has done misconduct.

- E. <u>Incorrect & not admitted</u>. As the charges are fully proved against the appellant and the order dated 05/06/2023 is legally competent and maintainable.
- F. Incorrect & not admitted. As The Transfer order dated 05/06/2023 has been issued on the basis of complaints of the community members and the recommendation of the inquiry committee, so the transfer order issued in the best interest of public service.
- G. Incorrect & not admitted. The plea of the appellant is not subject to the production of authentic proof & record in support of his plea.
- H. <u>Incorrect & not admitted</u>. The act of the respondent Department regarding the order as cited above is within the ambit of natural justice. The transfer order has issued on the basis of Community complaint and the best interest of public service.

I. <u>Incorrect & not admitted.</u> The stance of the appellant is baseless. Each and every case has own merits and circustances.

J. the Respondent also seeks leave to this Honorable Tribunal to submit additional grounds record & case law at the time of arguments.

Therefore, in view of the above made submissions, it is most humbly prayed that on the acceptance of this reply, the appeal in hand may kindly be dismissed in favor of the Respondent Department in the interest of justice.

E&SE Department Khyber Pakhtunkhwa, Peshawar.

(Respondents No: 1)

DIRECTOR

E&SE Department Khyber Pakhtunkhwa, Peshawar.

(Respondent No: 2)

District Education officer

(Respondent No: 3)





# DISTRICT EDUCATION OFFICER (MALE) MARDAN

## **AUTHORITY LETTER**

I, District Education Officer (Male) Mardan do hereby authorized Mr. Sajid Khan ,Legal Representative of District Education Office (Male) Mardan, to deal with the issues regarding litigation, represent, submit comments/ Reply of the Service Appeals and attend the KPK Honorable Service Tribunal, Peshawar.

District Education Officer

(Male) Mardan



# BEFORE THE HONORABLE KHYBER PAKHATUNKHWA SERVICE TRIBUNAL PESHAWAR.

Service Appeal No: 1876/2023

Naseer Ahmad,SST(G)BPS-16 GMS Mian Essa Lund Khwar, Mardai	n.
Appella	ant

### **VERSUS**

## **AFFIDAVIT**

I. Mr. Sajid Khan Legal Representative Education Department Mardan do hereby solemnly affirm and declare that the contents of Joint Para Wise Comments submitted by Respondents No 1 to 3 are true to the best of my knowledge and belief and nothing has been concealed from this Honorable Service Tribunal. It is further stated on oath that in this appeal, the answering respondents have neither been placed ex-parte nor their defense has been struck off/CoSto

Deponent

Sajid Khan 16101-6005318-5

## \*LEMENTARY & SECONDARY EDUCATION DEPARTMENT, GOVT. OF KHYBER PAKHTUNKHWA



# OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) MARDAN



叠 & 墨 0937-933151 ,旦 deomalemardan@gmail.com

#### OFFICE ORDER.

Transfer of the following Teacher is hereby ordered on their own pay and BPS in the best interest of public service with immediate effect.

S.No	Name & Designation	From	To	Remarks
01	Naseer Ahmad SST (G)	GMS Mian Essa Lund Khwar	GHS Anar Baig	On Administrative
02	Zabihullah SST (G)	GHS No. 2 Lund Khwar	GMS Mian Essa. Lund Khwar	Being on wrong post
03	Muhammad Ayaz SST (G)	GMS Sheikhano Garo Shah	GHS Saro Shah	On Administrative ground

#### Note: -

- 1. Charge report should be submitted to all concerned.
- 2. No TA: DA is allowed.

(ZAHID MUHAMMAD)

DISTRICT EDUCATION OFFICER

(MALE) MARDAN

Dated 05/06 2023

Endst: No. 4333 / Copy forwarded to the:-

- 1. PA to Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
- 2. District Accounts Officer Mardan.
- 3. District Monitoring officer Mardan.
- 4. Principal/Headmaster concerned.
- 5. EMIS Branch local office.
- 6. Official concerned.
- 7. Gen: File.

