

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5873 of 2021

1. Ramanand Paswan S/o Late Parmeshwar Paswan, resident of village and P.O.-Piroi, P.S. and Block-Goraul, District-Vaishali.
2. Manoj Kumar Singh, Son of Baidhnath Singh, resident of village Malhanma, Block-Raj Nagar, District-Madhubani.
3. Ram Parikshan Rai, Son of Ghuran Rai, resident at Bhariya, P.S. and Block-Raj Nagar, District-Madhubani.
4. Rajesh Kumar, Son of Late Laxman Prasad Rai, resident of Village-Budhan Jha Tola Pandaul, Block and P.S.-Pandaul, District-Madhubani.
5. Ram Bharos Singh, Son of Late Ram Lakhan Singh, resident of Village-Bharia, Block-Raj Nagar, District-Madhubani.
6. Kinkar Kumar Das, Son of Late Radheshyam Das, resident of Village-Bangrora, P.O.-Gowal Tola, P.S.-Abadpur, District-Katihar.
7. Shankar Prasad Rajbhar, Son of Bikram Prasad Rajbhar, resident of Village-Raghunathpur, P.O.-Barsoi Gumti, Block and P.S.-Warsoi, District-Katihar.
8. Ranjeet Kumar Sarkar, Son of Dinesh Sarkar, resident of village-Bansgaon, P.O.-Gwal Toli, P.S.-Abadpur, District-Katihar.
9. Babul Kumar Das, So of Kalicharan Das, resident of village-Kusiar Moda, P.O.-Gunjan, P.S.-Abadpur, District-Katihar.
10. Rakesh Kumar Basak, son of Mrinal Kanti Basak, resident of village-Sarswati Pada Barsoi, P.S.-Barsoi, District-Katihar.
11. Satish Thakur, son of Ramsewak Thakur, resident of village-Sultanpur, P.S. and Block-Barsoi, District-Katihar.
12. Sheikh Mojibur Rahman, son of Sheikh Majlur Rahman, resident of village-Bhawanipur, P.O.-Gwal Toli, P.S.-Aawadpur, District-Katihar.
13. Md. Motiur Rahman, son of Md. Hakimuddin, resident of village-Keshfor, P.O.-Sankola, Block-Barsoi, P.S.-Aadpur, District-Katihar.
14. Md. Aatur Rahman, son of Late Md. Rafijuddin, resident of village-Dogachh, P.O.-Bichhor Hat, P.S.-Barsoi, District-Katihar.
15. Navin Kumar Gautam, son of Sri Nawal Kishor Prasad, resident of village-Village and P.O.-Sagrath, P.S.-Kadwa, District-Katihar.
16. Md. Jamshed Alam, son of Late Shekh Pannaullah, resident of Village-Kotahar, P.O.-Sankola, P.S.-Aawadhpur, District-Katihar.
17. Md. Abdur Rahman, son of Late Khurshid Ali, resident of Village-Nazrabari, P.O.-Batna, P.S.-Barsoi, District-Katihar.
18. Md. Reyaz Alam, S/o Late Md. Matiur Rahman, resident of Village-Nisarpatti, P.O.-Gwaltoli, P.S.-Abadpur, District-Katihar.
19. Atanul Islam, son of Pasuruddin Ahmad, resident of Village-Chandpara, P.S.-Abadpur, District-Katihar.
20. Awadh Kumar Pandey, son of Abani Kumar Pandey, resident of Village-Khanua, P.O.-Balupara, District-Katihar.



