

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5859 of 2021

1. Rekha Kumari Wife of Gangadhar Mandal Resident of Village- Dulduliya, Police Station- Peerpaiti, District- Bhagalpur.
2. Neelam Kuamri Daughter of Late Ramphal Rajak Resident of Village- Govindpur, Police Station- Peerpaiti, District- Bhagalpur.
3. Renu Kumari Daughter of Shrawan Kumar Singh Resident of Village- Rajgaon, Police Station- Ishipur, District- Bhagalpur.
4. Rubi Kumari Wife of Sunil Kumar Resident of Village- Tarwan, Police Station- Peerpaiti, District- Bhagalpur.
5. Anita Kumari Wife of Suresh Mandal Resident of Village- Tarwan, Police Station- Peerpaiti, District- Bhagalpur.
6. Lalita Devi Wife of Pashupati Nath Singh Resident of Village- Kusanichak, Police Station- Peerpaiti, District- Bhagalpur.
7. Punam Devi Wife of Praveen Mandal Resident of Village- Rampur, Police Station- Kahalgaon, District- Bhagalpur.
8. Mala Kumari Wife of Suresh Mandal Resident of Village- Tarwan, Police Station- Peerpaiti, District- Bhagalpur.
9. Renu Kumari Wife of Satindra Kumar Resident of Village- Tarwan, Police Station- Peerpaiti, District- Bhagalpur.
10. Sunil Kumar Son of Keshav Prasad Mandal Resident of Village- Tarwan, Police Station- Peerpaiti, District- Bhagalpur.
11. Shankar Kumar Singh Son of Neemay Singh Resident of Village- Dulduliya, Police Station- Peerpaiti, District- Bhagalpur.
12. Sikendra Mandal Son of Kailash Mandal Resident of Village- Vedachak, Police Station- Barahat, District- Banka.
13. Nirmal Kumar Son of Baijnath Bhagat Resident of Village- Tarwan, Police Station- Peerpaiti, District- Bhagalpur.
14. Sone Lal Mandal Son of Bhramdev Mandal Resident of Village- Dulduliya, Police Station- Peerpaiti, District- Bhagalpur.
15. Satindra Kumar Son of Narsingh Bhagat Resident of Village- Tarwan, Police Station- Peerpaiti, District- Bhagalpur.
16. Nand Kishore Kumar Son of Shyam Mandal Resident of Village- Dulduliya, Police Station- Peerpaiti, District- Bhagalpur.
17. Rama Kant Mandal Son of Late Jai Mohan Mandal Resident of Village- Tarwan, Police Station- Peerpaiti, District- Bhagalpur.
18. Ajeet Anand Son of Late Vivekanand Bhagat Resident of Village- Tarwan, Police Station- Peerpaiti, District- Bhagalpur.
19. Lal Babu Son of Burandra Nath Resident of Village- Sundarpur, Police Station- Peerpaiti, District- Bhagalpur.
20. Preyamvda Kumari Wife of Abhay Kumar Mishra Resident of Village- Olapur, Police Station- Peerpaiti, District- Bhagalpur.



21. Suresh Kumar Son of Late Baldev Mandal Resident of Village- Tarwan, Police Station- Peerpaiti, District- Bhagalpur.
22. Anuj Kumar Son of Late Ram Vilash Lal Resident of Village- Nauvatoli, Police Station- Peerpaiti, District- Bhagalpur.
23. Gangadhar Mandal Son of Sri Hari Mandal Resident of Village- Dulduliya, Police Station- Peerpaiti, District- Bhagalpur.
24. Binod Kumar Son of Lakshman Ray Resident of Village- Topda, Police Station- Peerpaiti, District- Bhagalpur.
25. Niranjana Goswami Son of Late Bihari Goswami Resident of Village- Harishpur, Police Station- Peerpaiti, District- Bhagalpur.
26. Pawan Kumar Mandal Son of Mohan Mandal Resident of Village- Tarwan, Police Station- Peerpaiti, District- Bhagalpur.
27. Praveen Kumar Poddar Son of Rupsen Poddar Resident of Village- Jurawanpur, Police Station- Isheepur, District- Bhagalpur.
28. Mukul Kumar Son of Late Rameshwar Prasad Mandal Resident of Village- Malakpur, Police Station- Peerpaiti, District- Bhagalpur.
29. Rudal Ray Son of Late Yamuna Rai Resident of Village- Peerpaiti, Police Station- Peerpaiti, District- Bhagalpur.
30. Vinay Kumar Son of Deep Narayan Bhagat Resident of Village- Dulduliya, Police Station- Peerpaiti, District- Bhagalpur.
31. Nishant Kumar Son of Upendra Rajak Resident of Village- Dulduliya, Police Station- Peerpaiti, District- Bhagalpur.
32. Tripti Kumari Daughter of Shakti Prasad Mandal Resident of Village- Dulduliya, Police Station- Peerpaiti, District- Bhagalpur.
33. Manish Kumar Son of Shakti Prasad Mandal Resident of Village- Dulduliya, Police Station- Peerpaiti, District- Bhagalpur.
34. Prashant Vimal Son of Upendra Rajak Resident of Village- Dulduliya, Police Station- Peerpaiti, District- Bhagalpur.
35. Sachin Kumar Son of Shakti Prasad Mandal Resident of Village- Dulduliya, Police Station- Peerpaiti, District- Bhagalpur.
36. Hiralal Rajak Son of Late Umesh Rajak Resident of Village- Dulduliya, Police Station- Peerpaiti, District- Bhagalpur.
37. Anil Rajak Son of Jagat Narayan Rajak Resident of Village- Panchrukhi, Police Station- Isheepur, District- Bhagalpur.
38. Shyam Bihari Son of Virendra Prasad Mandal Resident of Jageshwarpur, Police Station- Kahalgaon, District- Bhagalpur.
39. Md. Aftab Alam Son of Sheikh Balal Resident of Village- Peerpaiti Bazar, Police Station- Peerpaiti, District- Bhagalpur.
40. Kumari Gudiya Wife of Rana Pratap Resident of Village- Tarwan, Police Station- Peerpaiti, District- Bhagalpur.
41. Sunita Devi Wife of Sanjeev Kumar Mandal Resident of Village- Tarwan, Police Station- Peerpaiti, District- Bhagalpur.
42. Panchanand Chaurasiya Son of Baijnath Mandal Resident of Village-