DISTRICT EDUCATION OFFICER

(MALE) MARDANTE



# Anneaure B - (8) Prime Minister's Performance Delivery Unit (PMDU)



Pakistan Citizen's Portal (PCP)

District Education Office (M), Mardan Khyber Pakhtunkhwa

KP040523-90680573 (AB)

Print Date: 06/05/2023

# A. Complaint Details

A. Complaint De	etalis	CURRENT STATUS	In Progress (since 2 Days, 0 months, 0 years,
DATE OF COMPLAINT	04/05/2023	COMPLAINT SUB-	Elementary & Secondary (General Complaint)
COMPLAINT CATEGORY/	Education	CATEGORY/	
i	Mardan (Khyber Pakhtunkhwa, Pakistan)	COMPLAINT ADDRESS:	گورنفنٹ مثل سکول قبال غیسی لوندخوز Hidden by Citizen
	!Hidden by citizen	CITIZEN PROFILE	
COMPLAINT SUBJECT	در حوالت برانے انکوابری	<u></u>	

#### Contents

اب کی توجو ایک اہم مسلیے کی طرف مفضول کزرانا چاہٹا ہوگہ گورنمنٹ مثل سکول میاں عیسی جند ماہ قبل نیلام ہو جہکا ہے جس میں کافی سارا سامان تحال عانت ہے جو کہ نیلامی سے چند دن قبل سکول ھذا کیے موجودہ بیڈ ماسٹر جناب نصیر احمد خٹک نیے اپنے تحویل میں لیکر اپنے گہر منتکل کیا جس کی نتصبل یہ سے 1. سولر سسٹم 2: واٹر یمپ جو ذو دن پہلنے 24 ہزار کا لیا تہا 3: بجلی کا جملع سامان 4: فرنیچر الماریان 5: چار دیواری کی اینٹ 6: مین کت 7: کرکتان 8 : 15 عدد چت بلکھے 9: فیمتن گملے بمعاے ہودے 10: سینٹری کا سامان حناب والا مندر جہ زیل سامان تاحال عایب ہے جبکہ گرمی کی شدت میں در یہ دن اضافا ہو راہا ہے اور سکول موجودہ حالات میں ایک مقامی بلدنگ میں منتقل ہو چہکا ہے جبکہ موجودہ بلڈنگ میں سولر اور حصوصا سکیوں کی کمی سے اور بیڈ ماسٹر لانے سے انکاری ھے دوسرا مسلم مارنگ شفت میں بجوں کو داخلہ نہیں دینا اور کہتا ہے سکنڈ شفت میں انا ہے تو نیک نے ورنہ پر انبویٹ سکول چلیے جانے لہذا انکے خلاف قانونی کاروای کی جاے اور انکا تباطہ کیا جاے

## Attachment

This complaint has 2 attachment.

# B. Complaint Processing History.

t	3. <u>Contpi</u>	allit Frocessing	
Ī	# DATED	FROM	TO STATUS REMARKS
-;	1:05/05/2023	Directorate of Elementary & Secondary Education	DO Education (M), Mardan In- Probe into the matter, please progress
:	2 04/05/2023		Directorate of Elementary & In- Complaint has been assigned to Directorate of Secondary Education progress Elementary & Secondary Education
	!		Secondary Education progress 1 Elementary & Secondary Education





# OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) MARDAN



图 & 岛 0937-933151 ,且 deomalemardan@gmail.com

#### NOTIFICATION:

The following committee is hereby constituted to conduct an inquiry regarding embezzlement in building auction and in school assets by Nascer Ahmad SST (HM) GMS Mian Essa Lund Khwar in light of complaints received from locals, auction bidder and on Pakistan Citizens Portal. The committee will submit its report within 03 days positively

1. Mr. Syed Ikram SDEO (M) Takht Bhai

(Chairman)

2. Mr. Faqir Taj ASDEO Circle Kata Khat Rustam

(Member)

#### T.O.Rs

- 1. The committee will physically check and inspect the concerned school/physical assets.
- Documentary/visual proof may be checked.
- 3. The committee will submit a detailed report of the inquiry along with clear cut recommendations to DEO (M) Mardan.

Encl:

Copies of complaints received.

(ZAHID MUHAMMAD)

DISTRICT EDUCATION OFFICER (MALE) MARDAN

Endst: No.

/P&D./F.No.65-D

Dated: 11 /05/2023

Copy of the above forwarded to the:

1. PA to Director E&SE Khyber PakhtunKhwa, Peshawar

2. Members concerned

DISTRICT EDUCATION OFFICER

(MALE) MARDAN

8). Surplus free text book are lying in the school which shows mismanagement of the Head Master.



# OFFICE OF THE SUB-DIVISIONAL EDUCATION OFFICER, [Male] Takht Bhai

EMAIL: - sdeo.m.t.bhai@gmail.com

#### **INQUIRY REPORT:**

Inquiry report against Mr. Naser Ahmad, SST (HM) GMS Mian Essa C

Lund Khwar, Mardan.

