

IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

ON THE 30th DAY OF SEPTEMBER, 2022

BEFORE

HON'BLE MS. JUSTICE SABINA

&

HON'BLE MR. JUSTICE SUSHIL KUKREJA

CIVIL WRIT PETITION No.4625 of 2022

Between:-

**SEVA DASSI,
W/O LATE SH. OM DUTT,
RESIDENT OF SHYAM BHAWAN,
KACHHI GHATTI, SHIMLA-171001,
AGED ABOUT 44 YEARS.**

....PETITIONER

**(BY MR. RAJNEESH K. LAL,
ADVOCATE)**

AND

- 1. STATE OF HIMACHAL PRADESH,
THROUGH ITS PRINCIPAL
SECRETARY (EDUCATION) TO
THE GOVERNMENT OF HIMACHAL
PRADESH. PRADESH**
- 2. DIRECTOR ELEMENTARY
EDUCATION
HIMACHAL PRADESH LALPANI,
SHIMLA, H.P. SHIMLA**
- 3. DEPUTY DIRECTOR ELEMENTARY
EDUCATION
SHIMLA, 171001**

4. BLOCK ELEMENTARY
EDUCATION OFFICER
DISTRICT SHIMLA, H.P.
5. SUB-DIVISIONAL OFFICER (CIVIL)
SHIMLA, H.P.
6. SMT. SAROJ
W/O LATE SH. VIJAY KUMAR,
RESIDENT OF SHYAM LAL NIWAS,
GHAURA CHOWKI, SHIMLA
171005.

....RESPONDENTS

(MR. ASHWANI SHARMA, ADDITIONAL
ADVOCATE GENERAL, FOR R-1 TO R-5,
MS. MEERA DEVI, ADVOCATE, FOR R-6)

*This petition coming on for admission this day, **Hon'ble**
Ms. Justice Sabina, passed the following:*

ORDER

Petitioner has filed the petition under Article 226 of the
Constitution of India, seeking following relief(s):-

- "i). To quash and set aside the appointment of the respondent No. 6 as part time worker in Govt. Primary School Ghaura Chowki, Shimla being illegal, arbitrary and against the selection criteria as well as the policy framed by the State Govt. Annexure P-1.*
- ii) To award marks in favour of petitioner under the category "bonafide resident of the same ward of the Gram Panchayat/Urban Local Body, in which the school is situated and also in the category of Widow and BPL category, further, the petitioner also deserves to be given preference being elder to the respondent No. 6 as per the R&P Rules framed by the Education*

Department in view of the equality principle enshrined in Article 14 and 16 of the Constitution of India.”

2. Learned counsel for the petitioner has submitted that now vide Addendum dated 25th August, 2022, Rule-19 has been added to the policy and as per the said rule, appeal can be filed before the Additional District Magistrate (ADM) of the district within 15 days of the selection/appointment. In the present case, selection/appointment of respondent No.8 was made on 30th June, 2022. Hence, the petitioner would not be able to avail the benefit of newly added Rule-19. Learned counsel has further submitted that the petitioner will approach the Additional District Magistrate ADM), Shimla, District Shimla, by way of an appeal, within 15 days from today and the same should not be rejected by the competent authority on the ground that it is time barred as the Rule-19 has been incorporated on 25th August, 2022.

3. Rule-19, provided vide Addendum dated 25th August, 2022, reads as under:-

“ADDENDUM

In partial modification of this Department's Notification No. EDN-C-B(1)2/2019 dated 16th July, 2020 (as updated upto 11th March, 2022), the Governor, Himachal Pradesh is pleased to add "Rule-19 Appellate Authority" in the Part Time Multi Task Workers Policy, 2020 as under:

19. Appellate Authority:

The appeal in respect of complaints relating to PTMTW selection/appointment etc. should be made to the Additional District Magistrate (ADM) of the district within 15 days of the selection/appointment. The appeal will be considered by the Additional District Magistrate (ADM) of the district and disposed off within 30 days from its receipt with suitable directions. If the complainant is not satisfied with the outcome, then he/she may file an appeal with the Director of Higher/Elementary Education, as the case may be, within 15 days from the decision of the Additional District Magistrate (ADM). The appellate authority may dispose off the appeal within 60 days after hearing the appellant.

By Order

*Devesh Kumar, IAS
Pr. Secretary (Education) to the
Government of Himachal Pradesh.”*

4. Keeping in view the submissions made by learned counsel for the petitioner, we deem it appropriate to dispose of the writ petition by permitting the petitioner to approach Additional District Magistrate (ADM), Shimla, District Shimla, by way of an appeal, within 15 days from today and the said authority will dispose of the appeal in terms of Rule-19, provided vide Addendum dated 25th August, 2022.

5. It is clarified that the appeal filed by the petitioner would not be rejected on the ground of delay, but would be disposed of on merits.

Pending miscellaneous application(s), if any, also stand disposed of.

**(Sabina)
Judge**

**(Sushil Kukreja)
Judge**

September 30, 2022
(VH)