

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2149 of 2021

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1. Mukesh Kumar Rai Son of Baidyanath Prasad Rai Resident of Village - Mulucktand, P.S. - Haveli Kharadpur, District- Munger.
 2. Sunil Kumar son of Yamuna Prasad Mehta Resident of Village - Udaynagar, P.O. - Chanka Srinagar, P.S. - Purnea, District- Purnea.
 3. Vishnu Kumar Mehta Son of Prabhunath Mehta Resident of Village - Wadehasanpur, P.S. - Jagdishpur, District- Bhagalpur.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Human Resources Development Department, Government of Bihar, Patna.
2. The Principal Secretary, General Administration Department, Government of Bihar, Patna.
3. The Director, Primary Education, Government of Bihar, Patna.
4. The Director, Mass Education, Government of Bihar, Patna.
5. District Magistrate, Bhagalpur.
6. District Mass Education Officer, Bhagalpur.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr.Chandrasekhar Sharma
For the Respondent/s : Mr. Dronacharya

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

Date : 27-01-2022

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

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

“(i) For issuance of any appropriate writ or writs specially in the nature of mandamus commanding and directing the respondents concerned to absorbed the petitioners on the post of



Class-III and Class-IV under the respondents State of Bihar as the petitioners are the Ex-Instructor of Non Formal Education on several grounds including that the State government decided to absorb the non formal Education Supervisor on Class-III post.

(ii) To direct the respondent to treat the petitioners similar to other situated persons against whose favour orders have been passed by this Hon'ble Court in different writ petition and in the contempt petition and not treat the petitioners as different from those persons.

(iii) This Hon'ble Court be further pleased to dispose of the present writ application in terms of order passed in C.W.J.C. No. 384/2017 disposed of on 3.3.2017 as the present case is stand on similar footing.

(iv) For issuance of any appropriate writ, 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."

3. The present petition for issuance of writ of mandamus under Article 226 of the Constitution is not maintainable since the petitioner has not made any representation before the competent authority. In the absence of legal and vested right followed by demand before the competent authority, a writ is not maintainable in terms 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 dismissed reserving liberty to the petitioner to approach the concerned respondent by making a detailed representation along with judicial pronouncement, if any, within a period of eight weeks from the date of receipt of this order. If such representation is submitted, concerned respondent 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	