#### Inquiry committee: -

1). Mr. Syed Ikram SDEO M Takht Bhai.

Chairman

2). Mr. Fagir Taj ASDEO Circle Kata Khat.

Member

Date of Inquiry: -

25/05/2023.

Venue:

L) GMS Mian Essa

#### **Back Ground:**

It is submitted that the building of GMS Mian Essa was in dilapidated condition and was included in reconstruction scheme of ADP. The old building was auctioned through FTC to clear site for reconstruction work. The school is running in a rented building at the moment.

Meanwhile various complaints received to DEO (M) Mardan through citizen portal No. 90680573, community members and the auctioner Mr. Waqas of Mardan against Head Master Naser Ahmad GMS Mian Essa that he has taken away various school items like Fans, Motor Pump, Gamlas, Windows etc. to his home and has requested for inquiry against him.

#### Procedure:

In compliance of DEO (M) Mardan Notification issued under Endst: No. 3736 – 37 dated; 11.05.2023, the inquiry committee visited GMS Mian Essa on 25.05.2023. Questionnaire was served upon Mr. Naser Ahmad SST (H.M) and written opinion of teaching staff was recorded. The community members (Complainants) were interviewed. The auctioner was also heard. After thorough investigation, record checking and verbal discussion, the committee reached to the following factual position.

#### Fact Findings:

- 1). Total enrolment of the school is 172 and working teachers are 12
- 2). Mr. Naser Ahmad is appointed on 15/09/1987 in Education Department and now performing his duty as Head Master (SST) (G) at GMS Mian Essa since 2018.
- 3). The school building has been auctioned and the auction amount Rs.700000/-(Seven Lac) has been deposited in Government treasury through challan No. 231 in NBP Mardan on 16/01/2023.
- 4). There is no child of PTC chairman reading in the school at the moment.
- 5). Second Shift school (DSS) too functional in the school with low enrolment (equal to nothing).
- 6). Mr. Adnan Ali C.T and Farhan Tariq PET were in SSC Exam; 2023)
- 7). Muhammad Ibrahim A.T. not marked his attendance on 11, 12 and 13 May 2023. Which need justification
- 8). Surplus free text book are lying in the school which shows mismanagement of the Head

200 S



### OFFICE OF THE SUB-DIVISIONAL EDUCATION OFFICER. (Male) Takht Bhai

sdeo.m.t.bhqi@gmail.com

#### <u>Page → 2</u>..

- Mr. Naser Ahmad SST admitted in his reply that he has taken all the items mentioned in 9). the complaint to his home to keep in safe custody.
- 10). The teachers also stated that the Head Master has taken away the items to his own
- 11). The Head Master has returned the items to the school on 27/05/2023 as per attached
- 12). It has been proved that he has taken the mentioned unauctioned items to his home without any permission from the competent authority and has given loss the government property.

#### Conclusion/Recommendation:

In the light of the above facts it is suggested to:[-

- The windows may be handed over to the auctioner being auctioned items and proper receipt 1). may be obtained from auctioneer.
- 2). PTC chairman may be elected as per PTC guide book. 🕾
- 3). DSS Mian Essa may be de-notified.
- 4). Rent payment to the owner of the building may be made on urgent basis.
- 5). The surplus book may be handed over to any needy school.
- 6). Mr. Naseer Ahmad SST (G) HM GMS Mian Essa may be transferred on admin ground to a nearby High or Higher Secondary School because the local community are always at dagger dawn with him and no more bear him in the school and a competent SST (G) may be adjusted at GMS Mian Esa for smooth running of the school and to settle the burning issue..

It is further suggested if the competent authority agreed strict disciplinary action under E & D Rules may be taken against Mr. Naser Ahmad SST (G) HM as the charges levelled against him has been proved.

SDEO (M) Takht Bhai

(Fagir Tai)

ASDEO Circle Kata Khat

OFFICE OF THE SUB DIVISIONAL EDUCATION OFFICER (MALE) TAKHT BHAIL

Endst: No. <u>\$56</u>

Dated: 01 / 16 /2023

Copy forwarded to the: -

District Education Officer (Male) Mardan with reference to above.