Tarwan, Police Station- Peerpaiti, District- Bhagalpur.

43. Vasukinath Mandal Son of Late Vasudev Mandal Resident of Village-
Tarwan, Police Station- Peerpaiti, District- Bhagalpur.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. The Chief Secretary Government of Bihar, Patna.
3. The Principal Secretary, Department of Education, Bihar, Patna.
4. The Director, Mass Education, Bihar, Patna.
5. The District Education Officer, Bhagalpur.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Sanjay Kumar, Advocate
For the Respondent/s : Mr.Lalit Kishore (AG)

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

Date : 04-02-2022

This matter is heard via video conferencing due to
circumstances prevailing on account of COVID-19 Pandemic.

2. Heard learned counsel for the parties.

3. In the instant petition, the petitioners have prayed for
the following reliefs:

“That this is an application for issuance of a writ in the
nature of mandamus commanding and directing the
respondent-authorities to give the similar benefit to the
petitioners of the instant writ petition as that of the
petitioners of C.W.J.C. No. 8418 of 2010, which has
been affirmed by a Division Bench of this Hon’ble
Court in L.P.A. No.1489 of 2011 and so also ultimately
affirmed by the Hon’ble Apex Court in Special Leave
Petition (Civil) CC No. 32079 of 2015, after taking
into consideration sec.4 Clause (c) of the Bihar State



Litigation Policy, 2011, which is to the effect that if the claim is covered by any decision of the Court, it is primary duty of the State to protect rights of all citizens by giving same benefits and/or for issuance of an appropriate order/direction, to which the petitioners may be found legally entitled to in the facts and circumstances stated hereinabove.”

4. For issuance of a writ of Mandamus, the petitioners have to satisfy two ingredients, namely, establishing statutory/legal right followed by demand before the competent authority, both the ingredients are not forthcoming from the petition. Therefore, in the light of the Apex Court decision in the case of ***Mani Subrat Jain V. State of Haryana & Ors.***, reported in ***(1977) 1 SCC 486***. Para 9 reads as under:

"9. The High Court rightly dismissed the petitions. It is elementary though it is to be restated that no one can ask for a mandamus without a legal right. There must be a judicially enforceable right as well as a legally protected right before one suffering a legal grievance can ask for a mandamus. A person can be said to be aggrieved only when a person is denied a legal right by some one who has a legal duty to do something or to abstain from doing something (See Halsbury's Laws of England 4th Ed. Vol. 1, paragraph 122; State of Haryana v. Subash Chander Marwaha & Ors. (1) Jasbhai Motibhai Desai v. Roshan Kumar Haji Bashir Ahmed & Ors. (2) and Ferris Extraordinary Legal Remedies paragraph 198."

The present petition is not maintainable.



5. Accordingly, writ petition is dismissed reserving liberty to the petitioners to prefer detailed representation along with judicial pronouncements, if any, within a period of eight weeks from today. If such representation is submitted, the concerned respondent-authority is hereby directed to decide the petitioners’ representation/appeal within a reasonable time.

(P. B. Bajanthri, J)

uday/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	19.02.2022
Transmission Date	NA

