

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.10347 of 2020

1. Akhilesh Kumar Son of Baleshwar Prasad Resident of Village-Amthua, P.S. Kako, District-Jehanabad.
2. Ajit Kumar Son of Sri Pasupati Sharma Resident of Village-Mahmadpur, P.S. Kako, District-Jehanabad.
3. Surydeo Mahto Son of Shiv Charan Mahto Resident of Village-Kajisarai, P.S. Kako, District-Jehanabad.
4. Nilam Kumari Wife of Sri Rajdeo Prasad Resident of Village-Kajisarai, P.S. Kako, District-Jehanabad.
5. Arjun Kumar Son of Ram Charitra Singh Resident of Village-Belai, P.S. Ghoshi, District-Jehanabad.
6. Govind Paswan Son of Chitawan Paswan Resident of Village-Doman Bigha, Hati, P.S. Kako, District-Jehanabad.
7. Surajdeo Pandit Son of Badri Pandit, Resident of Village-Saidpur, P.O. Hati, P.S. Kako, District-Jehanabad.
8. Kumari Hemanti Wife of Lal babu Vidyarthi, Resident of Village-Shivrajbiga, Nagwan, P.S. and District-Jehanabad.
9. Hari Shankar KUMAR Son of Lallu Prasad Resident of Mohalla-Saidpur, P.O. Bankipur, P.S. Kadam Kuan, District-Patna.
10. Kumari Pushpa Bharti Wife of Hari Shankar Kumar, Resident of Mohalla-Saidpur, P.O. Bankipur, P.S. Kadam Kuan, District-Patna.

... .. Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The Principal Secretary, Education Department, Department, Government of Bihar, Patna.
3. The Principal Secretary, Department of Personnel and Administrative Reforms, Government of Bihar, Patna.
4. The Director, Mass Education, Government of Bihar, Patna.
5. The District Education Officer, Jehanabad.
6. The District Mass Education Officer, Jehanabad.
7. The District Programme Officer, Jehanabad.
8. The District Education Officer, Patna.
9. The District Mass Education Officer, Patna.
10. The District Programme Officer, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Mahboob Ashraf, Advocate
For the State	:	Mr. Kameshwar Kumar, GP-17



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

Date : 11-01-2022

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

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

“(i) For the issuance of any appropriate writ/s rules or direction especially in the nature of mandamus, directing the respondent authority to absorb the petitioners on the post of Class-II to Class-IV under the employment of State Govt. as the petitioners are ex-instructors or non-formal education including the other several grounds as respondents authorities have already absorbed the non-formal education supervisors.

(ii) For issuance of any appropriate writ/s, rule or direction especially in the nature of mandamus, directing the respondents to give similar treat as the case of other several similar situated has been considered by this Hon’ble Court as well as by the Hon’ble Apex Court.

(iii) For issuance of any appropriate writ/s, rule or direction as this Hon’ble Court may found fit and proper to the facts and circumstances of the as well as for which these petitioners may be found entitled thereto.”



Short question for consideration is whether the petitioners are entitled to be absorbed against one of the Class-III or Class-IV post in the State Government with reference to the fact that petitioners were stated to have discharge the duties or the post of Ex-instructor or non-formal education. In this regard, petitioners are relying on the decision of this Court dated 22.08.2019 passed in Miscellaneous Jurisdiction Case No. 243 of 2018. Petitioners have approached this Court without apprising the competent authority as to whether petitioners are entitled to be absorbed against Class-III or Class-IV post or not. In other words, the petitioners are seeking writ of mandamus. The petitioners have approached this Court without there being a demand before the competent authority and authority was required to determine whether the petitioners are entitled to be absorbed or not, therefore, the petitioners have not made out a case so as to issue writ of mandamus for consideration of their grievance. In the case of **Mani Subrat Jain vs. State of Haryana** reported in (1977) 1 SCC 486 it is held that legal right and demand are mandatory for issuance of writ of mandamus.

Accordingly, writ petition stands dismissed reserving liberty to the petitioners to approach the concerned respondent by making a detailed representation with service particulars of each of



the petitioners read with the judicial pronouncements. If such representation is submitted to the competent authority within a period of eight weeks from the date of receipt of this order, the concerned respondent is hereby directed to examine the grievance of the petitioners and decide the same within a period of six months from the date of receipt of the petitioners’ representation.

(P. B. Bajanthri, J)

Vikash/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	
Transmission Date	N/A