Total (04 pages awalled)

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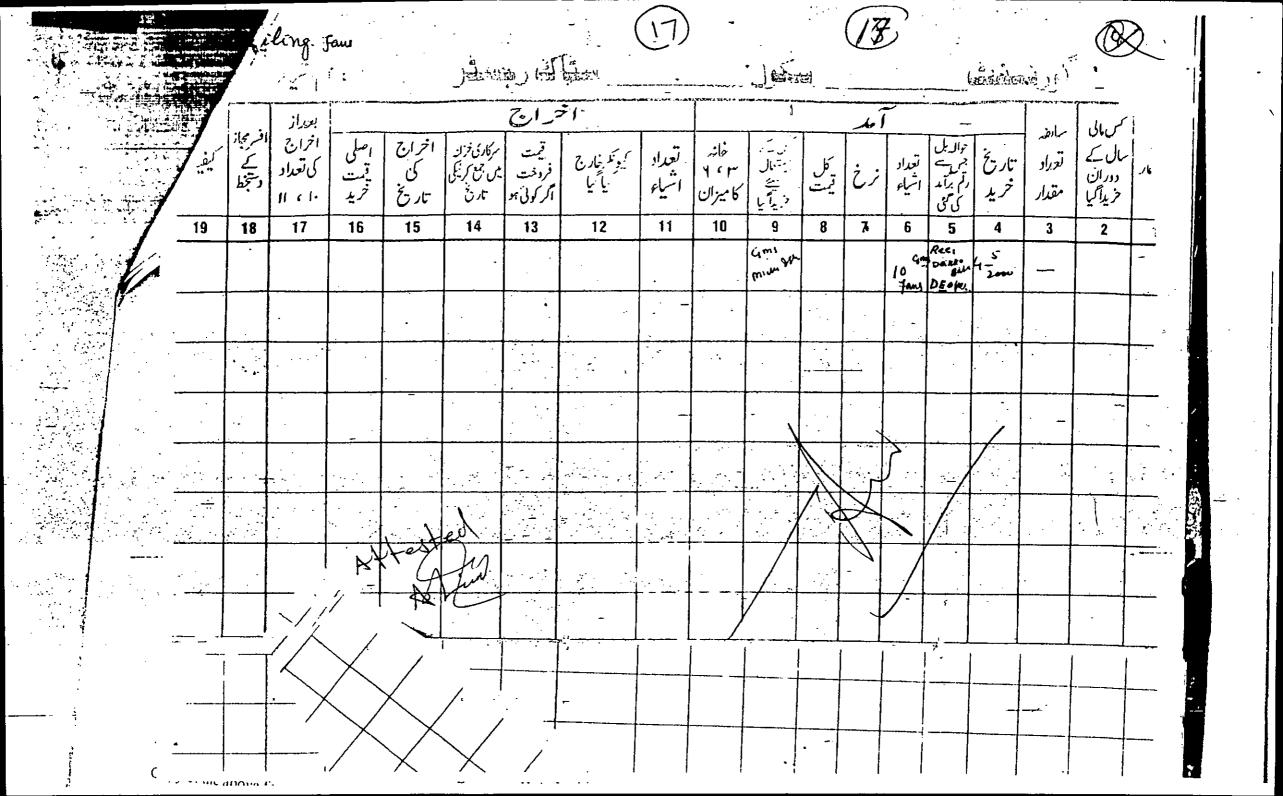
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## **CHALLAN NO** CHALLAN OF CASH PAID IN THE NATIONAL BANK To be filled in the remitter of the Depts. officer of treasury By Whom Name Full particulars of the remittance and Amounts -Head of the **Tendered** Designation & amounts Address of the or authority if any persons on whose behalf money is paid Auction of old buil Signature: Total; (In Words Rupees): Dated: Treasure. Treasury officer



كونستان أولون و صسلول للوند ميرل ومامالا دنيره كاصلو إره لا في عم كري كي Hoype gotron



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# بخدمت جتاب ڈسٹر کٹ ایج کیشن آ ضرمردان درخواست بمراز تحقیق (ایکوائز ی)

المناب ال

آب قاقبه الله المراشك ملا فسيمية والتحداد بالمستقبل كرامست فيل مكل ميال ميني چند، وقيل خلام و يكاب اورسكول حداس كافى ساره فيتق سامان ؟ حال به سبب برك به يقولت نيازى وجود تعاليم غلاى سنجندون تل مكول حدّات وجود الهيد ما سرجناب نسيرا مد فلك به سكول سرا كمرينتي سامان اب تحويل من ليكر كحرا

