
Mukesh Kumar Rai Vs State Of Bihar

Civil Writ Jurisdiction Case No. 2149 Of 2021

Court: Patna High Court

Date of Decision: Jan. 27, 2022

Acts Referred:

Constitution Of India, 1950 " Article 226

Hon'ble Judges: P. B. Bajanthri, J

Bench: Single Bench

Advocate: Chandrasekhar Sharma, Dronacharya

Final Decision: Dismissed

Judgement

1. 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.