21. Abdur Razzaque, Son of Abdul Zabbar, resident of Village-Burhakamat Lagua, P.O.-Sankola, P.S.-Abadpur, District-Katihar.
22. Narayan Chandra Das, Son of Shashi Bhushan Das, resident of Village-Khidirpur Jalkumar, P.S.-Barsoi, District-Katihar.
23. Md. Afsar Didar, Son of Shekh Bakhsh, resident of Village-Sankola, P.S.-Abadpur, District-Katihar.
24. Md. Zubair Alam, son of Md. Mustafa, resident of Village-Khairan, P.O.-Fatehpur, P.S.-Balrampur, District-Katihar.
25. Md. Shahriyaz Alam, son of Md. Noorul Hasan, resident of Village-Sitalpur, P.S.-Barsoi, District-Katihar.
26. Mojibur Rahman, son of Bajlur Rahman, resident of Village and P.O.-Gwal Toli, P.S.-Bhawanipur, District-Katihar.
27. Prasad Chandra Basak, son of Haripad Basak, resident of Village-Kusiar Murha, P.S.-Gunjan, District-Katihar.
28. Surendra Nath, son of Shivraj Choudhary, resident of Village and P.O.-Thepaha, P.S.-Jiradei, District-Siwan.
29. Rakesh Rawat, son of Mukhlal Rawat, resident of Village-Gordha Kothi, P.S. and District-Katihar.
30. Anand Shankar, son of Awadhesh Kumar Singh, resident of Village-Hariharpur, P.S.-Hariharpur Kalan, District-Siwan.
31. Rajani Kumari, wife of Sanjeev Ray, resident of Village-Dhebwa, P.S.-Banjaria, District-Gopalganj.
32. Umesh Kumar Singh, son of Rajmangal Singh, resident of Village-Kateya Tola, Tekanavas, P.S.-Sidhwalia, District-Gopalganj.
33. Munna Kumar Ram, Son of Hawaldar Ram, resident of Village-Baishakhi, Block-Panchrukhi, District-Siwan.
34. Madan Ram, S/o Horil Ram, resident of Village-Sultanpur, P.S.-Bhagwanpur Hat, District-Siwan.
35. Jitendra Mishra, son of Bharat Mishra, resident of Village-Barhoga, Post-Fatehpur, P.S.-Jama, District-Siwan.
36. Ramesh Ram, Son of Jagan Ram, resident of Village-Gopalpur, P.S.-Bhagwanpur Hat, District-Siwan.
37. Sarvjeet Kumar, son of Haricharan Prasad, resident of Village-Sisai, Laxmiganj, P.S.-Goriakothi, District-Siwan.
38. Dilip Kumar, son of Bangali Ram, resident of Village-Sisai, Laxmiganj, P.S.-Goriakothi, District-Siwan.
39. Harinandan Ram, son of Kamal Ram, resident of Village and P.O.-Habibnagar, P.S.-Hussainganj, District-Siwan.
40. Babul Kumar, son of Mantu Kumar Thakur, resident of Village-Pomar Tajpur, P.S.-Barsoi, District-Katihar.
41. Md. Juned Alam, Son of Md. Sajjad Alam, resident of Village-Patalwa, P.O.-Surjapur, P.S. and District-Kishanganj.
42. Shankar Lal Yadav, son of Girilal Yadav, resident of Village-Talgachh



Kamat, P.O.-Kodhbari, P.S.-Dighal Bank Lohagarha, District-Kishanganj.

43. Aday Kumar Yadav, Son of Girilal Yadav, resident of Village-Talgachh Kamat, P.O.-Kodhbari, P.S.-Dighal Bank Lohagarha, District-Kishanganj.
44. Kiran Kumar, Son of Girilal Yadav, resident of Village-Talgachh Kamat, P.O.-Kodhbari, P.S.-Dighal Bank Lohagarha, District-Kishanganj.
45. Sanjay Kumar Suman, son of Subhash Chandra Yadav, resident of Village-Maujala, Bhargama, P.O.-Maujaha, P.S.-Bhargama, District-Araria.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary Department of Education, Government of Bihar, Patna.
2. The Principal Secretary Department of Education, Government of Bihar, Vikash Bhawan, Patna.
3. The Director, Primary Education, Department of Education, Govt. of Bihar, Vikash Bhawan, Patna.
4. The Director, Mass Education, Government of Bihar, Vikash Bhawan, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Abhishek Kumar, Kumar
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 writ application is being filed for issuance of an appropriate writ preferably in the nature of Mandamus commanding and directing the Respondents concerned to absorb the petitioners on suitable posts in permanent service under the Respondent State as the petitioners is Ex-Instructor of



Non-Formal Education on several grounds including that the State Government has decided to absorb the Non-Formal Educational Supervisors in permanent service and services of several similarly situated persons/Non-Formal Ex-instructors have been absorbed in the light of several Judicial pronouncements of this Hon'ble Court as well as Hon'ble Court. And/or any other relief or reliefs for which the petitioners is found to be entitled in the facts and circumstances of this case."

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

