

IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

ON THE 31st DAY OF OCTOBER, 2022

BEFORE

HON'BLE MR. JUSTICE TARLOK SINGH CHAUHAN

&

HON'BLE MR. JUSTICE VIRENDER SINGH

CIVIL WRIT PETITION (ORIGINAL APPLICATION) No.

5638 of 2020

Between:

**VIJAY THAKUR W/O SH. SHYAM
SINGH, RESIDENT OF VPO
PAPLOTA, TEHSIL ARKI,
DISTRICT SOLAN, HIMACHAL
PRADESH.**

...PETITIONER

(BY MR. DALIP K. SHARMA, ADVOCATE)

AND

**1. STATE OF HIMACHAL PRADESH
THROUGH SECRETARY
ELEMENTARY EDUCATION,**

**GOVERNMENT OF HIMACHAL
PRADESH.**

**2. DIRECTOR ELEMENTARY
EDUCATION, SHIMLA-1.**

**3. DEPUTY DIRECTOR
ELEMENTARY EDUCATION,
DISTRICT SOLAN, HIMACHAL
PRADESH.**

**4. DISTRICT EMPLOYMENT
OFFICER SOLAN, DISTRICT SOLAN,
HIMACHAL PRADESH.**

...RESPONDENTS

**(BY MR. ASHOK SHARMA, ADVOCATE GENERAL WITH
MR. VINOD THAKUR, MR. SHIV PAL MANHANS,
ADDITIONAL ADVOCATE GENERALS, MR. BHUPINDER
THAKUR, DEPUTY ADVOCATE GENERAL AND MR.
RAJAT CHAUHAN, LAW OFFICER)**

*This Petition coming on for admission on this day, **Hon'ble Mr.***

***Justice Tarlok Singh Chauhan**, passed the following:-*

ORDER

The instant petition has been filed for grant of
the following reliefs:

“(i) To issue directions to respondent No. 2 to consider
the candidature of applicant for the post of Language

Teacher on the basis of batch wise on the basis of Recruitment and Promotion Rules, 2009.

(ii) That the impugned action of the respondent may kindly be declared as null and void and the notification dated 16.11.2013 will not be applicable in the case of applicant for the recruitment for the post of Language Teacher on batch wise basis.

(iii) The respondent No. 4 may kindly be directed to sponsor the name of applicant for batch wise recruitment for the post of Language Teacher.

2. It is not in dispute that petitioner herself acquired necessary qualification in the year 2013 and he had also passed the Teachers Eligibility Test. The claim of the petitioner for right of consideration, based upon “old vacancy old Rule” does not hold force, in view of the conscious decision taken by the respondents themselves to fill up the vacancy on the basis of amended Rules.

3. The action of the respondents cannot be held to be illegal in view of the judgment rendered by a three judges Bench of Hon’ble Supreme Court in Civil Appeal No. 9746 of 2011, titled as “**State of H.P. and others versus Raj Kumar and others**”.

4. In view of the aforesaid discussions and observations, we find no merit in the petition and the same is accordingly dismissed, leaving the parties to bear their own costs. The pending application(s), if any, are also disposed of.

(Tarlok Singh Chauhan)
Judge

(Virender Singh)
Judge

October 31, 2022
Kalpana