

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.14901 of 2021

Om Prakash Pandey Son of Sri Rameshwar Pandey Resident of Village and
P.O.-Manihari, P.S.-Manihari, District-Katihar.

... .. Petitioner/s

Versus

1. The State of Bihar, through the Special Director, Secondary Education IN-Charge Sanskrit Education, Bihar, Patna. Department of Education, Government of Bihar, Vikash Bhawan, Patna.
2. The Bihar Sanskrit Shiksha Board, Bihar, Patna.
3. The Chairman, Bihar Sanskrit Shiksha Board, Bihar, Patna.
4. The Secretary, Bihar Sanskrit Shiksha Board, Bihar, Patna.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Suresh Kumar Ishwar, Adv.
For the Respondent/s : Mr. Prabhakar Jha (GP 27)

**CORAM: HONOURABLE MR. JUSTICE SANJEEV PRAKASH
SHARMA**

ORAL ORDER

2 16-09-2022 Heard the parties through video conferencing.

1. The petitioner has preferred this writ petition stating that the Secretary, Bihar Sanskrit Shiksha Board, Patna has taken a decision with regard to approval of the staff of the school since 2017. Several representations were given in this regard. The petitioner has thereafter filed the present petition praying that a direction be issued to the Board to take a decision for approving the list sent for constitution of the regular managing committee.

2. In the case of **Amrit Lal Berry Vs. Collector of Central Excise, New Delhi and others**, reported in **(1975) 4**



SCC 714, the Apex Court has held as under:

“ 25: In the petition of K. N. Kanpur and others, we do not even find an assertion that any representation was made against any violation of a petitioner’s right. Hence, the rule recognised by this Court in Kamini Kumar Das Choudhury Vs. State of W.B., that a demand for justice and its refusal must precede the filing of a petition asking for direction or writ of mandamus, would also operate against the petitioners.”

3. And further Division Bench of Rajasthan High Court in the case of **Balwant Singh Parihar & Anr. Vs. Union of India and others**, reported in **(2006) 6 SLR 243 (DB)**, has held as under:

“ 19: From the record of the writ petition it appears that the petitioners have neither given any representation to the Pay Commission nor to the Union of India nor Railway Administration nor given any notice for demand of justice and straightway filed the writ petition for seeking mandamus in the matter of pay parity contrary to the well established principle of law that giving notice for demand of justice is sine qua non for seeking writ of mandamus. The writ petition deserves



to be dismissed on this ground alone as there was no occasion for the respondents to consider the grievance of the petitioners of claim of parity in pay scale and also consider the objection of the respondents in reply of interference by the High Court under Article 226 of the Constitution of India in such matters.”

4. Keeping in view above, this Court finds that the petitioner has not sent the notice for demand of justice before filing the writ of mandamus. This Court would therefore refrain from issuing a writ of mandamus. Leaving it open for the petitioner to do the needful, the writ petition is dismissed at this stage with liberty to take up legal remedy, if need so arises.

(Sanjeev Prakash Sharma, J)

shaswat/
shamshad
Item No. 9

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