

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.5863 of 2021**

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Jay Narayan Yadav, son of Shri Prameshwar Yadav, Resident of Village-  
Chanda Ward No. 7, P.O- Khagraha, Resident of Village- Narpatganj, P.S.-  
Narpatganj, District- Araria

... .. Petitioner/s

Versus

1. The State of Bihar through its Commissioner-Cum-Secretary, Education Department, Government of Bihar, Patna
2. The Principal Secretary, Education Department, Government of Bihar, Patna
3. The Principal Secretary, Department of Personnel and Administrative Reforms, Govt. of Bihar, Patna
4. The Director, Mass Education, Education Department, Government of Bihar, Patna
5. The District Education Officer, Araria

... .. Respondent/s

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**Appearance :**

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

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**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 petitioner has prayed for the  
following reliefs:

(a) For issuance of any appropriate writ/s especially in  
the nature of mandamus commanding and directing the  
respondents concerned to absorb the petitioners on the  
post of Class-III and Class-IV under the respondents  
state as the petitioner are ex-Instructor of non-formal  
education on several grounds including that the State



Government has decided to absorb the non-formal educational supervisors on Class-III post.

(b) For issuance of any appropriate writ/s, rule or directions as Your Lordships may deem fit and proper to the facts and circumstances of the case as well as for which the petitioners may be found entitled thereto.”

4. For issuance of a writ of Mandamus, the petitioner has 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 petitioner 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 petitioner's representation/appeal within a reasonable time.

(P. B. Bajanthri, J)

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