- (۱) مارستر
- (٢) والمراجع المراجع ا
  - (m) نتی دراها بازان
  - J. (\*)
  - - (۱) نز د د
  - . الحيات بي المجارية المسالية ا
    - $= n_{\underline{\beta}} (\underline{x}^{\mu} \underline{x}^{\mu} \underline{x}^{\mu})$
    - (۶) اورمز په پاتيمتيو ځې وغيرون

۵۰۰۱ کی از استان کا مینوز محال میال فیسنی اور بیران است براید در نواست میز الاتجا کرتے میں کیا و سوب کے خلاف اقوائری فی اخورش میں اوقی جائے۔ ۱۱۰ رقواز کا در مورد کی کیا ہے ۔ ایسور میں در دو کر بینڈ مائیکر کا است کے داور بیرادارہ عالمیا افسران بالان کے نوٹس میں اوسکے ۔

ميا ب آپ ساه بان ساف و شناخ اير ت كي بنياد پر وسوف كوفات ( مهار نيشل كاروالي ضرور مل ين الايشاه رامين الحكور رين كامو تع دين يدين و ارش بوكي

. العارش

0308-5737008 عمر الماء 0307-8291714 0349-9054102 0318-5187644 Hested

- برا محل المروق الأعالة وصراع فك مديما مثر ما ليفل سال شر و ما المراد و الما الما الما الما الما الما المراحمة .. د. ندار الم المول ميال عليه الموادع في علا على سادي ما مع آب ضا to the first the second مرد و الما المرابع الم ن الله الله عند كول عبد الرفيون إلى وله ولوارون مي أستى زمروسى وري عرف المعالم المال المال المالي والري والمري يدور في الراق ولم أس سي سال مسامان رساعات. س الراسي.

## بخد مت جناب ڈسٹرکٹ ایجوکیشن آ فیسر (میل) مردان

مضمون: درخواست بمراد کاروائی بر خلاف نصیر احمد ختی بید ما سٹر مدل سکول میں میاں عیسی و دلانے اوگزار کرانے سامان ملکیتی سائل ازاں نصیر احمدختی

جنا ب عالی ؛ درخواست حسب ذیل عرض ہے۔

1- یہ کہ سائل مردان کا رہا ئشی اور سکریپ کا کا روبار کر تا ہے۔

2 یہ کہ گور نمنٹ مدل سکول میاں عیسیٰ لو ند خوڑ کی بلڈ نگ کی نیلامی کا خکم آپ جناب نے کیا تھا۔ اور بلڈ نگ بمعہ میٹریل سائل نے بولی میں خریدی تھی۔

الله کے مذکورہ نصیر احمدخٹک جو کہ سکول کا ہیڈ ما سٹر ہے۔ نیلام شدہ سامان میں سے

8 عدد گرل بمعہ کھٹر کھیوں اور دو دیواروں کی اینٹیں زبردستی روک کر اپنے گھر لے گیا ہے۔ اور سائل کے بار بار مطالبے کے با وجود واپس کرنے کو تیار نہیں ہے۔

اس وجہ سے اپ صاحبان سے التماس ہے کہ نصیر احمدختی کے خلاف محکما نہ کاروائی کر کے اس سے سائل کا سامان د لایا جائے۔

تحر ير/2023/ 05 /05

العبد

محمد وقا ص ولد نواب على ساكن مردان

He ded

#### ELEMENTARY & SECONDARY EDUCATION DEPARTMENT, GOVT. OF KHYBER PAKHTUNKHWA



# OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) MARDAN



🕾 & 🖶 0937-933151 , 🖳 deomalemardan@gi<del>nail.co</del>m

### CORRIGENDUM/OFFICE ORDER

Please read GHSS Khadi Killi Mardan instead of "GHS Anar Baig Mardan" in the Office Order for transfer issued vide this office Endst: No.4333/G Dated 05-06-2023 in r/o Mr. Naseer Ahmad SST (G) at S.No. 01.

Note: -

1. Other terms and conditions will remain the same.

Endst:No.

(ZAHID MUHAMMAD)
DISTRICT EDUCATION OFFICER
(MALE) MARDAN.
Dated \ 7 - 6 f2023

Copy forwarded to the:-

- 1. PA to Director Elementary & Secondary Education Khyber Pakhtunkhwa Peshawar.
- 2. District Account Officer Mardan.
- 3. District Monitoring Officer EMA Mardan.
- 4. Principal/Head Master Concerned.
- 5. EMIS Branch Local Office.
- 6. Official Concerned.
- 7. General File.

DISTRICT EDUCATION OFFICER (MALE) MARDAN,

Atested