

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11260 of 2021

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Mithlesh Kumar, S/o Satyendra Singh, R/o Village Chaugari Kallal, P.O. Gachhail, P.S. Karakat, District Rohtas.

... .. Petitioner/s

Versus

1. The Union of India x
2. The Director General of Recruiting Army Recruiting, Integrated HQ of MOD (Army) West Block-III, R.K. Puram, New Delhi.
3. The Director Recruiting, Army Recruiting, HQ Rtg. Zone (Bihar and Jharkhand), Danapur Cantt, Patna, Bihar.
4. The Director Recruiting, Army Recruiting Office, Gaya, Bihar.
5. The Director Recruiting, Army Recruiting Office, Katihar, Bihar.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Shashi Bhushan Kumar, Adv.
For the U.O.I.	:	Mr. Kumar Priya Ranjan, CGC
For the Respondent/s	:	Mr.Dr. K. N. Singh, (Asg)

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
ORAL JUDGMENT

Date : 30-11-2021

Heard the learned counsels for the parties.

2. In the instant petition, petitioner has prayed for the following relief:

“(i). To direct the respondent authority re-take Physical Measurement Test of the petitioner as per Army Recruitment Guideline.
(ii). To further direct to respondent authority allow to petitioner for medical & written test and after successfully completion of all the test, issue appointment letter in favour of the petitioner against the vacant and sanction post.
(iii). For issuance of an appropriate writ(s), order(s), direction(s), for any other relief(s) as your lordship may deem fit and proper in the fact and circumstances of the case.”



3. For issuance of the writ of mandamus under Article 226 there must be two ingredients namely vested right and demand before the competent authority. The petitioner has not apprised in his petition in respect of demand before the competent authority. In the light of the Apex Court decision in the case of *Mani Subrat Jain vs. State of Haryana reported in AIR 1977 SC 276* the petition is liable to be dismissed. In fact in the case of *Hari Krishna Mandir Trust vs. State of Maharashtra and others reported in (2020) 9 SCC 356* elaborately discussed relating to maintainability of writ petition in particularly writ of mandamus under Article 226.

4. In the light of the principles laid down by the Apex Court in the aforesaid cited decisions the petitioner has not made out a case. Accordingly, the present writ petition stands dismissed with liberty to approach the concerned authority by making necessary representation or application demanding the relief sought in the present petition. If such a demand is made, the concerned respondent is hereby directed to redress the grievances of the petitioner at the earliest.

(P. B. Bajanthri, J)

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AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

