

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5913 of 2020

Kiran Kumari @ Kiran Devi Wife of Suresh Chandra Thakur resident of Village Chak Jamal, Police Station Deshri, District Vaishali at Hajipur.

... .. Petitioner/s

Versus

1. The State of Bihar 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, Hajipur, Vaishali.
6. The Programme Officer (Establishment), Hajipur at Vaishali.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Sanjay Kumar
For the Respondent/s : Mr.Prabhakar Jha (Gp27)

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

Date : 10-01-2022

The matter is heard via video conferencing due to circumstances prevailing on account of the COVID-19 pandemic.

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

“1. 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 petitioner 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.”

3. In the absence of demand before the competent authority, petitioner has sought for the aforesaid relief for issuance of writ of mandamus. Two ingredients are necessary, namely, vested right / legal right followed by demand before the competent authority. Both the ingredients have not been apprised before the competent authority in submitting application/ representation. Thus, the present petition is not maintainable for issuance of writ of mandamus in the light of Apex Court’s decision in the case of **Mani Subrat Jain V. State of Haryana & Ors.** reported in **A.I.R. 1977 SC 276.**

4. Accordingly, the instant petition stands disposed of reserving liberty to the petitioner to file a detail representation before the competent authority within a period of eight weeks from the date of receipt of this order. If such representation is submitted, the competent authority is hereby directed to decide the petitioner’s representation within a reasonable period of time.

(P. B. Bajanthri, J)

rakhi/-

AFR/NAFR	
CAV DATE	
Uploading Date	
Transmission Date	

